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STATE OF SOUTH CAROLINA

In The Court of Appeals

ORIGINAL Brief Filed

APPEAL FROM SUMTER COUNTY

William Jeffrey Young, Circuit Court Judge

THE STATE,

RECEIVED

JUL 24 2015
RESPONDENT,
SC Court of Appeals

v.

GARY R. DARGAN,

APPELLANT

APPELLATE CASE NO. 2014-000851

RECORD ON APPEAL

ROBERT M. DUDEK
Chief Appellate Defender

ALAN WILSON
Attorney General

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

DONALD J. ZELENKA
Senior Assistant Deputy Attorney General
Office of the Attorney General
PO Box 11549
Columbia, SC 29211
(803) 734-3727

Attorney for Appellant

Attorneys for Respondent

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Reco Ham-Cross by Murphy

1 court.

2 A Yes, sir.

3 Q And as part of that you pled guilty,
4 correct?

5 A Yes, sir.

6 Q And you signed a proffer, obviously.

7 A Yes, sir.

8 Q And you signed a plea agreement, correct?

9 A Yes, sir.

10 Q And as part of that plea agreement,
11 typically the United States requires that an
12 individual knows something about a crime, they're
13 there to talk about it, correct?

14 A Yes, sir.

15 Q And you signed one of those proffers.

16 A Yes, sir.

17 Q Now if you don't have any -- and you
18 signed one of those in hope of getting what they
19 call rule 35, correct?

20 A Yes, sir.

21 Q And what's a Rule 35. Why don't you tell
22 the jury what a Rule 35 is.

23 A It's a time quashed.

24 Q in Other words, you get your time cut off.

25 A Yes, sir.

Reco Ham-Cross by Murphy

1 Q And you're serving over what, over 20
2 years or about that?

3 A Yes, sir.

4 Q So you want to get some time cut.

5 A Yes, sir.

6 Q And if you don't provide any information
7 about other crimes or if you don't have
8 information to provide about other crimes, you're
9 not going to get a cut, are you?

10 A Yes, sir.

11 Q And is that what Gary is referring to when
12 he says be no fool, and be them N. word. I am not
13 going to say that word. Get out of jail free
14 card. In other words, he's saying, don't you be
15 the guy that other guys are using to get to their
16 time cut, correct?

17 A Yes, sir.

18 Q So you're hoping by your testimony today
19 to get your time cut.

20 A Through the.

21 Q They can't make any promises to you.

22 A No, sir.

23 Q And it was after you signed this proffer
24 that you decided to talk to the the police about
25 what you say Gary told you that night. The night

Reco Ham-Cross by Murphy

1 of the murder.

2 A No, sir. I mean I talked to my lawyer
3 before then. Before I signed the front.

4 Q But as far as the law enforcement it was
5 after you signed the proffer.

6 A Yes, sir.

7 Q Now Gary sold drugs, correct? In Sumter.

8 A Yes, sir.

9 Q And that's part of how you know him,
10 right? He's a drug dealer.

11 A No, sir, I have been knowing him.

12 Q I'm sorry.

13 A I been knowing before he started selling
14 drugs.

15 Q Okay. Now as part of his drug activities
16 he used to drive different cars and making
17 deliveries, is that correct?

18 A I don't know if he been making deliveries
19 or not.

20 Q Okay. Well what about, have you ever
21 seen him driving a medical van around?

22 A I saw him driving that day, that day for
23 the card game.

24 Q Okay. Other times too?

25 A No, sir.

Reco Ham-Cross by Murphy

1 Q No. You never mad a joke about -- did you
2 ever tell him in a joke that hey, that's a good
3 idea, you'll never get pulled over in a medical
4 van?

5 A No, sir.

6 Q You never made that statement.

7 A No, sir.

8 Q Now Gary is concerned about, I guess,
9 word on the street. You've heard a lot about word
10 on the street. What's word on the street to you
11 mean?

12 A It could mean anything. It could mean
13 talking about you or anything.

14 Q Okay. It's like rumors, right?

15 A Yes.

16 Q What people say on the street.

17 A Yes, sir.

18 Q People talking about different people.

19 A Yes, sir.

20 Q And he was concerned that the word was
21 that he had set you up, correct?

22 A Yes, sir.

23 Q And he was concerned about that.

24 A Yes, sir.

25 Q In fact, he telephoned you about that at

Reco Ham-Redirect by Meadors

1 one point, correct? While you were at Lexington?

2 A Repeat yourself.

3 Q I said, did he telephone you about that to
4 try to---

5 A No, sir. He ain't never telephoned me,
6 because I been locked up.

7 Q Okay, but he wrote you about that.

8 A Yes, sir.

9 Q And that's referencing -- part of that is
10 referenced in this letter.

11 A Yes, sir.

12 MR. MURPHY: I have no further questions.

13 THE COURT: Mr. Kent.

14 MR. KENT: No questions, Judge.

15 Redirect Examination by Mr. Meadors:

16 Q He's asking you about -- he wrote some
17 pretty personal stuff in here, didn't he?

18 A Yeah.

19 Q I mean y'all have known each other a long
20 time.

21 A Yes, sir.

22 Q Personal stuff he tells you.

23 A Yes, sir.

24 MR. MEADORS: That's all.

25 THE COURT: Any recross? Thank you, you

Reco Ham-Redirect by Meadors

1 may step down.

2 MR. MEADORS: May he be excused? I think
3 they are taking him back.

4 THE COURT: Ladies and gentlemen, that is
5 all the testimony we are going to hear for today.
6 So please have a nice night's rest. Please do not
7 discuss this with anyone. Please read no
8 newspapers tomorrow morning. And I'll see you
9 back in here just a little bit before 9:15. We'll
10 start a little bit early tomorrow so we can try to
11 get finished tomorrow. Thank you, ladies and
12 gentlemen, have the nice evening.

13 (Whereupon, the jury is dismissed at
14 5:50 p.m.)

15 THE COURT: Is there anything else we need
16 to discuss today?

17 MR. MURPHY: No, Your Honor.

18 MR. MEADORS: Thank you.

19 THE COURT: Thank you. Court's adjourned
20 until 9:15 in the morning.

21 (Whereupon, on Thursday, April 17th 2014,
22 at 9:30 a.m. trial commences.)

23 THE COURT: Is there anything we need to
24 bring up before we bring the jury in?

25 MR. MEADORS: No, sir.

1 THE COURT: Mr. Murphy?

2 MR. MURPHY: I am ready, Your Honor.

3 MR. KENT: Just a housekeeping matter,
4 Judge. Yesterday one of the last bits of evidence
5 the State put in was an envelope with Ms. Helton's
6 address on it. And I told you I wanted to be
7 heard on that.

8 THE COURT: Right.

9 MR. MURPHY: After thinking about it, I
10 don't think I have rational reason to keep it out.
11 I think the State informed---

12 THE COURT: They wouldn't argue.

13 MR. KENT: They wouldn't argue.

14 THE COURT: It came from her.

15 MR. KENT: And based upon that I have no
16 argument.

17 THE COURT: Very well. Let's bring our
18 jury in.

19 (Whereupon, the following takes place
20 within the presence of the jury.)

21 THE COURT: Good morning, ladies and
22 gentlemen. We have got a few more witnesses this
23 morning and we will see where we go from there.
24 State ready?

25 MR. MEADORS: Yes.

1 THE COURT: Defense ready.

2 MR. MURPHY: Yes, sir.

3 THE COURT: The State may call its next
4 witness.

5 MR. MEADORS: The State calls detective
6 Natalie Kelly.

7 Detective Natalie Kelly.

8 being first duly sworn, testified as
9 follows:

10 THE BAILIFF: State your full name and
11 spell your last name for the record.

12 A Detective Natalie Kelly. K-E-L-L-Y.

13 Direct Examination by Mr. Meadors:

14 Q Good morning, Detective Kelly.

15 A Good morning.

16 Q Please tell the ladies and gentlemen of
17 this jury about yourself. Where you were born and
18 raised, your background. Your training, and in
19 particular in law enforcement, please.

20 A I am Natalie Kelly. I was born and raised
21 here in Sumter. I received my education here in
22 Sumter County public schools. I later then
23 received my Associate Degree of Arts from Caflin
24 University. I then received my bachelor degree in
25 Criminal Justice from Caflin University. I then

Detective Kelly-Direct by Meadors

1 received my bachelor Degree in criminal justice
2 from Caplin University. And I'm currently
3 enrolled I'm actually working on my master's
4 degree in forensic pathology. I'm 36, and I have
5 two wonderful children. I'm married and my
6 husband is also in law enforcement. I got in law
7 enforcement back in 2001. I did 2 years as a
8 correctional officer. And then I moved into law
9 enforcement, and I became I police officer. And
10 I have been a detective for the past 4 years. And
11 I'm currently assigned to the violent crime
12 division.

13 Q So you got law enforcement as far as the
14 police department in 2003?

15 A Yes, that's correct.

16 Q And you were with the Sumter Police
17 Department then.

18 A Well I actually started with Bishopville
19 Police Department. I did two years with them.
20 And then I went to the Sumter Police Department.

21 Q And have you held different positions in
22 the Sumter Police Department?

23 A Yes, sir, I have.

24 Q Tell me about those. Tell them about
25 them.

Detective Kelly-Direct by Meadors

1 A Well I actually started out as a patrol
2 officer. I was a road officer. I then moved into
3 schools resource officer. I was an officer with
4 the middle school. And then where I currently
5 working now.

6 Q Now in addition to your training, your
7 training in education, have you had any other
8 particular training in law enforcement either at
9 the criminal justice academy or any training
10 periodically like continuing legal education,
11 generally?

12 A Yes. I did attend the criminal justice
13 academy in Columbia, South Carolina. I spent 9
14 weeks there. I have had training in homicide
15 investigations, child abuse sexual assaults,
16 criminal domestic violence. Just to name some of
17 the few.

18 Q Now let's go back in time to what we're
19 all hear about December of 2012. Specifically
20 December 8, 2012. Your role with the police
21 department or position was a detective?

22 A That's correct.

23 Q And this happened.

24 A That's correct.

25 Q Now it's a Monday morning, and you get

Detective Kelly-Direct by Meadors

1 that as a background. And what did you do?

2 A Well that Monday, I actually called the
3 witnesses that were in the case. I scheduled a
4 time for them to come up and met me and talk to
5 me. I actually called Mr. and Ms. Dainey; told
6 them I was the lead investigator on the case and
7 that I would be investigating what happened to
8 their son.

9 Q That's Mr. and Ms. Dainey here in the
10 front row.

11 A That's correct.

12 Q And that's Mario's mom and daddy.

13 A That's correct.

14 Q And after you informed that you would be
15 handling their son's case, what did you do?

16 A I then scheduled interviews with several
17 of the witnesses from the party. They actually
18 came up and gave me a more formal statement of
19 what actually occurred.

20 Q And at this did -- had law enforcement
21 figured out that there had been a party at Green
22 Swamp?

23 A Yes, sir.

24 Q And that Mario had a relationship with Ms.
25 Betty Welch?

Detective Kelly-Direct by Meadors

1 A That's correct.

2 Q And is that what lead you all back to 336
3 Green Swamp? Just initially?

4 A That's correct.

5 Q And at that point detective training, you
6 are trying to figure out what happened. And you
7 started talking to witnesses?

8 A That's correct.

9 Q Without saying what they said, just tell
10 us who you talked to, and when you talked to them?

11 A I actually spoke with Betty Welch who was
12 the home owner. I talked with Tamar Lawson. I
13 talked with Danielle Govan. I talked with Tajuana
14 Davis. I spoke with Alexia Smith.

15 Q And did you take statements from them?

16 A Yes, sir, I did.

17 Q Witness statements aren't admissible in
18 evidence. But you took a statement from these
19 witnesses and document it and they signed it,
20 correct?

21 A That's correct.

22 Q As a result of that, and you're trying to
23 figure out what happened, right?

24 A That's correct.

25 Q What did you with the information you'd

Detective Kelly-Direct by Meadors

1 gathered from these witnesses?

2 A Well It started when I called the
3 investigator and we started putting pieces
4 together to figure out what exactly happened. I
5 then interviewed another witness who came in,
6 prior to ending up with witnessed from the party,
7 who was not actually at the party.

8 Q And who was that?

9 A That was Robert Mellette.

10 Q And how he gotten developed as a witness?

11 A That was -- he actually notified law
12 enforcement and said that he needed to come up,
13 because he had some information.

14 (Statement marked Court's No. 10 for id.)

15 MR. MEADORS: May I approach, Judge?

16 THE COURT: You may.

17 Q I am going to show you what is marked as
18 Court's 10, detective. Do you recognize this?

19 A Yes, I do.

20 Q And is that your signature as a witness?

21 A Yes, it is.

22 Q And is that Robert Mellette's statement?

23 A Yes, it is.

24 Q And that's from 12/11?

25 A Yes, it is.

Detective Kelly-Direct by Meadors

1 Q And at this point you had statements from
2 the ladies; people at the party.

3 A That's correct.

4 Q A statement from Mr. Robert Mellette.

5 A That's correct.

6 Q And at that point as an investigator, did
7 you have an idea of what went on at the party?

8 A Yes, I did.

9 Q And potentially whose involved?

10 A Yes, I did.

11 Q So with that information, what did you do?

12 A Well one of the suspects, Shonta Helton,
13 she came in as well, to talk with me and to tell
14 what went on at the party as well. She was
15 essentially arrested that day when she came in to
16 give her statement. And I also obtained an arrest
17 warrant for another suspect identified in this
18 case, which was Gary Dargan.

19 Q And had Shonta Helton's name come up in
20 the statement you took from these other
21 individuals at the party?

22 A Yes, sir, it did.

23 Q And let's get to when you talked to Shonta
24 Helton. Tell the ladies and gentlemen where that
25 was a.

Detective Kelly-Direct by Meadors

1 A That was at the law enforcement center.

2 Q And that's just kind of right next door to
3 the library, correct?

4 A Yes, it is.

5 Q And can you tell specifically where in the
6 law enforcement center you were?

7 A We were actually in the property crimes in
8 the investigative office.

9 Q And who all was in the room with you and
10 Shonta Helton?

11 A It was myself and now Detective Sergeant
12 Billy Lyons.

13 Q And do you have her original statement
14 with you?

15 A Yes.

16 Q I am going to show what's marked, State's
17 55. Do you to recognize that?

18 A Yes, it's the Sumter Police interview
19 form. It's our miranda form.

20 Q Now when you're in the law enforcement
21 center with Ms. Shonta Helton, you said it's just
22 the two of you, did you have a chance to read her,
23 what's know as the miranda rights?

24 A Yes, I did.

25 Q Is that what's on that form?

Detective Kelly-Direct by Meadors

1 A Yes, I did.

2 Q To start off with, did she appear to be
3 under the influence of any alcohol, drugs or other
4 intoxicant?

5 A No, sir, she didn't.

6 Q Either during this or prior to this, did
7 you have an occasion to talk to her just to kind
8 of get a read on either her educational
9 background, or her understanding? Did you all
10 talk just in general?

11 A Yes, we did. we talked about children.

12 Q Did you understand her when you were
13 talking?

14 A Yes.

15 Q Did she understand you based her answers
16 to you?

17 A Yes.

18 Q And did you read her, her miranda rights?

19 A I did.

20 Q Could you read them to the ladies and
21 gentlemen of this jury as you read them Ms.
22 Helton?

23 A Absolutely. Sumter Police Department
24 interview form. Before we ask you any questions,
25 you must understand your rights. You have th

Detective Kelly-Direct by Meadors

1 right to remain silent. Anything said can be used
2 against you in court. You have the right to talk
3 to a lawyer for advise before we ask you any
4 questions and to have him or her present with you
5 during questioning. If you cannot afford a
6 lawyer, one will be appointed before any
7 questioning if you wish. If you decide to answer
8 any questions now without a lawyer, you still
9 would have the right to stop answering at anytime
10 until you talk with a lawyer.

11 Q And during the rights, did she tell you, I
12 understood them? Did she say I understand?

13 A Yes, she did.

14 Q And did you understand her when she told
15 you I understand it?

16 A Yes, I did.

17 Q So it appeared to you she understood them?

18 A Yes.

19 Q And she told you she did.

20 A Yes.

21 Q And during the reading of those rights,
22 did she ask for a lawyer?

23 A No, she didn't.

24 Q Did she say, don't talk to me?

25 A No, she didn't.

Detective Kelly-Direct by Meadors

1 Q Wanted to talk to you.

2 A Yes, she did.

3 Q And after you read her those rights, did
4 you read her what's called the waiver of rights?

5 A I did.

6 Q And could you read those to the jury as
7 you read them to Shonta Helton?

8 A Yes. Waiver of Rights, before any
9 questioning I was furnished the above statement of
10 my rights at 4:51 p.m. on December 10th of 2012,
11 at the law enforcement center by Officer Kelly of
12 the Sumter Police Department.

13 Q I have read or had read to me the
14 statement of my rights. I understand what my
15 rights are. I am willing to answer questions at
16 this time without a lawyer present. No promises
17 or threats have been made to me, and no pressure
18 has been used against me.

19 Q And as you were reading that to her and
20 afterwards, did she say I understand that?

21 A Yes, she did.

22 Q Did she say she wanted to waive her
23 rights?

24 A Yes, she said she understood.

25 Q And she said she wanted to waive it?

Detective Kelly-Direct by Meadors

1 A Yes, she did.

2 Q And did she actually signed saying she
3 waived her rights?

4 A Yes, she did.

5 Q And that's what time? On what date and
6 what time?

7 A This is on December 10th 2012, at 4:51
8 p.m.

9 MR. MEADORS: State's No. 55, without
10 objection, Your Honor.

11 THE COURT: State's No. 55 is admitted.

12 Q Now you read her those rights, did you
13 then take a statement from or interview with
14 Shonta Helton?

15 A Yes, I did.

16 Q Do you have that with you?

17 A Yes.

18 Q And what's your procedure about talking a
19 statement. Do you talk to folks and then go back
20 and do the statement or are you writing when you
21 do it?

22 A I write as they talk.

23 Q And then do you go back and put it in type
24 form and get her to sign it?

25 A No, I type as the defendant is actually

Detective Kelly-Direct by Meadors

1 talking.

2 Q When you say write, then you mean type it.

3 A Yes.

4 Q And State's 56, do you recognize this?

5 A Yes, I do.

6 Q And is that the statement you took from

7 Shonta Helton?

8 A Yes, it is.

9 Q And is her signature on there?

10 A Yes, it is.

11 Q And it looks like up here, at the top of
12 the statement on the form, it's a form you all use
13 at the city?

14 A Yes, it is.

15 Q At the top here it says, having been
16 advised of my constitutional rights and having
17 signed a waiver, do hereby give the following
18 statement free and voluntary without fear of
19 threat or promise or reward to you Natalie Kelly.
20 And Natalie Kelly who has been identified as a
21 police officer. So again, it is acknowledgment
22 that her rights have been read and she
23 understands?

24 A Yes.

25 Q And at anytime during this process, did

Detective Kelly-Direct by Meadors

1 you threaten, coerce her or hold out any hope of
2 reward?

3 A No, I didn't.

4 Q If she wanted to use the bathroom or want
5 any nourishment, food or anything would you have
6 let her have it? And I don't know if you did or
7 not, but you have let her?

8 A Absolutely.

9 MR. MEADORS: Mr. Murphy?

10 THE COURT: Any objection?

11 MR. MURPHY: None, Your Honor.

12 THE COURT: Without objection.

13 MR. MEADORS: And this is State's 56,
14 Your Honor.

15 THE COURT: Yes, sir.

16 (Statement of Shonta Helton marked State's
17 Exhibit No. 56 into evidence.)

18 Q Would you, with Your Honor's permission
19 can we ask Detective Kelly to publish it?

20 THE COURT: Yes, sir.

21 Q This is the Investigative Service
22 Division's statement. Name, Shonta, Alissa
23 Helton. Time 5:20 p.m. Address [REDACTED]
24 [REDACTED] Sumter, S.C. 29150. Date of birth
25 [REDACTED] Phone number (803) [REDACTED]. I Shonta

Detective Kelly-Direct by Meadors

1 Helton of [REDACTED], have been
2 advised of my constitutional rights, and having
3 signed a waiver of those rights, do hereby give
4 the following statement freely and voluntarily
5 without fear of threats or promise of rewards to
6 Detective Kelly who has identified herself as a
7 police officer.

8 On Saturday December 8th 2012, in the
9 afternoon Betty Welch came and got me my house on
10 Ford Street. We went to Piggly Wiggly so she
11 could pay her light bill, the liquor store, quick
12 cash and Walgreen's on Broad Street, and then to
13 Betty's house. It was me, Betty, T., unknown last
14 name, Mario and Danielle at the house. Betty was
15 cooking. We all started drinking, sitting,
16 laughing and having a good time. Some more people
17 came over. Lexie, unknown last name and Pressie,
18 unknown name. We all went outside. I am sure
19 unsure why. I remember a feeling mush in my head,
20 and when I turned around Mario was standing there.

21 I asked him why he did that, why he put
22 his hands on me. I don't remember him telling me
23 why. I remember everyone was jumping in the
24 middle of us, me and Betty got into it. I got on
25 the phone and I called Gary. I told him something

Detective Kelly-Direct by Meadors

1 happened and he needed to come pick me up. And he
2 told me no that he's not coming out of his way for
3 me and he hung up the phone.

4 Q Let me go back. You said I remember
5 everyone jumping in the middle of us. After that
6 it says me and Betty got into it?

7 A Uh-huh. (affirmative.) That's correct.

8 Q And then after that, start right there.
9 Gary, I am sorry. You want me---

10 A I remember everyone jumping in the middle
11 of us. Me and Betty got into.

12 Q Okay. And then after that, where did you
13 go?

14 A Okay. I got on the phone and I called
15 Gary. I told him something happened and needed to
16 come pick me up. He told me no, that he is not
17 coming out of his way for me and he hung up the
18 phone. Gary called me back within a few minutes
19 and told me that he is not going to leave out me
20 out there like that. He was sending B., Bernard,
21 unknown last name, to get me.

22 Q His unknown last name in parenthesis just
23 for the record.

24 A That's correct. Bernard drives a green
25 Oldsmobile car and does not have -- that does not

Detective Kelly-Direct by Meadors

1 have chrome rims. Then me and Gary hung up the
2 phone. I started walking down past the El
3 Cheapo's straight through the light. Mario was
4 walking beside me the whole time. Mario was
5 apologizing to me saying, I am sorry for that.
6 And he told me that I could come back to Betty's
7 house. I told him that I am done with that whole
8 situation and I was leaving.

9 Bernard called, (803-847-0267) me, and
10 asked where I was. I told him I was either
11 passing or by the El Cheapo's. By the time I got
12 around the curve, I didn't see Mario anymore. I
13 called Bernard back to see where he was it, and
14 pulled up, and he pulled up driving his car and I
15 got in. Me and Bernard left, and Bernard took me
16 to Lincoln Street, the gambling house, where Gary
17 was at. I sat there and talked to Gary for a
18 second. I told Gary what happened between me,
19 Mario and Betty. Gary told me to go home. I
20 wasn't going home. I told Bernard to drop me off
21 at Danielle's house behind south side gym.

22 When I got to Danielle's house, she was
23 asleep. Danielle's kids let me inside of her
24 house. I stayed at Danielle's house for a few
25 minutes. I called Gary, and he came and picked me

Detective Kelly-Direct by Meadors

1 up. Gary dropped me off at Club Miami. I went in
2 the club, partied and drink some more. I saw
3 Betty and T. in the club. Betty came up to me and
4 apologized for what happened.

5 Q Say that again?

6 A Betty came up to me and apologized for
7 what happened. I told Betty it didn't matter that
8 I was through with it. When the club was over,
9 Gary came back and picked me up. I am unsure if I
10 called him or him to get me or not. I am unsure
11 of what he was driving. We left Club Miami, and
12 he took me to McDonald's on Broad Street. I got a
13 biscuit and gravy and some breakfast wrap. We
14 left McDonald's and he took me to my house on Ford
15 Street dropped me off and he left.

16 The next day, Sunday, December 9th 2012, I
17 woke up and people were calling me. My friend,
18 Carmelo McDaniel, 803-██████████, Danielle,
19 (803) ██████████, (803) ██████████ and Gary
20 (803) ██████████ was calling me. They told me that
21 Mario got killed. Danielle said the police was
22 calling her can can't nobody find Betty. I was
23 shocked. Carmelo told me that Betty said that I
24 killed her boyfriend. I didn't try calling Betty
25 and I haven't talked to her. I called the police

Detective Kelly-Direct by Meadors

1 station on Sunday to talk to a detective, but they
2 told me the detective don't work on Sundays and
3 try back Monday morning. I decided to come today
4 to clear my name.

5 I cannot remember the times that all of
6 this occurred. I was paying attention to the
7 times. I was drinking. I did not use Gary's phone
8 at all that night. The last time I used Gary's
9 phone was maybe a month ago If I ever used it. I
10 don't know where Gary is living. I haven't been
11 seeing Gary. Saturday night was the first time I
12 seen Gary in a couple of weeks.

13 Q Now back on that page 2, she had given you
14 this information about where she was and phone
15 numbers and everything. And I believe going to
16 Club Miami and then McDonald's. And are these in
17 response to questions that you have, that you have
18 then writing?

19 A That's correct.

20 Q Well on page 2 there up at the top when
21 you asked her what kind of vehicle she was in,
22 what did she say?

23 A She don't know.

24 Q And after you took this statement from
25 her, did you go back over with her?

Detective Kelly-Direct by Meadors

1 A That's correct.

2 Q That's just what you do, right?

3 A Yes.

4 Q And at that point did she acknowledge this
5 was her statement?

6 A Yes, she did.

7 Q Gave initials on the page front.

8 A Yes, she did.

9 Q And is that in case he might come try to
10 come back and change something? This shows that
11 that's what it is with her initials, right?

12 A That's correct.

13 Q And she signed the front and the back
14 page?

15 A Yes, she did.

16 Q And you signed it?

17 A Yes.

18 Q And she wanted to come in told you this
19 story?

20 A Yes, she did.

21 Q This interview. So at this point, you
22 talked to the ladies at the house; talked to
23 Shonta Helton. And what was her phone number?

24 A At that time it was (803)464-4914.

25 Q And did she actually have her phone with

Detective Kelly-Direct by Meadors

1 her?

2 A Yes, she did.

3 Q And did you take -- did you take her
4 phone?

5 A Yes, I did.

6 Q I am going to show what's marked State's
7 54 and just ask me -- I will ask you, please, if
8 you recognize and does it relate to my question,
9 if you would.

10 A This is her phone. Shonta Helton.

11 Q Like you've given that to me right there,
12 did you take from her like from her possession?

13 A Yes, I did.

14 MR. MEADORS: Your Honor, State's 54
15 without objection.

16 THE COURT: I think it's already in, isn't
17 it?

18 MR. MEADORS: I don't think 54.

19 THE COURT: Without objection?

20 MR. MEADORS: Without objection.

21 (Cell phone of Shonta Helton marked
22 State's No. 54 into evidence.)

23 MR. MEADORS: These are some phone tolls
24 from that number, agreeing without objection.

25 THE COURT: Right.

Detective Kelly-Direct by Meadors

1 MR. MEADORS: State's 50 in without
2 objection.

3 (Phone tolls marked State's No. 50 for
4 evidence.)

5 Q What did you do next in your
6 investigation?

7 A Shonta was essentially arrested. She was
8 transported to the law enforcement. I am sorry,
9 the county jail. I actually obtained a search
10 warrant for the cellular phone. I actually
11 obtained cell phone records.

12 Q And at this point in the investigation,
13 you thought that it might be something of
14 evidentiary value?

15 MR. KENT: Judge, I am going to object to
16 the leading. I've let it go for awhile, but allow
17 this witness to testify.

18 THE COURT: Rephrase your question.

19 Q Why were you looking for cell phone
20 records?

21 A Because of the preliminary investigation
22 and some of the things that we also looked at as
23 far as Shonta Helton placing a phone call to Gary
24 Dargan.

25 Q And had the witnesses told you what she

Detective Kelly-Direct by Meadors

1 had said on that phone?

2 A Yes, they did.

3 Q So you did -- go ahead and continue. You
4 did search warrants for phones?

5 A Yes, I did.

6 Q Which ones?

7 A I did a search warrant for Shonta's phone.
8 I did a search warrant for Gary Dargan's phone.
9 And a couple of the other girls I obtained cell
10 phones records as well.

11 Q What about Robert Bernard Mellette?

12 A I also obtained a cell phone for
13 Mellette's phone.

14 Q And that's what's already been entered as
15 State's 4 I think when he testified, correct?

16 A That's correct.

17 Q Did you have those records yet?

18 A I did not have those records at that time.

19 Q Is there any way you could have had those
20 records at that point?

21 A No, sir.

22 Q So you couldn't have known who called who
23 when, could you?

24 A No, sir, I couldn't.

25 Q Did you have an occasion to talk to Gary

Detective Kelly-Direct by Meadors

1 Dargan?

2 A Yes, I did.

3 Q And where did that happen?

4 A It also happened at the law enforcement
5 center.

6 Q And at this point you had the statements
7 from the ladies.

8 A That's correct.

9 Q I am asking? Statement from Shonta
10 Helton.

11 A That's correct.

12 Q Robert Bernard Mellette.

13 A That's correct.

14 Q At what point, what day did talk to Gary
15 Dargan?

16 A I talked to Gary Dargan on December 11th
17 2012.

18 Q Where did you first come in to contact
19 with Gary Dargan?

20 A I was actually at the law enforcement
21 center. Warrants had already obtained for Gary
22 at that point. And some of the other detectives
23 actually arrested Gary actually, leaving a hotel
24 room.

25 Q So you weren't at that scene, I guess is

Detective Kelly-Direct by Meadors

1 my question.

2 A No, sir, I was not at that scene.

3 Q And you first saw him, him being Gary
4 Dargan, excuse me, at the law enforcement center.

5 A That's correct.

6 Q And tell the ladies and gentlemen of the
7 jury again what room or where were you at the law
8 enforcement center.

9 A I was actually in the interview room at
10 the law enforcement center.

11 Q And when you talked to Gary Dargan who
12 else was with you if anybody?

13 A That was now detective, Sergeant Billy
14 Lyons.

15 Q And could you please tell the ladies and
16 gentlemen of the jury, did you have an occasion to
17 read Gary Dargan his miranda rights?

18 A Yes, I did.

19 Q And is that the same form that you use?

20 A Yes, it is.

21 Q In all cases when you're interviewing a
22 suspect?

23 A That's correct.

24 Q And clearly he was a suspect and had a
25 warrant, correct?

Detective Kelly-Direct by Meadors

1 A That's correct.

2 Q And please read the rights to the ladies
3 and gentlemen as you read them to Gary Dargan on
4 December the 11th?

5 A That's correct.

6 Q Okay.

7 A Sumter Police Department interview form.
8 Before we ask you any questions you must
9 understand your rights. You have the right to
10 remain silent. Anything you say can be used
11 against you in court. You have the right to talk
12 to a lawyer for advice before we ask you
13 questions. And to have him present with you
14 during questioning. If you cannot afford a
15 lawyer, one would be appointed for you before any
16 questions if you wish. If you decide to answer
17 any questions now without a lawyer present you
18 will still have the right to stop answering at any
19 time until you talk to a lawyer.

20 Q As you read each one those rights, did
21 Gary Dargan indicate to you he understood them?

22 A Yes, he did.

23 Q Did he orally tell you that?

24 A He did.

25 Q And based on your training and experience

Detective Kelly-Direct by Meadors

1 just every day life dealing with people and
2 talking to people, did he appear to understand
3 it?

4 A Yes, he did.

5 Q And each one as he read through it, he
6 said I understand it?

7 A Yes, he did.

8 Q Did he, Gary Dargan appear to be the
9 influence of alcohol, drugs or any other
10 intoxicant?

11 A No, he didn't.

12 Q And did you smell anything?

13 A No, sir, I didn't.

14 Q Did you hold out any hope of reward or
15 promise in exchange for his statement?

16 A No, I did not.

17 Q Did you threaten him or coerce him or
18 anything?

19 A No, I did not.

20 Q And at any time during the reading of
21 these rights, did he say, I don't want to talk to
22 you or I want a lawyer?

23 A Not when we starts, no, sir, he didn't.

24 Q And if had, you would have stopped.

25 A Yes, I would.

Detective Kelly-Direct by Meadors

1 Q Just, you know, I generally ask these
2 questions. That's all I am doing. And then did
3 you read him the waiver of rights?

4 A Yes, I did.

5 Q And would you read those waiver as you did
6 to Gary Dargan on December 11th?

7 A Waiver of rights. Before any questions, I
8 was furnished the above statement of my rights at
9 21:30 p.m., which is 9:30 December 11, 2012 at the
10 law enforcement center by Officer Kelly of the
11 Sumter Police Department. I have read or had read
12 to me these statements of my rights. I understand
13 what my rights are. I am willing to answer
14 questions at this time without a lawyer present.
15 No promises or threats have been made to me and no
16 pressures have been used against me.

17 Q That statement actually says it, doesn't
18 it? I understand my rights and I waive them. I
19 mean, that's what it says, and that's what you
20 read to him?

21 A That's correct.

22 Q And for these purposes getting through
23 this. And did he indicate that he understood
24 that?

25 A He did.

Detective Kelly-Direct by Meadors

1 Q Understood the waiver.

2 A He did.

3 Q And did he sign it?

4 A Yes, he did.

5 Q Did you force him to sign it?

6 A No, sir, I didn't.

7 Q And his signature on the form?

8 A Yes, it is.

9 Q And is your signature?

10 A Yes.

11 Q Now some statements you take are written,
12 some are oral?

13 A That's correct.

14 Q Just in general. Did you take an oral
15 statement from him?

16 A I did.

17 Q And again, practically are you just
18 conversing, talking with him like we're doing and
19 asking questions and he's responding?

20 A That's correct.

21 Q And can you tell the ladies and gentlemen
22 of the jury what Gary Dargan told you on
23 December 11, 2012 at the law enforcement center?

24 MR. MEADORS: I beg the court's
25 indulgence. Can we approach?

Detective Kelly-Direct by Meadors

1 THE COURT: You may.

2 (Whereupon, attorneys approach and confer
3 with judge.)

4 Q This is the other summary of his oral
5 statements.

6 A That's correct, uh-huh. (Affirmative.)

7 Q And did you make notes of that as you were
8 doing it?

9 A I did.

10 Q And could you please tell these ladies and
11 gentlemen of this jury, the substance, or tell
12 them what the oral -- or substance of your oral
13 interview with Gary Dargan, please.

14 A Normally when we took the oral interview
15 from a suspect we normally try to make notes about
16 what actually happened during that interview. In
17 this case I used the Sumter Police Department
18 miranda interview form. And it just basically
19 states that on the date of December 11th, 2012, at
20 21:30 which is 9:30 and I was at the law
21 enforcement center. Of course I was interviewee
22 and he was.

23 Q Take your time, please.

24 A He was the interviewee and I was the
25 interviewer. And this actually was conducted

Detective Kelly-Direct by Meadors

1 between me and Detective Lyons. Just a summary of
2 the interview. And when I say subject, subject
3 meaning Gary Dargan. Stated that subject stated
4 an argument started between Mario and his
5 ex-girlfriend Shonta. Subject stated Shonta
6 called him and said that she needed a ride and she
7 was at Betty's house.

8 When I asked him what was Shonta's last
9 name, he stated why are you trying to plea me like
10 that. You know her last name. Subject stated he
11 told Shonta that he was running a card game and he
12 wasn't messing with her like that. Subject stated
13 he decided to call his home boy, Bernard, and he
14 told him that she, Shonta, was on the west side at
15 El Cheapo's and he give Bernard, Shonta's number.
16 Subject stated Bernard brought Shonta to the card
17 game he was running. Subject stated she got into
18 a fight with some boy. He told her to take her
19 ass home.

20 Subject stated he called her, Shonta's
21 phone, and she said she was at Danielle's house,
22 and she was about to go to the club. Subject
23 stated he asked Shonta, how was she going to get
24 there. And she, meaning Shonta, said she would
25 find a way. Subject said he told her okay.

Detective Kelly-Direct by Meadors

1 Subject stated he picked her, Shonta, up and he
2 dropped her off at Club Miami out at Shaw, and he
3 left to go to Wal-mart to get some tee shirts.

4 Subject stated he changed clothes and then
5 he himself went to Club Miami. Subject stated
6 after the club he took Shonta to McDonald's to eat
7 and then he took her home. Subject stated when he
8 was at the card game, some dude unknown name, came
9 through, and said somebody got killed on the west
10 side. Subject stated dude who Shonta got into it
11 with name was Mario, and he lived with Betty.
12 Subject stated he knew Mario a long time and that
13 they hadn't had any problems before.

14 Subject stated everybody in school, all
15 four of them, he, Mario, Betty, and Shonta, and
16 they all visited clubs together. Subject stated
17 people are saying that he did it, he guessed,
18 because if somebody got into an argument with me,
19 referring to Detective Lyons and I, was dealing
20 with and they got hit, they would think we did it
21 too. And it was just a rumor.

22 Q And that was the substance of the oral
23 statement or interview you had with Gary Dargan---

24 A That's correct.

25 Q On December 11th at what time?

Detective Kelly-Direct by Meadors

1 A That was at 9:30.

2 Q You got his phone number from that
3 interview or you know what his phone number was?

4 A Yes, I know what his phone number was.
5 His phone number at that time was (803) 406-4080.

6 Q And did you have an occasion to ask for
7 his phone or did you take his phone?

8 A Yes, I did.

9 Q And looking at State's 53, is that the
10 phone you took from Gary Dargan?

11 A Yes, it is.

12 MR. MEADORS: State's 53 without
13 objection.

14 THE COURT: State's 53 is admitted.

15 (cell phone of Gary Dargan marked State's
16 Exhibit No. 53 into evidence.)

17 Q You testified earlier that you had done
18 search warrants on a phone number. And I believe
19 without objection, Your Honor, they have phone
20 records from this time period.

21 THE COURT: Yes, is that Correct?

22 MR. MURPHY: No objection.

23 THE COURT: Without objection.

24 MR. MEADORS: And for the record, that's
25 State's 51, (803)406-4080. The records you got

Detective Kelly-Direct by Meadors

1 back from the search warrant.

2 A That's correct.

3 (Phone records marked State's Exhibit No.
4 51 into evidence.)

5 Q Those are the records you got back from
6 the search warrant.

7 A That's correct.

8 Q When did -- did you know Robert Bernard
9 Mellette, had a brother named Marcus Mellette?

10 A Yes.

11 Q Did you know when this started, when you
12 took the statement and I am just asking whether or
13 not Marcus Mellette had any potential information
14 about this?

15 A No, I didn't.

16 Q And at the point in your investigation was
17 name involved in this at all?

18 A No, it was not.

19 Q And at what point did you learn that
20 Marcus Mellette may have some potential evidence?

21 A As far as the evidence, I learned on
22 yesterday.

23 Q Could it have been the day?

24 A The day before yesterday, I am sorry.

25 Q We both kind of learned at the same time?

Detective Kelly-Direct by Meadors

1 A We did.

2 Q And as a result of that, were some letters
3 brought to you from Marcus Mellette regarding
4 potential evidence in this case?

5 A Yes, It was.

6 Q And also, I don't know, my request or
7 your investigation did you as a part of your
8 investigation, search jail phone records?

9 A I did.

10 Q And is that something you do?

11 A Yes, it is.

12 Q And tell the ladies and gentlemen of this
13 jury, is it known to everybody on the phone call
14 that these calls are being recorded?

15 A Yes, it states that this call is being
16 recorded.

17 Q And are their signs saying it too?

18 A Yes.

19 Q So did you request the jail phone records
20 for particular numbers from Captain Teresa Ray
21 Lee.

22 A Yes, I did.

23 Q And she is the custodian of those records,
24 is that correct?

25 A That's correct.

Detective Kelly-Direct by Meadors

1 Q And she provided you with these phone
2 calls which have been played for the jury?

3 A Yes, she did.

4 Q And as State's 48, I believe they are in,
5 but are these the letters you received from Marcus
6 Mellette.

7 A Those are it.

8 MR. MEADORS: I think State's 48, but for
9 the record, Your Honor. I think they are in.

10 Q Now there is a fellow named Reco Ham.

11 A Yes.

12 Q Did you have an occasion to talk to him?

13 A I did.

14 Q And when was that?

15 A I spoke with Reco on March 6th of this
16 year 2014.

17 Q And as a result of that, did Reco Ham give
18 you a letter he received?

19 A Yes, he did.

20 Q And who was that letter from according to
21 Reco Ham?

22 A It was from Gary Dargan.

23 Q Did you take possession of that?

24 A Yes, I did.

25 Q And where did you interview Reco Ham?

Detective Kelly-Direct by Meadors

1 A I interviewed Reco at the Lexington County
2 Detention Center.

3 Q And then provided that information to us
4 and to the attorneys, correct?

5 A That's correct.

6 Q At some point in the investigation
7 originally did you take a statement from a Debbie
8 Prince?

9 A Yes, I did.

10 Q And was that early on in the
11 investigation?

12 A Yes, that December 15th 2012.

13 Q Do you have that with?

14 MR. MEADORS: Make that a court's.

15 (Statement marked Court's Exhibit No. 11
16 for id.)

17 Q Court's 11, is this a statement you took
18 from Debbie Prince?

19 A Yes, it is.

20 Q And that's when?

21 A December 15th 2012.

22 Q And in preparation for this proceeding,
23 this trial, did you receive something else from
24 Ms. Prince his week?

25 A Yeah, she told me that she had gotten a

Detective Kelly-Direct by Meadors

1 letter from Gary Dargan.

2 Q And that's already been entered into
3 evidence as 46, but is this the letter she brought
4 to you?

5 A That is letter.

6 Q Did do you know about this when you took
7 her statement back in December?

8 A No.

9 Q And did you know about it at anytime until
10 right before it was presented?

11 A No.

12 Q I mean, this week.

13 A Yes, sir. Yesterday.

14 Q And going back to Reco Ham, I forgot. Did
15 he also give you a letter or we mentioned it. Did
16 he actually give you the letter?

17 A Yes, he did.

18 Q And that's State's 49, is that correct?

19 A That's correct.

20 Q Did you took possession of that from
21 Mr. Reco Ham?

22 A Yes, I did.

23 MR. MEADORS: I beg the court's
24 indulgence.

25 Q Did you try to find out what potential

Detective Kelly-Direct by Meadors

1 vehicles Gary Dargan might have been in?

2 A Yes, I did.

3 Q And did you have an occasion to interview
4 Client Roberts?

5 A Yes, I did.

6 Q And did you take pictures of a van? Or
7 were pictures taken a van?

8 A Yes, sir.

9 Q And specifically State's 7, does that
10 depict the van?

11 A Yes. That's the van that belongs to Mr.
12 Client O'dell.

13 Q Or that he was using for his job.

14 A That he was using, yes.

15 Q When did you talk to him?

16 A I actually talked to Mr. Roberts on
17 February 4th 2013.

18 Q So still were investigating February 13th.
19 And you had developed his name at some point in
20 the investigation?

21 A Yes, I did.

22 Q And you went and talked to him.

23 A Yes, I did.

24 MR. MEADORS: Your Honor, at this point
25 with the agreement between the parties, State's

Detective Kelly-Direct by Meadors

1 52, which is a report from firearm's department
2 James Green that the eight fired 45 auto caliber
3 cartridges casings which were collected by Jacob
4 Mitchell were fired by the same firearm.

5 THE COURT: Is that correct, gentlemen?

6 MR. MURPHY: No objection.

7 MR. KENT: No objection.

8 THE COURT: Without objection State's 52.

9 MR. MEADORS: 52.

10 (Cartridges marked State's Exhibit No. 52
11 into evidence.)

12 Q Did you turn over all the phone
13 information over to Heath Gardner?

14 A Yes, I did to Heath Gardner.

15 Q And is the individual you took the
16 statement from regarding her involvement, Shonta
17 Helton, is she next to Mr. Kent?

18 A Yeah, that is Shonta.

19 Q And Gary Dargan next to Mr. Murphy?

20 A Yes, sir.

21 Q The statement you took from him.

22 THE COURT: Mr. Murphy.

23 MR. MURPHY: No questions.

24 THE COURT: Mr. Kent.

25 MR. KENT: Yes, sir.

Detective Kelly-Cross by Kent

1 Cross Examination by Mr. Kent:

2 Q Let's go through some stuff about your
3 training and background. You are trained at the
4 criminal justice academy?

5 A Yes.

6 Q And how long ago was that? I don't want
7 to date you, but how long ago was that?

8 A Quite some time.

9 Q And when we're at the criminal justice
10 academy they train us in things to get ready for
11 cases such as this, correct?

12 A Yes.

13 Q And they train us in report writing,
14 letter writing, evidence gathering and witness
15 interviewing. And they train us in all of these.

16 A Absolutely.

17 Q And they do all of these things to make
18 sure that when we're trained and we're testifying
19 in front of a jury and when we are collecting
20 evidence from the road we do everything properly.

21 A That's correct.

22 Q And they want to make sure. Because how
23 many cases do you have?

24 A Tons.

25 Q Tons of cases. And so each visit is an

Detective Kelly-Cross by Kent

1 individual case and it's hard to memorize to
2 everything that happened on the each case.

3 A That's correct.

4 Q And that's why we make our report writing
5 or interviewing or witness interviewing or
6 evidence taking, is all done a very schematic
7 certain way so there is nothing that's forgotten.

8 A That's correct.

9 Q And let's start first when we interview
10 witnesses. What is one of the primary concerns
11 that we do when we interview witnesses?

12 A We don't interview them together.

13 Q We don't interview them together. That's
14 a primary. What else do we concentrate on?

15 A The truth.

16 Q Make sure you get the truth. And when
17 you're taking down their statements, we try to get
18 them as close to the incident as possible, isn't
19 that correct.

20 A As close to the incident?

21 Q As close as possible.

22 A To what happened as possible?

23 Q Right.

24 A Yes.

25 Q And why do we try to get it as close as

Detective Kelly-Cross by Kent

1 possible?

2 A We try to make sure they tell the truth.

3 Q Well and memories change, correct?

4 Memories are fallible.

5 A Uh-huh. (Affirmative.)

6 Q And we try to make sure we get these
7 written statements as close as possible, because
8 we don't want memories to change. We don't want
9 people to go outside influences, correct?

10 A That's correct.

11 Q And that happens a lot. Outside
12 influence. I think you're from Sumter. We always
13 hear the phrase, the streets. And you're nodding
14 your head. And you remember the lady is taking
15 down every word. That's a yes?

16 A Yes.

17 Q And so we want to make sure the streets or
18 outside influence or things of that nature don't
19 interview potential witness statements.

20 A That's correct.

21 Q And so and that's one of the things that
22 we concentrate on completely.

23 A That's correct.

24 Q Let's start and talk about this case
25 specifically. And I think the solicitor was

Detective Kelly-Cross by Kent

1 asking you about taking a statement. You actually
2 took a statement from Shonta Helton.

3 A Yes, I did.

4 Q And when we were talking about a statement
5 from Shonta Helton, somebody earlier had mentioned
6 during the course of the trial, that Shonta was
7 arrested. She actually turned herself in.

8 A Yeah, she came to law enforcement.

9 Q She voluntarily came to law enforcement to
10 talk to you.

11 A Yes, she did.

12 Q She came and she sat down, and sat down in
13 the office with you. And I think you said now
14 senior or whatever Billy Lyons, Sergeant Billy
15 Lyons.

16 A That's correct.

17 Q You all were a room together.

18 A That's correct.

19 Q And you all sat down and interviewed her.

20 A That's correct.

21 Q Tell me about this room. Is it a big
22 room? Small room? Is there a bunch of stuff in
23 there?

24 A I mean it's a fair size. It has about 4
25 desks.

Detective Kelly-Cross by Kent

1 Q Anything else in there? Computers or
2 anything in there?

3 A Yeah, there are some computers in there.

4 Q Okay. So there's computers and things
5 like that in there.

6 A Yes.

7 Q How long did you all interview Shonta
8 Helton before you started writing a statement?
9 Because that statement clearly isn't her
10 handwriting?

11 A Immediately.

12 Q Immediately. So you just started typing
13 immediately?

14 A As she talked.

15 Q So were you taking -- no one was taking
16 notes? No one was taking notes? You just started
17 typing as she was talking?

18 A That's correct.

19 Q Because you gave us some notes from Billy
20 Lyons, who took some notes also.

21 A Yes.

22 Q So he was taking notes.

23 A That was from the preliminary
24 investigation.

25 Q So he didn't take any notes from interview

Detective Kelly-Cross by Kent

1 as you all were sitting down talking to Shonta
2 Helton?

3 A No, I was typing.

4 Q And you're typing everything word for word
5 that was happening.

6 A I was trying to get everything verbatim.

7 Q Well were we really getting everything
8 verbatim? I think the solicitor was asking.
9 There are certain questions that are missing.
10 There is clearly everything is not in here. This
11 is more of a synopsis, not Shonta's direct
12 statement of what she gave you that day.

13 A No, my questions aren't in there, but her
14 answers are.

15 Q Well don't the questions -- aren't they
16 kind of important? We'll never know what those
17 exact questions were to answer to some of these
18 questions. Because they are no where written
19 down. They are nowhere recorded. They are
20 nowhere where we can find, correct?

21 A Well, yeah. If she would argued then she
22 could have just not signed the statement. But she
23 signed saying that everything is accurate and
24 correct.

25 Q The question was, those questions that you

Detective Kelly-Cross by Kent

1 asked are nowhere recorded. They are nowhere
2 written down. They are nowhere for the jury to
3 ever see what specific questions you were asking
4 Shonta on that day.

5 A Uh-huh. (Affirmative.) That's correct.

6 Q And what we were talking about when we
7 talk about our training and expertise, is we try
8 to get down as close to what happened as possible,
9 and we want to get down a snap shot, to tell the
10 jury exactly what happened in that room, because
11 there was only three of you all in there.

12 A That's correct.

13 Q And it's not recorded.

14 A That's correct.

15 Q And so this is really a snap shot. It's
16 not exactly word for word of what happened in that
17 word.

18 A It's word for word what she said, what she
19 told me what happened.

20 Q Well we don't know what you said. I guess
21 that's not important.

22 A What's important is what she said what
23 happened.

24 Q But what you asked isn't important at all.

25 A Yes, it's important.

Detective Kelly-Cross by Kent

1 Q But it's not in here.

2 A No, we don't put questions asked in a
3 statement. It's a suspect statement.

4 Q And as we go through statement, there are
5 some things very specific in there. She clearly
6 tells you that she got hit in the head, correct?

7 A She got mushed.

8 Q She got mushed. She clearly tells you on
9 her own, I called Gary, correct?

10 A That's correct.

11 Q She clearly told you that she and Betty
12 got into it.

13 A Yes, that's correct.

14 Q She clearly tells you that she told Gary
15 something happened, and he needed to come pick me
16 up, correct?

17 A That's correct.

18 Q She clearly tells you that Gary actually
19 called her back. So she was telling you
20 conversations were going back and forth in front
21 of Gary. She wasn't hiding this, is that correct?

22 A That's correct.

23 Q She told you she was sending Bernard,
24 correct?

25 A That's correct.

Detective Kelly-Cross by Kent

1 Q And she actually gave you the number. You
2 specifically asked her what is Robert Mellette's
3 number, right?

4 A That's correct.

5 Q So you said we need Robert Mellette's
6 number.

7 A That's correct.

8 Q And did you take this information. You
9 take the number from Robert Mellette and you
10 contacted Robert Mellette yourself, correct?

11 A Robert Mellette actually came up.

12 Q You didn't use the number she gave you to
13 contact Robert Mellette?

14 A No, he actually came up.

15 Q She told you she was with Mario.

16 A Yes, she did.

17 Q She told you she was walking by Mario.
18 She told you her and Mario were talking in this
19 statement.

20 A Yes, she said Mario was apologizing to
21 her.

22 Q She said that in her statement. She says
23 that Bernard left and she took -- that Bernard
24 took her to Gary. She says that in the statement.

25 A That's correct.

Detective Kelly-Cross by Kent

1 Q She said I told Gary what happened between
2 me, Mario and Betty, correct?

3 A That's correct.

4 Q She says Gary told me to go home, correct?

5 A That's correct.

6 Q She said later she went to a friend's
7 house. Gary said get her out of here. And she
8 ended up going to Danielle's house, correct?

9 A That's correct.

10 Q She then called Gary again later and said,
11 come get me.

12 A That's correct.

13 Q And Gary actually -- she said Gary picked
14 me up again.

15 A That's correct.

16 Q And he said Gary took me to Club Miami.
17 So she's telling you everything that happened.

18 A That's correct.

19 Q She said she saw Betty. She says she was
20 at the club.

21 MR. MEADORS: I am going to object to his
22 comments. She's telling him everything that
23 happened. That's what she told him.

24 MR. KENT: She could have responded
25 however she felt necessary.

Detective Kelly-Cross by Kent

1 THE COURT: Rephrase your question.

2 MR. KENT: I'm past that one, judge.

3 Q She saw Betty in the club.

4 A That's what she said.

5 Q She said when it was all over Gary came
6 back and picked her up.

7 A That's correct.

8 Q And there was a question. She actually
9 says she was unsure if she called him, or if he
10 called her to come pick her up from the club that
11 night.

12 A That's correct.

13 Q And she said at that point and time she
14 was unsure of what he what he was driving. Not
15 what she was driving. She was unsure of what Gary
16 was driving.

17 A Right. She was unsure of the vehicle she
18 was in that she got into with Gary.

19 Q And, so all of her answers are in this
20 statement. There is nothing that she said that
21 wasn't in here at all. This is everything.

22 A That's everything she told me.

23 Q Everything. There is nothing else.

24 A That's everything she told me.

25 Q And you wrote a report on this case,

Detective Kelly-Cross by Kent

1 correct.

2 A That's correct.

3 Q And in the report, you specifically write
4 in the report when she asked why didn't she wait
5 for Welch -- why didn't wait at Welch's house for
6 Dargan or Bernard, she replied she just didn't.
7 That's not in there.

8 A That's what she said.

9 Q But that's not in here. You just told me,
10 everything is in here. Didn't you?

11 A Yes.

12 Q Well I am going to hand it to you, and
13 show me where that statement is in here?

14 A That statement is not in there.

15 Q So everything is not in here.

16 A That part is not in there.

17 Q Well what else is not in here? That's
18 kind of important. You just told me, you just
19 told this jury that every single thing she said is
20 inside this document, this two page document. And
21 I just asked you one simple question and you said
22 that's not there.

23 A Well that's what she said. I asked her
24 and that's what she said. What's in there also,
25 we talked about her children. Those are

Detective Kelly-Cross by Kent

1 questions, I asked her. That's not in there as
2 well.

3 Q So again everything that was discussed
4 inside of that room is not documented. There's
5 things missing---

6 A Not everything that was discussed. But
7 everything pertaining to that.

8 Q Well you felt that one bit of information
9 was so important you actually put it in italics.

10 A That's what she said.

11 Q Because that was important.

12 A Yes.

13 Q But not important enough to put in her
14 statement that you had her sign?

15 A It's in the investigator's summary,
16 because it's what she said.

17 Q We talked about investigation. And you
18 have investigated, and we have looked through all
19 of these witnesses. And we've talked about phone
20 records. You've checked everyone's in the case,
21 phone records to see who they called, who they
22 didn't call. One of the witnesses was Tajuana
23 Davis. She had testified that she called 411. Do
24 we have any information where she actually called
25 411, to verify the information she gave this jury?

Detective Kelly-Cross by Kent

1 Did you all actually do that?

2 A Well we will have Detective Heath Gardner
3 who will testify to those phone records.

4 Q Well I'm just asking you, because you were
5 the one doing the search warrant. Did you do a
6 search warrant on Tajuana Davis' phone records to
7 see called 411? That's what we're asking, you did
8 the search warrants.

9 A No, I didn't see where she called 411.

10 Q So did you do a search warrant on her
11 phone?

12 A No.

13 Q So there was no search warrant done on her
14 phone, so we can't verify whether she was telling
15 the truth or not.

16 A No.

17 Q And the solicitor was asking you
18 questions. You guys have been getting new
19 evidence every day this week. It's been one of
20 those crazy cases where we get new evidence
21 everyday, and you all have taken the time, done
22 the interview to follow up on the new evidence,
23 the new leads, to see if it's verifiable.

24 A That's correct.

25 Q You all have been working late. So if

Detective Kelly-Cross by Kent

1 you get new information, now evidence, you've
2 tried to verify it so you can give the jury the
3 full snapshot of what happened that day.

4 A That's correct.

5 Q That's including the records, the
6 interviews, the letters that Gary Dargan was
7 sending people, you followed up on all of that.

8 A That's correct.

9 Q Well we were all in here yesterday when he
10 was asking about Mr. Mellette. And you guys just
11 found about Mr. Mellette yesterday from a couple
12 of days ago, Marcus.

13 A Yes.

14 Q And we found out some information that
15 Marcus had to give.

16 A Yes.

17 Q And yesterday on the stand Marcus
18 specifically told the jury, man, I am going to
19 kill this guy already. You heard that testimony.

20 A I heard that testimony.

21 Q These guys had a beef forever back in the
22 day.

23 MR. MURPHY: Your Honor, I am going to
24 object to his discussion. I don't think that it's
25 relevance on the part of---

Detective Kelly-Redirect by Meadors

1 THE COURT: Sustained.

2 Q Did you follow up?

3 MR. MURPHY: Your Honor, I am objecting to
4 that.

5 THE COURT: Just ask her did you follow
6 up.

7 Q Did you follow up on that information?

8 A No.

9 Q Not at all?

10 A As far as---

11 MR KENT: Thank you.

12 THE COURT: Any redirect?

13 MR. MEADORS: Just very briefly.

14 Direct Examination by Mr. Meadors:

15 Q Tajuana Davis said she called to check on
16 the hospitals?

17 A That's correct.

18 Q Did you check the records of anything of
19 these other ladies out there? Search warrants on
20 any other witnesses?

21 A No.

22 Q Did you have testimony of any other
23 witness that they had said, come get this mother
24 fucker and kill him? Any other evidence any of
25 those ladies had said anything like that of Mario?

Detective Kelly-Redirect by Meadors

1 A No.

2 Q And what she told you following up on Mr.
3 Kent, that's what she told you about the trip from
4 Green Swamp to where she went later.

5 A That's correct.

6 Q That was it.

7 A That's correct.

8 Q When was it she said she talked to Gary
9 Dargan again after she was dropped off?

10 A She called Gary, and told Gary to pick her
11 up at Danielle's house.

12 Q Did she say she didn't use his phone at
13 all that night?

14 A That's correct.

15 Q Now Mr. Kent asked you about your
16 investigations and your interviewing. I believe
17 it's State's 3. Did you interview Kenyardo
18 Bolton?

19 A Yes, I did.

20 Q And did you actually take a picture of her
21 pone?

22 A Yes, I did.

23 Q And I believe there is testimony. Is that
24 just about a phone call that came in from Club
25 Miami?

Detective Kelly-Redirect by Meadors

1 A That's correct.

2 MR. MEADORS: I beg the court's
3 indulgence.

4 THE COURT: Yes, sir.

5 MR. MEADORS: Your Honor, I'm positive it
6 is State's 3. We would offer without objection a
7 phone, Kenyardo's phone.

8 THE COURT: Any objection, gentlemen?

9 MR. MEADORS: I think they already agreed,
10 and it just wasn't recognized before.

11 THE COURT: Without objection State's 3,
12 which is a photo of the phone.

13 (Photo of phone marked State's Exhibit No.
14 3 into evidence.)

15 MR. MEADORS: Can I ask this witness to
16 come down?

17 THE COURT: You may.

18 (Whereupon, the witness steps down from
19 the witness stand.)

20 Q Detective, if you would come over here and
21 please speak up. This is Court's 2. Mr. Kent was
22 asking about her statement that you gave to the
23 police. And specifically in her statement did she
24 say Mario was gone to by the time she picked her
25 up.

Detective Kelly-Redirect by Meadors

1 A Yes.

2 Q He was gone.

3 A Yes.

4 Q And if you need to refer to State's 56.

5 In her statement, did she say the time I got

6 around the curve I didn't see Mario anymore?

7 A That's correct.

8 Q And looking at State's 2, where is Betty's

9 house? It's marked Green Swamp. You can't see

10 because of that but is it there? Is this dingle

11 street.

12 MR. KENT Object to leading, Your Honor.

13 Q Well it says Dingle.

14 THE COURT: I am going to give him a

15 little leeway on that.

16 Q Do you know where Betty was talking

17 about -- excuse me, where Shonta was talking

18 about when she said she didn't see Mario anymore

19 after the curve?

20 A She was referring to passing by the

21 El Cheapo's going up through the light as she

22 stated. And then she made it to the curve. That

23 curve would actually be Purdy.

24 Q Okay. And if this heading up toward

25 Guinyard, where would be the curve she is talking

Detective Kelly-Redirect by Meadors

1 about?

2 A She would have been traveling here. And
3 this would have been the curve here.

4 Q So she's saying she lost sight of Mario
5 right here?

6 A She lost sight right her at the curve.

7 Q That's all. Let me ask you one more
8 question. I'll wait to you get back.

9 (Whereupon, the witness resumes the
10 witness stand.)

11 Q Mr. Kent had asked you about your training
12 and your investigation and everything you do. Did
13 you find a gun in this case?

14 A No, I did not.

15 Q Do you always find a gun?

16 A No, I don't.

17 MR. MEADORS: Thank you, sir. Thank you,
18 Judge, that's all.

19 THE COURT: Any recross?

20 MR. MURPHY: No, sir, Your Honor.

21 MR. KENT: Court's indulgence for one
22 moment, Your Honor.

23 THE COURT: Yes, sir.

24 MR. KENT: No further questions.

25 THE COURT: Thank you. You may step

Detective Gardner-Direct by Meadors

1 down. We will take a 10 minute recess while you
2 all are setting that up. Please do not discuss
3 anything about the case while you are back there.
4 Please remain seated. The court is now in recess
5 for 10 minutes.

6 (Whereupon, the court takes a short
7 recess.)

8 THE COURT: You may bring the jury:

9 (Whereupon, the following takes place
10 within the presence of the jury.)

11 THE COURT: Is the State ready to proceed?

12 MR. MEADORS: Yes, sir.

13 THE COURT: You may call your next

14 MR. MEADORS: Detective Heath Gardner.

15 Heath Gardner, Being first duly sworn,
16 testified as follows:

17 THE BAILIFF: Please state your full name
18 and spell your last name for the record.

19 A Heath Gardner. G-A-R-D-N-E-R.

20 Direct Examination by Mr. Meadors:

21 Q Good morning, detective, please tell the
22 Ladies and gentlemen of this jury about yourself,
23 where you're from. Raised, your background,
24 education, and in particular your training in the
25 field of what I've asked you to testify about here

Detective Gardner-Direct by Meadors

1 today.

2 A My name is Heath Gardner. I was born and
3 raised here in Sumter. I am a graduate from
4 Sumter High School. I am currently attending
5 St. Leo University. I am hopefully have my
6 associate's of arts by June. And my bachelor's in
7 criminal justice, specializing in homeland
8 security by June of next year. I graduated from
9 the basic law enforcement academy in South
10 Carolina back in November of 2006. That is when I
11 became a police officer with the Sumter Police
12 Department.

13 I was a patrol officer up until 2009. In
14 2009, I was transferred from patrol to The United
15 States Marshal's Fugitive's Task Force, operation
16 intercept. Our job was to go after the guys who
17 were convicted of violent felonies or wanted for
18 violent crimes.

19 In 2011, I promoted to detective and
20 assigned to the investigation's division, where I
21 continued to work on the task force. I've had
22 several different trainings from the South
23 Carolina Law Enforcement Academy. I've had task
24 force training. I am a certified police diver,
25 burglary investigations. I've had training with

Detective Gardner-Direct by Meadors

1 investigative techniques using social networking
2 sites.

3 My latest training was some cell phone
4 technology and forensic data recovery. I've had
5 some training in that and got a certification for
6 that, some drug investigation tool classes. And
7 also certified oxygen forensics which is a cell
8 phone forensic software on a computer.

9 Q How long have you been in law enforcement?

10 A I have been in law enforcement going on 8
11 years.

12 Q This cell phone technology and forensic
13 data, generally what are you talking about?

14 A Looking at the phone records, seeing what
15 kind of phone records you are dealing with.
16 Looking at a map and tell where the cell tower was
17 that the phone hit off of. What direction the
18 phone came in off of. What direction the phone
19 came in off of. The cell tower is in three
20 different sector. So each call comes in from a
21 different sector. I am able to look at a phone
22 record and tell you what sector it came in off of,
23 and be able to pretty much tell you that call came
24 in from.

25 Q And are you able to pinpoint exactly where

Detective Gardner-Direct by Meadors

1 the phone is necessarily?

2 A No.

3 Q And you said received training in that
4 specific field, and have you also had the
5 opportunity to view numerous phone logs and tolls
6 in preparation of examining cell towers to see
7 what direction the phone calls may be coming from?

8 A Yes, I have.

9 Q And to do this, do you need the phone
10 records of phones?

11 A Yes, sir.

12 Q And on those phone records do they show
13 originating numbers and receiving numbers?

14 A Yes, sir.

15 Q And do they show cell towers in most -- in
16 some cases?

17 A Yes. If they don't show the cell tower
18 itself, each company is different. There is 16 or
19 17 major cell companies throughout the U.S. Each
20 one of them is different. Most will give you a
21 number and also a key to look that number up in.
22 And the key will actually have the cell tower
23 location and all the little angles that you would
24 come in from the sectors.

25 MR. MEADORS: Your Honor, at this time we

Detective Gardner-Direct by Meadors

1 would offer Heath Gardner as an expert in the
2 field of phone technology and forensic data
3 recovery.

4 THE COURT: Any voir dire?

5 MR. MURPHY: No, Your Honor. No
6 objection.

7 MR. KENT: No voir dire. No objection.

8 THE COURT: I will deem him to be an
9 expert in cell phone technology. Ladies and
10 gentlemen, as I told you before, normally a
11 witness can only testify as to what they saw,
12 heard or tasted, smelled or felt. However when
13 someone has a level of education and experience,
14 they can give opinions to things. And whether or
15 not you decide to accept it will be up to you.
16 Thank you. You may proceed.

17 Q Place the court, at Detective Kelly's
18 request, did you receive some phone records
19 regarding three phone numbers?

20 A I did.

21 Q And specifically, was one of them
22 (803)406-4080.

23 A Yes, sir.

24 Q And (803)847-0267?

25 A 0267, as well.

Detective Gardner-Direct by Meadors

1 Q And (803)464-4914?

2 A Yes, sir.

3 Q And phone numbers of Gary Dargan, Bernard
4 Mellette, Shonta Helton.

5 A Yes, sir.

6 Q And tell the ladies and gentlemen, you're
7 getting these phone records and you are sitting
8 down at your desk, what is the first thing you do?

9 A My first thing is, I check to make sure I
10 have a cell tower location on it. If not I have
11 to notify the phone company and obtain it. A lot
12 of the phone companies will get rid of their
13 records after one year. AT & T., they obtain
14 their records and keep them for 5 years. So it
15 is something I have to move on fairly quickly, or
16 I will not get that information. And without that
17 it will make it impossible to plot the cell towers
18 and the direction the call came up in from.

19 Q And we had Kirk Gowdy from the phone
20 company and the Verizon person available that was
21 stipulated to that these cell towers are where
22 they are. You are going to tell us, correct?

23 A Yes.

24 Q And these are to record produced right?

25 A Yes, sir.

Detective Gardner-Direct by Meadors

1 Q Did you determine there was some cell
2 phone towers in the areas we are talking about?

3 A Yes, sir.

4 Q How did you do that?

5 A I originally at Gary Dargan's cell phone,
6 and went back and look at several of his calls and
7 came up with 4 different cell tower location
8 within about an hour and a half of the incident
9 time. Tower No. 43. Tower 560. Tower 566 and
10 tower 567. 560 is going to be Black Street
11 tower. That's is the fire training grounds if
12 anybody knows where those are. 43 is going to be
13 right over here back out on South Harvin Street,
14 past the light on the left hand side.

15 566 is Diebold, which is out there at
16 521/378 by-pass. And 567 is Theater Drive right
17 there at tennis courts and baseball fields going
18 by Richland Park.

19 Q So that's the first thing in your field of
20 expertise, you determine if there is something to
21 like at out there.

22 A Yes, sir.

23 Q After determining that, what did you do?

24 A I plotted all of those cell towers on the
25 map to get an overview of what I was looking at

Detective Gardner-Direct by Meadors

1 cell tower wise and distance wise throughout
2 Sumter.

3 Q And let's go specifically a cell tower in
4 general. What can you tell from a cell tower?

5 A I can tell by the cell tower I can
6 which -- how the sectors are laid out and how many
7 calls came in to that cell tower.

8 Q How many sectors are there on a cell
9 tower?

10 A There are three sectors.

11 Q And so will a cell phone hit off of a
12 particular sector?

13 A I will. That is referred to as the
14 asmond, which is the center---

15 Q The what?

16 A The asmond, which is the center of the
17 sector. And if to think about a surface of 360
18 degrees, and these are broken up in 120-degrees of
19 each sector.

20 Q Now you have the cell towers. You've got
21 the cell numbers in question. What did you do
22 next?

23 A I went ahead and starting looking at the
24 phone calls, and started plotting the phone calls.
25 Once I got to tower put on, I put the sector that

Detective Gardner-Direct by Meadors

1 I wanted to deal with. I don't like to put too
2 much on because it get's a little confusing at
3 that point. I put the sector that I'm working
4 with and then all the calls that go to that
5 sector, I put in a little box saying what calls
6 hit that sector at what time.

7 Q Let's start with Gary Dargan's phones,
8 Mr. Brown, will assist me with your permission.

9 THE COURT: Yes, sir.

10 Q Did you prepare something to aid you in
11 your testimony?

12 A yes.

13 Q I am going to show you 58. Do you
14 recognize that?

15 A I do.

16 Q What is that?

17 A The first page is the cell towers
18 locations for Sumter. The cell tower that he
19 actually hit and the times I looked at.

20 Q Are the rest of these dealing with Gary
21 Dargan's phone calls?

22 A Yes, sir.

23 Q On the evening of December 8th and the
24 morning of December 9th?

25 A Yes, sir.

Detective Gardner-Direct by Meadors

1 Q And are all of these different time
2 periods?

3 A Yes, sir.

4 Q Does that make sense?

5 A I got more detail with each cell tower.

6 MR. MEADORS: State's 58 without
7 objection.

8 THE COURT: Any objection?

9 MR. MURPHY: No, Your Honor.

10 (Cell tower locations marked State's
11 Exhibit No. 58 into evidence.)

12 Q Let's start with page 1 and just go
13 through and show the jury what you did. Page 1 of
14 State's 58 is what? Mr. Brown is going to put
15 this in. And I think to ladies and gentlemen
16 will be able of see this I hope. Investigator,
17 would you come down here and position this which
18 way it would be easiest for you to testify?

19 (Whereupon, the witness steps down from
20 the witness stand.)

21 Q This State's 58 again for the record. Of
22 course, the jury will have this. Can you tell
23 them what is on page 1 of 58?

24 A Page 1 is each individual cell tower.
25 This to actually map that shows there is four cell

Detective Gardner-Direct by Meadors

1 towers located here. The first one is down here.
2 This is the fire training building everyone is
3 familiar. The second one is [REDACTED].
4 Again that's is over here past the light. The
5 next one is 440 Theater Drive. Right behind USC
6 Sumter at our tennis courts. The next was [REDACTED]
7 [REDACTED], which is right there 521 and the
8 bypass of 378.

9 Q So you determined there is cell towers in
10 the area which will provide potential evidence?

11 A Yes, sir.

12 Q Let's go to page 2. What is page 2?

13 A Page 2 is the cell tower broken down in to
14 the sectors.

15 Q And which cell towers?

16 A [REDACTED] Harvin Street.

17 Q Again, where is that? Everybody may know,
18 but where is it?

19 A You down right here and you go down about
20 a half mile on the left hand side.

21 Q Okay.

22 A This actually shows, and if you look, I
23 color coordinate everything and each side shows a
24 different color. You have phone calls at 2356,
25 2357, 2357, 2357, 58, 59, and 1243 all coming off

Detective Gardner-Direct by Meadors

1 that general area of that tower.

2 Q What does that mean?

3 A That when the phone call, when the phone
4 either received or sent or transmitted that was
5 the side of the tower that the call came up in
6 from or was sent out from.

7 Q Can you give us an idea of the area that
8 covers, that side of the cell tower.

9 A That side of the cell tower looks to be
10 where it would cover South Washington Street,
11 Hampton Avenue, Wright Street, Counsel Street,
12 parts of Bradford, Bartlette, Edwards, the west
13 side of Sumter in that area.

14 Q State's 58 what is the green box?

15 A The green box are calls that came in at
16 23, or calls that were sent to receive 23:23,
17 which is 11:23. 11:23 p.m. 11:24 p.m. and
18 11:26 p.m. That area would cover Boulevard Road
19 area, Brooklyn Street area, East Calhoun St., East
20 Liberty Street, Lake City highway, Plowden Mill
21 that area out that way.

22 Q And is the blue box on page 2 of State's
23 58.

24 A That shows calls from 10:13, 12:00 o'clock
25 a.m., 12:11 a.m. and 12:13 a.m. That would cover

Detective Gardner-Direct by Meadors

1 parts of Counsel Street, parts of Dingle Street,
2 South Sumter Street, Manning Avenue, South Main
3 Street, Williams and most of the south side,
4 silver Street, Lafayette, Red and White, Brand
5 Penn.

6 Q Can you turn to page 3 on State's 58? Is
7 that a different tower.

8 A That is a different tower. This tower is
9 at 540 Black Street, which is the fire training
10 grounds.

11 Q And the blue box, generally you got calls
12 circled in the blue box from 11:47 to 12:43. What
13 does that mean?

14 A That these were all calls that were made
15 or received that hit that side of the tower. All
16 those times that are listed.

17 Q And then the green box shows 11:49, 12:09
18 and 12:10.

19 A That's calls that were made or received
20 that hit the top side of that tower.

21 Q Were all these made or received from the
22 same phone?

23 A Yes.

24 Q Gary Dargan's phone.

25 A Yes.

Detective Gardner-Direct by Meadors

1 Q If there is a call on here made or
2 received from 12:08, do you see 12:08 in the blue
3 box?

4 A Yes, sir. There is three of them.

5 Q And then where is the next call that's
6 made or received at 12:09 from the same phone?

7 A 12:08 is down here. All three phone
8 calls. 12:09 is up here.

9 Q As an expert in this filed of telephone
10 examination and data coordination, what does that
11 tell you?

12 A That the device moved from the bottom side
13 of the tower to the top side of the tower.

14 Q And that device moved from the bottom side
15 of the tower to the top side of the tower.

16 A Yes.

17 Q And there is a so 12:09 to 12:10 at that
18 point, correct?

19 A Correct.

20 Q Now it looks like there's a box to the
21 right. Is that depicted on the next page?

22 A Yes, sir.

23 Q Turn over to page 4. You still have
24 those same calls in the green box, correct?

25 A Yes, sir.

Detective Gardner-Direct by Meadors

1 Q Are other calls received depicted or
2 received from Gary Dargan's phone, which is for
3 the record, (803)406-4080. The 12:11.

4 A That call comes in or is sent from
5 depicting South Harvin Street tower on the bottom
6 side of the tower facing south.

7 Q So in your field of expertise of forensic
8 examination of phone tolls and data collection and
9 looking at these records specifically of Gary
10 Dargan at 12:09 and 12:10 and 12:11 on December
11 9th 2012, what was your opinion as far as the
12 phone call from 12:10 to 12:11?

13 A The device moved from this tower closer
14 to this tower, which is closer from leaving Black
15 Street tower closer to 15 South Harvin tower.

16 Q And at 12:13 there is another call made or
17 received from Gary Dargan's phone. Where is that?

18 A The 15 South Harvin tower.

19 Q Are you familiar with Lincoln Street.

20 A I am.

21 Q Where would Lincoln Street be on page 4 of
22 58?

23 A I believe it would be off of Black Street
24 tower on the bottom side. Kind of down in this
25 area.

Detective Gardner-Direct by Meadors

1 Q Where all the phone calls were made.

2 A Where the majority of the phone calls,
3 yes, sir.

4 Q And if you move up to the 12:09 and 12:10
5 area, what are we talking about there?

6 A You're on the to side of the tower, which
7 is Oakland Avenue, Green Swamp, El Cheapo area,
8 Dingle Street area. Wright street area, Counsel.
9 South Washington area.

10 Q And your examination shows that that
11 phone had moved from the Lincoln area over to the
12 El Cheapo area.

13 A Yes, sir.

14 Q And then the phone call from 10:010 to
15 0:11 which is now in the blue box, based on your
16 training and expertise and examination of these
17 records, Detective Heath Gardner, what can you
18 tell us about that phone call?

19 A That phone call was mobile.

20 Q What again? It was what?

21 A The device moved closer to that tower.

22 Q Closer to the tower now down at the
23 bottom?

24 A at 15 South Harvin Street.

25 Q Would that be the area of South Sumter?

Detective Gardner-Direct by Meadors

1 A It would be. South Sumter Street would
2 actually be right here. You can get a good look
3 at the tower.

4 Q And Dingle and Wright Street are between
5 those towers?

6 A Yes, sir.

7 MR. MEADORS: I beg the court's
8 indulgence.

9 Q I lost myself. I'm back, I am sorry.
10 After the 12:13 on the blue box at the Harvin
11 Street tower, would you show what you were talking
12 about?

13 A Right here.

14 Q Do you have 12:13 in the blue box back at
15 the 5:40 Black Street tower?

16 A I actually have a 12:13 over here and a
17 12:13 over here.

18 Q What does that tell you based on your
19 training and experience and looking at these
20 records and making these things, what can you tell
21 the jury about that in your opinion.

22 A In my opinion, the phone got closer to
23 this tower which had a stronger signal, so it
24 switched back over to this tower. This one over
25 here to this one.

Detective Gardner-Direct by Meadors

1 Q And then are there calls at 12:16, 12:16,
2 12:17 from that area of Black Street tower?

3 A There are.

4 Q And I think you said consistent back with
5 the Lincoln Street?

6 A Yes, sir.

7 Q Is it depicted on here where Dingle and
8 Wright and where the body was found?

9 A Yes, it is. I actually have it right
10 there. It is almost dead center of the two
11 towers.

12 MR. MEADORS: That's all I have for this,
13 if you will take your seat back please.

14 (Whereupon, the witness resumes the
15 witness stand.)

16 Q Did you also prepare diagrams for Shonta
17 and Robert Mellette?

18 A Yes, sir.

19 Q Would you step down, please.

20 (Whereupon, the witness steps down from
21 the witness stand.)

22 MR. MEADORS: Your Honor, these are the
23 last things I will have marked. I appreciate your
24 patience.

25 Q I am going to show you what is marked

Detective Gardner-Direct by Meadors

1 State's Exhibit No. 59 and 60. Is that basically
2 that's the same thing you did with Robert
3 Mellette's phone and Shonta's phone that you did
4 with Gary Dargan's?

5 A Yes, sir.

6 MR. MEADORS: I believe without objection,
7 Your Honor.

8 MR. KENT: No objection, Your Honor.

9 THE COURT: Without objection those are
10 admitted.

11 (Cell tower locations of Mellette and
12 Helton marked State's Exhibit Nos. 59 and 60 into
13 evidence.)

14 Q Can we start with Mellette's State's 59
15 and then we turn to page, well do just like you
16 did. Show them what 1 is please, and if you would
17 keep your voice up.

18 A When I looked at his phone I saw he hit
19 two towers within I think it was an hour and a
20 half period. He hit the tower at 15 South Harvin
21 Street, which is tower 43. He had the phone
22 service that Mr. Dargan did. And he also hit the
23 tower at 540 Black Street, which is tower 560.
24 And this map shows both of those towers. This is
25 the other one.

Detective Gardner-Direct by Meadors

1 Q Page 2 of 59, can you tell them what that
2 shows the ladies and gentlemen, please.

3 A Page 2 shows the Black Street tower, fire
4 training grounds. The majority of phone calls on
5 this tower come in from the bottom side of the
6 tower. And they start 12:02 a.m. There's another
7 one at 12:03 a.m. 12:04, 12:04., 12:04, 12:06,
8 12:07, 12:07, 12:08, 12:20, 12:21 and 12:24. All
9 those calls came in from the down portion side two
10 of this tower. On the top side of this tower
11 there were four more phone calls 12:06, 12:07,
12 12:07 and 12:09.

13 When looking at it, there was calls on the
14 bottom side of 12:06 that correlate with the calls
15 on the top side of 12:06. Which tells me the
16 phone went from the bottom to the top. The phone
17 calls on the top of 12:07 and also calls on the
18 bottom of 12:07. Which tells he was somewhere in
19 between the two sectors of this tower during those
20 calls.

21 Q Between -- have you got another map that
22 shows that? More clearly. Show that exactly
23 again. And so this is what area? And this is the
24 5540 Black Street tower.

25 A Yes, sir. We got a call down here at

Detective Gardner-Direct by Meadors

1 12:06. And then a call up here at 12:06. And
2 then a call up here at 12:07, and then a call down
3 here at 12:07. Another call 12:07 down here.
4 Another call at 12:07. And then a call 12:08 down
5 here. And then a call at 12:09 up here. Which
6 tells me he was right at the center of the two top
7 and bottom. Or he was steady on the move in
8 between the two.

9 Q In relation to the victim's body where is
10 that?

11 A The majority of the phone calls are on the
12 bottom side away from the victim's body. The four
13 phone calls from the top side which would
14 encompass the victim's body area.

15 Q And specifically then from 12:07 to 12:09
16 you have calls to and from this part of the tower.
17 And then you have got 12:07 on this part of the
18 tower, correct?

19 A Yes, sir.

20 Q What does that mean?

21 A That just means his device was moving
22 between the two. We are catching the stronger
23 signal from inside. Which puts him either in the
24 middle or either on the bottom or the top.

25 Q Was page 3 of 59, tell the ladies and

Detective Gardner-Direct by Meadors

1 gentlemen about this.

2 A Page 3 is 15 South Harvin Street tower.
3 Tower 43, his last calls that nicked the tower
4 over here at Black Street are 12:20, 12:21 and
5 12:24. Also 12:08. And then you come over here
6 and look at this tower, and he's got calls at
7 12:11. We're probably going to have to start
8 earlier than that. But the calls we are looking
9 at 12:11 to 12:24, 12:41 and 12:43. All hit the
10 bottom side of this tower.

11 Q And what area of the city is that?

12 A This is a half mile down the road here.

13 Q In relation to the body of Mario Scott,
14 where is that?

15 A The body is over here? The tower is up
16 that way.

17 Q And these are from Robert Mellette's.

18 A Yes.

19 Q And finally page 4 of State's 59, what is
20 this?

21 A This is a map view that shows the towers,
22 both towers, the body. And then it also shows all
23 the times so I can come in and actually look at
24 the times. Several times here. Several times
25 there. Back over to here, and back over to here.

Detective Gardner-Direct by Meadors

1 Back over to here.

2 Q And in your training and experience in
3 looking at these records, what does this tell you
4 the time periods between 11:45, 12:20 where this
5 phone was 12:25?

6 A He was mobile in between the two towers.

7 Q And did you also prepare a diagram for
8 Shonta Helton, State's Exhibit 60? And again if
9 the first page just the towers?

10 A It is.

11 Q What page 2?

12 A Well I'll actually explain the front of
13 this. She uses AT & T as her phone company. They
14 use different towers. They do use the same tower
15 at 540 Black Street. But they also use a tower
16 which is located on top of Tuomey Hospital. And
17 that was the two towers that I found her phone
18 hitting off of the most at the time of the
19 incident. Page 2.

20 Q It's page 2 of State's 60.

21 A Yes, sir. Between 11:23 and 12:10, the
22 majority of the calls made from her phone all hit
23 the stop side of the Black Street tower, which
24 encompass Green Swamp road, Bradford, in that area
25 that encompass where the body was found.

Detective Gardner-Direct by Meadors

1 Q Encompass the area where the body was
2 found.

3 A This is the general area of that whole
4 area up here.

5 Q So the last call to or from, well I see
6 down here call 12:20 in the blue box. What does
7 that show?

8 A 12:20 in the blue box shows that she went,
9 still this tower, but moved down in this region of
10 the mapping. And that was the remainder of her
11 calls up until 12:39.

12 Q Now there are other phone calls between
13 these calls which are in evidence; that you just
14 didn't put them on your chart.

15 A Most of -- I plotted all phone calls
16 between those times.

17 Q Exactly. But there are other times that
18 are on these logs that are in evidence on up
19 through the morning. You didn't necessarily put,
20 is what I am saying. You didn't put every phone
21 call in here.

22 A No, sir, not at all.

23 Q But they are in evidence if the jury wants
24 to look at them.

25 A Yes, sir.

Detective Gardner-Direct by Meadors

1 Q You just put on these charts these
2 particular time periods. I just want to be clear
3 on that.

4 A Yes, sir.

5 Q We're not saying these are all the calls
6 between the parties.

7 A Yes, sir.

8 Q That are in this telephone.

9 A Yes, sir.

10 Q And what does that show you -- what does
11 that tell you, excuse me, what's your opinion and
12 based on your training in reviewing these records,
13 specifically as to that phone, which you are
14 saying in evidence has said, and lead me ask you
15 this. You don't know who has got a phone when.
16 You can't say. You just can say that phone was in
17 a certain place when a call was given or received.

18 A That's correct.

19 Q So what can tell you tell us about this
20 phone, referring to State's 60, as far as those
21 different time periods when a call was made or
22 received?

23 A I can tell you between 12:10 and 12:20,
24 the phone moved or the device moved from the top
25 side of the tower down to the bottom side of the

Detective Gardner-Cross by Murphy

1 tower.

2 Q And that would be, or would that be
3 consistent with the El Cheapo's area down to the
4 Lincoln Street area?

5 A Yes, sir. El Cheapo would be right here.
6 Lincoln Street would be down here.

7 Q And would Bernard Mellette's phone be
8 consistent with him moving between the El Cheapo,
9 the body and Lincoln Street?

10 A Yes, sir.

11 MR. MEADORS: I beg the court's
12 indulgence.

13 THE COURT: Yes, sir.

14 MR. MEADORS: You can have a seat back.

15 (Whereupon, the witness resumes the
16 witness stand.)

17 MR. MEADORS: Thank you. That's all I
18 have.

19 THE COURT: Mr. Murphy.

20 Cross Examination Mr. Murphy:

21 Q Good morning.

22 A Good morning.

23 Q How are you today?

24 A Good. How are you?

25 Q I guess it's fair to say that the cell

Detective Gardner-Cross by Murphy

1 phone tower system isn't like GPS. I mean there
2 is no exactness in regard where someone was
3 located at a particular time, isn't that true?

4 A To an extent, yes, sir.

5 Q Right. So you're looking basically at an
6 area in regard to the back and forth, you can tell
7 ranges, but they encompass broad areas and broad
8 space, correct?

9 A Yes, sir.

10 Q And sometimes within 10 blocks. Is that
11 about the normal range?

12 A It varies on the area you are in for one.
13 Tall buildings will block signals. I could be
14 300 yards away from a tower and have a clear sight
15 to a tower 2 miles away, and my phone is probably
16 going to take 2 miles away because it has got a
17 more clear shot.

18 Q And in fact out west cell towers can go on
19 for miles, correct?

20 A Yes.

21 Q In regard to these areas and in regard to
22 these, you're looking at basically coverage for
23 about a 10 block area?

24 A I would say maybe a mile.

25 Q A mile? And then obviously there is some

Detective Gardner-Cross by Murphy

1 degree of overlap between the two.

2 A Yes, sir.

3 Q But the cell phone companies themselves
4 determine what that overlap will be?

5 A Yes, sir.

6 Q And the phones will to whatever cell tower
7 is easiest to get their signal to, correct?

8 A Yes, sir.

9 Q Now you plotted these various calls
10 focusing on a particular limited time frame,
11 correct?

12 A Yes, sir.

13 Q There are some cell phone calls made by
14 the number attributed to Mr. Dargan, which is
15 (803)406-4080 that occur after the block of time
16 that you plotted on these maps, correct?

17 A Yes, sir.

18 Q And we talked about them earlier, correct?

19 A Yes, sir.

20 Q And those numbers indicate some movement
21 on towers up towards Shaw Air Force Base in
22 direction, correct?

23 A I don't have the records that far with me
24 now. If you will give me yours---

25 Q Okay.

Detective Gardner-Cross by Murphy

1 A ---I can confirm that, yes, sir.

2 Q State's Exhibit No. 51.

3 A Yes, sir. Okay.

4 Q And I am sorry, I said after. I meant
5 earlier.

6 A Yes, sir. I do have that. Those are----

7 Q Earlier and after. First of all, earlier.
8 About 23:29 through 23:52 if he's -- and you don't
9 have to get into the segments, but he is hitting
10 off the towers 566 and 567. And this isn't
11 statement. This is a question. Which are the
12 Theater Street tower and he Diabold Drive tower,
13 correct?

14 A Yes, sir.

15 Q And then later on beginning around
16 1 o'clock in the morning 1:14 or so, again he's
17 hitting off the 563 tower which is up near Mason
18 Road. If you would take a look at that.

19 A Okay.

20 Q And that would be -- would that be
21 consistent with Club Miami up around that area?

22 A Going out that way, yes, sir.

23 Q Yeah, okay. Can you verify that?

24 A By looking at these records it's very hard
25 to tell because they are slip up.

Detective Gardner-Cross by Murphy

1 Q Okay. You had the opportunity to look at
2 that. You just focused on those particular time
3 frames, correct?

4 A Yes, sir.

5 Q So basically what these phone records show
6 is that all of these individuals are between the
7 general area of South Sumter, out towards Harvin
8 Street. Basically around the South Sumter area
9 from Liberty Street on down? Somewhere around
10 there?

11 A Yes.

12 Q Out west. About how far?

13 A I wouldn't put it any further than Oakland
14 Drive. Simply because the latest calls all come
15 back to the south side.

16 Q And some of them up north towards, from
17 the north one. You have Sumter cemetery here.
18 How far up north would that be. Would it go as
19 far as Liberty?

20 A Sir?

21 Q As far as Liberty?

22 A Is that further than Liberty?

23 Q Well in other words some of these calls,
24 would -- there were calls coming from West Liberty
25 Street. Would it hit that tower if it was coming

Detective Gardner-Cross by Kent

1 in from there?

2 A I wouldn't be able to answer that, because
3 not knowing where the rest of the towers are.

4 Q The Verizon towers I am talking about.

5 A Yes, sir. I wouldn't be able to tell,
6 unless I had a full listing of their towers to
7 know where all their towers are.

8 Q All right. So to bottom line is, this
9 doesn't tell you where a particular person is at a
10 particular time, correct?

11 A No, sir.

12 MR. MURPHY: I have no further questions,
13 thank you.

14 THE COURT: Mr. Kent.

15 Cross Examination by Mr. Kent:

16 Q Detective, how are doing you, sir?

17 A Good.

18 Q Do you mind if I call you Heath? It's
19 hard to call you Detective Gardner.

20 A However you want to call.

21 Q I just want to make sure I go over a
22 little of the phone records to make sure I
23 understand everything very carefully. And you've
24 been in here during the course of the trial,
25 correct?

Detective Gardner-Cross by Kent

1 A Today, yes, sir:

2 Q And you've heard the testimony of

3 Detective Kelly.

4 A Yes, sir.

5 Q And you've heard her do the summation or

6 the summary of the statements given by both

7 Mr. Dargan as well as Ms. Helton.

8 A Yes, sir.

9 Q Okay. And so you can confirm the cell
10 phone records based upon testimony of Detective
11 Kelly so you put the two together.

12 A Yes, sir.

13 Q So based upon what you're testifying to
14 and I want to make sure I am understanding, it's
15 pretty clear to say from the cell phone records on
16 Mr. Dargan, it shows he wasn't at a card game the
17 whole night. He clearly was moving.

18 A Yes, sir.

19 Q Is that pretty consistent?

20 A Yes, sir.

21 Q So the statement he gave is inconsistent
22 with what the cell phone records were showing.

23 A Yes, sir.

24 Q Now as far as Ms. Helton and her testimony
25 it shows consistency?

Detective Gardner-Redirect by Meadors

1 A For the most part, yes, sir.

2 Q For the most part the cell phone records
3 show the consistency of the testimony and the
4 statement that she gave and Detective Kelly read
5 into the record.

6 A Yes, sir.

7 MR. KENT: Thank you. That's all I have.

8 THE COURT: Any redirect?

9 MR. MEADORS: Just directly to Ms. Helton.

10 Redirect Examination by Mr. Meadors:

11 Q I believe that chart shows 60 on
12 Ms. Helton.

13 A Yes, sir.

14 Q What's the last phone call you got during
15 this time period approximately 12:10, I think it
16 was. And her number is (803) 464-4914, correct?

17 A Correct.

18 Q And you had a phone call on 12:10, I
19 believe.

20 A Yes, sir.

21 Q And that's on the what tower?

22 A That's the Black Street tower. On the top
23 side, which would cover the El Cheapo Carver
24 Street area.

25 Q And who -- do you know who she connected

Detective Gardner-Redirect by Meadors

1 with on that call?

2 A Hang on, I can tell you. On that
3 particular call it was Mr. Dargan.

4 Q And you have another phone call
5 specifically at 12:10, where she connected with
6 another person?

7 A I have where she attempted to connect but
8 that was with Mr. Mellette's phone, but there no
9 connection. Or no tower was given to me on that
10 phone call.

11 Q So at 12:10 at 840-0267 did Mr. Mellette
12 connect with the 646-4914?

13 A Yes, sir.

14 Q So Mellette's phone is calling Helton's
15 phone at 12:10?

16 A At 12:10, yes, sir.

17 Q Did that connect?

18 A That is the phone call did not give me any
19 kind of tower location.

20 Q But it shows a call was made?

21 A Yes, sir.

22 Q And then there's a call after that at
23 12:10 also?

24 A Yes, sir.

25 Q And that's between who?

Detective Gardner-Recross by Kent

1 A That is between Ms. Helton and Mr. Dargan.

2 Q And then after that, she didn't make
3 another phone call for her for 10 minutes or so?

4 A Yes, sir.

5 Q Let me ask you something every day common
6 experience. If you are in the car with somebody
7 do you usually call on the phone?

8 A No, sir.

9 MR. MEADORS: That's all I have. Thank
10 you.

11 THE COURT: Any recross based upon
12 redirect?

13 MR. MURPHY: No, Your Honor.

14 THE COURT: Mr. Kent, any recross?

15 Recross Examination by Mr. Kent:

16 Q Just make sure I am clear. Based upon
17 your expert testimony, the testimony that you
18 gave, the cell phone records corroborate the
19 statement given by Shonta Helton was your
20 testimony give a while ago?

21 A Yes, sir.

22 MR. MEADORS: I beg the Court's
23 indulgence.

24 THE COURT: And you are excused.

25 MR. BROWN: Your Honor, at this time, the

1 State of South Carolina rests.

2 THE COURT: Thank you. Ladies and
3 gentlemen, I am going to give you a short break.
4 Please do not discuss anything about the testimony
5 while you are out. Thank you.

6 (Whereupon, the following takes place
7 outside the presence of the jury.)

8 THE COURT: Any motions from the defense?

9 MR. KENT: Do you want to give the
10 admonitions or do you want to hear the motions
11 first?

12 MR. MURPHY: Your Honor, we would move at
13 this time for a directed verdict. We believe the
14 State have failed to demonstrate by nexuses
15 between my client in the area. In regard we also
16 believe that given the fact that there is no
17 evidence regarding the actual circumstance of the
18 shooting, we believe that the evidence is
19 insufficient for a charge of murder. And there
20 appears to be a lack of the element of malice. So
21 I would make that motion based on this ground.

22 THE COURT: Yes, sir.

23 MR. MEADORS: Your Honor, with an example
24 of direct it's announce a statement he made. He
25 said he thinks he killed somebody. A tremendous

1 amount respectfully of circumstantial evidence
2 towards the time and the shooting and the cell
3 records. We would respectfully ask Your Honor to
4 deny the motion.

5 THE COURT: Mr. Murphy, at this time the
6 court is more concerned with the existence of
7 evidence not the weight of the evidence. So I am
8 going to respectfully deny your motion and allow
9 it to go to the jury at this point.

10 THE COURT: Mr. Kent.

11 MR. KENT: Thank you, Judge. I'll make my
12 similar directed verdict motion at this time.
13 Before making motion, of course, I would renew
14 all motions made during the course of the trial.
15 Specifically as to Ms. Helton, we make a directed
16 verdict motion. As you are aware, she is charged
17 with accessory before the fact of murder. The
18 case law actually in South Carolina is not, not as
19 conducive as I would have liked. There is just
20 not a lot of case law dealing with this specific
21 type of issue.

22 As you are aware from looking at the
23 facts, at best what the State will offer is
24 one witness, Tajuana Davis, who specifically
25 stated she had heard my client utter the phrase,

1 come and kill him. And I'm not going through the
2 whole phase, but the word kill was used one
3 witness.

4 Seven other witnesses of course disagree
5 with this statement, and make it more speculation.
6 Judge, that statement in and of itself is what the
7 State is really try to rely upon. Judge, the
8 problem of course is they cannot -- of course
9 they're saying well she was talking to Gary on the
10 other line. We don't know if the person had
11 actually heard the the statement, understood the
12 statement, took the statement as something that
13 they were working together in concert.

14 I understand that the language of
15 accessory before the fact is pretty broad -- is
16 about as broad as any language you could possible
17 see. So it's hard to make a specific legal
18 argument. It's difficult. But I would argue,
19 Judge, even if they were allowed to go forward at
20 best what they have proven is that at the time
21 that she would have -- and this is a novel
22 argument, because it's a novel concept. At best
23 what they would have been able to prove is
24 voluntary manslaughter. And if you recall, just
25 on this concept.

1 Judge, it's clear and the State from the
2 opening statements through all the witnesses,
3 clearly state Shonta Helton was emotional. She
4 was under distress and a stressful environment.
5 She was going crazy. She was very upset. And
6 they were saying at that point and time is when
7 she would have made the call. Not that I agree
8 with that part of the evidence; she would have
9 made the call and request something to come kill
10 someone. If at that point and time, she would
11 have pulled out a knife herself and stabbed him,
12 she would have entitled to a voluntary
13 manslaughter charge when she under the stress of
14 the situation. I don't think they have proven
15 that she is an accessory before the fact of a
16 murder.

17 At best they put into evidence that she is
18 accessory before the fact of being angry or
19 accessory before the fact of requesting someone to
20 get whooped, at best. For that reason, Judge, I
21 would respectfully request a directed verdict
22 motion of not guilty on that matter.

23 Mr. Meadors or Mr. Brown.

24 MR. BROWN: May it Please the Court, Your
25 Honor, the law regarding accessory before the fact

1 requires that a reasonable -- requires that they
2 advised, agreed, urged, counseled, hired and in
3 some way aided or abetted.

4 Your Honor, you are going to be
5 charging -- your charge has is if abetted is
6 encouraged or appeared to favor or support. We
7 have testimony from witnesses that she said to
8 kill the mother fucker. My apology for the
9 language, but that was her language. We also
10 have testimony that once they got to the Lincoln
11 Street address, she got out and she asked Gary,
12 why haven't you done something about this. I
13 think that goes directly to her state of mind.

14 As pertains to Mr. Kent's argument about
15 voluntary manslaughter, I think at best that would
16 be a jury question. And she follows him down the
17 street. I believe there's plenty of cooling off
18 period that could have occurred during that with
19 her still being in that state of mind by the time
20 she got to Lincoln Street. We would have had a
21 great argument against voluntary manslaughter.
22 With that being said, we certainly think that we
23 are in the realm of accessory before the fact of
24 murder. And we would ask that the directed
25 verdict motion be denied.

1 THE COURT: Again, based upon the verbiage
2 of the statute and the court is more concerned
3 about the existence of the evidence and not the
4 weight of it. Therefore, I am going to
5 respectfully deny your motion. At this time would
6 the, Mr. Dargan, please stand and be placed under
7 oath.

8 (Whereupon, the defendant Mr. Dargan is
9 placed under oath.)

10 THE COURT: Mr. Dargan, at this time, I am
11 going to explain to you certain of your rights.
12 If you do not understand anything that I say,
13 please let me know. And if you want to me to
14 explain anything in greater detail, please let me
15 know. Do you understand?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: We have now reached the stage
18 of the trial where you may present your defense.
19 You have the right to claim the protections given
20 to you by the 5th Amendment of the United States
21 Constitution. Which states in part that no person
22 shall be compelled in a criminal case to be a
23 witness against himself.

24 Now this means that you cannot be required
25 to, to testify in this case. But you do have a

1 right to testify on your own behalf; however, no
2 one can make you testify. This is a personal
3 right and no one can waive this right except for
4 you.

5 Now if you decide to testify you will be
6 subject to the same rules that govern other
7 witnesses and you may be examined and cross examined
8 in any relevant issue in this case. In addition,
9 if you have any convictions involving dishonesty
10 or false statements or for crimes punishable by
11 imprisonment of more than one year and the court
12 determines that the probative value of admitting
13 this evidence outweighs the prejudicial effect on
14 you, then the solicitor will be able to introduce
15 your record to attack your credibility.

16 THE COURT: What record would the State
17 intend to introduce should he testify?

18 MR. MEADORS: Possession of a weapon in
19 05. It might be another possession of a weapon in
20 06. I stand to be corrected.

21 MR. MURPHY: Your Honor, that's the same
22 charge.

23 MR. MEADORS: That's a felon in possession
24 of a weapon, which I think must be a companion
25 charge.

1 MR. MURPHY: I believe that's a federal
2 offense.

3 MR. MEADORS: A federal offense. There is
4 an unlawful weapon and a manufacture and
5 distribution crack concurrent 13 months. That
6 appears to be around the 06 area, along with an
7 assault upon a correctional officer. Conviction
8 06. Distribution of crack in 98, along with an
9 resisting arrest, strong armed robbery and
10 criminal conspiracy. All concurrent time on that.
11 5 years. Failure to stop for a blue light.
12 That's 2001. Unlawful carrying of a weapon 2004.
13 Sell was to possession by a person 2004. And I'm
14 reading off the State. If that's the same, I have
15 no idea.

16 It looks like a gun charge on premises
17 where alcohol was sold from 04. I don't know if
18 that's combined with some of other ones. I beg
19 the court's indulgence.

20 THE COURT: You all be looking at hers as
21 well so we don't this delay.

22 MR. BROWN: I already have, Your Honor.

23 MR. MEADORS: That's all.

24 THE COURT: Is that your understanding as
25 well, Mr. Murphy?

1 MR. MURPHY: Your Honor, they doubled up
2 on the gun charges.

3 THE COURT: Right okay.

4 MR. MURPHY: That was it.

5 THE COURT: Now if you if you decide to
6 testify the decision on your part must be freely,
7 voluntarily, and intelligently made with knowledge
8 of the protections given to you by the 5th
9 Amendment and the consequences of your decision to
10 testify. Now if you decide not to testify I will
11 instruct the jurors, that they cannot give the
12 fact that you did not testify any consideration
13 whatsoever and there is to be absolutely no
14 prejudice to you because you did not testify. It
15 is let entirely up to you whether or not you want
16 to testify.

17 You may talk to your family, your friends,
18 or anything else. But the final decision will be
19 left up entirely to you. Now do you understand
20 what I have explained?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: And do you have any questions
23 about what I have explained to you?

24 THE DEFENDANT: No, sir.

25 THE COURT: Now have you discussed with

1 your lawyer whether or not you should testify?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: And do you wish to talk to him
4 a little more at this time?

5 THE DEFENDANT: Yes, sir. Me and my
6 lawyer discussed the matters. On his advice, I
7 won't testify.

8 THE COURT: So do you wish to testify?

9 THE DEFENDANT: No, Your Honor.

10 THE COURT: Very well. Please place
11 Ms. Helton under oath.

12 (Whereupon, the defendant Ms. Helton is
13 sworn.)

14 THE COURT: Ms. Helton, I will go through
15 the same colloquy with you as I did Mr. Dargan.
16 At this time I am going to explain to you certain
17 of your right. If you do not understand anything
18 that I say please let me. And if you want me to
19 explain in further detail I will happy to do that.
20 Do you understand?

21 THE DEFENDANT: Yes.

22 THE COURT: We have now reached the stage
23 of your trial where you may present your defense.
24 You have a right to the protections granted to you
25 by the 5th Amendment of the Constitution of the

1 United States of America. And stated in part;
2 that no person shall be compelled in any criminal
3 case to testify against herself or themselves.

4 This means that you cannot be required to
5 testify in this case, but you do have right to
6 testify on your behalf. However no one can make
7 you testify. This is a personal right and no one
8 can waive this with the exception of yourself.
9 Now if you decide to testify you will be subject
10 to the same rules that govern other witnesses who
11 have testified in this case. And you may be
12 examined and cross examined on any relevant issue
13 in this case.

14 In addition, if you have convictions
15 involving dishonesty or false statement or for
16 crimes punishable by imprisonment of more than
17 one year, and this court determines that the
18 probative value of admitting this outweighs the
19 prejudicial effect only you and then the solicitor
20 will be able to introduce your record to attack
21 your credibility. Now what would her record be?

22 MR. BROWN: Your Honor, just her record
23 is 2006, possession of cocaine base, where she
24 received probation. 2006 possession of marijuana.
25 2008 possession of cocaine. That may have been a

1 revocation because it was on 6 months. 2009,
2 habitual traffic offender and DUS third where she
3 received 4 years.

4 2011 there was an DUS and uninsured motor
5 vehicle. And an HTO which appears to be fines or
6 jail time of 150 days. And then DUS and uninsured
7 motor vehicle in 2012. I believe that's her
8 complete record, Your Honor.

9 THE COURT: Is that y'all's understanding?

10 MR. KENT: That change is duplicated. For
11 the most part, yes, sir.

12 THE COURT: Very well. Now if you decide
13 to testify this decision on your part must be
14 freely, voluntarily, intelligently made with
15 knowledge of the protections given to you by the
16 constitution, and the consequences of your
17 decision. If you decide not to testify, I will
18 instruct the jurors that they cannot give the fact
19 that you did not testify any consideration
20 whatsoever and there is to be absolutely no
21 prejudice to you, because you did not testify. It
22 is left entirely up to you whether or not you want
23 to testify.

24 Your may talk to with your attorney, your
25 family or friends or anyone else. But the final

1 decision will be up to you. Now do you understand
2 what I've explained to you?

3 THE DEFENDANT: Yes.

4 THE COURT: And do you have any questions
5 about what I have explained to you?

6 THE DEFENDANT: No.

7 THE COURT: Do you have -- do you have, do
8 you want a moment to discuss with your lawyer as
9 to whether or not you want to testify?

10 THE DEFENDANT: Yes, sir. No I do not
11 wish to testify.

12 THE COURT: Thank you. You may be seated.
13 Does the defense, either defendant anticipate
14 having any testimony.

15 MR. MURPHY: No, your honor.

16 MR. KENT: None whatsoever, Judge.

17 THE COURT: Well then that will leave you
18 all last argument. And what we will do is, we
19 will take a short break. And then we'll bring the
20 jury out and I will let you rest on the record.
21 We will assume that you will renew your motions
22 that you have already made and you will be
23 protected. And then we go right into argument.
24 Final arguments, all right.

25 MR. MURPHY: Your Honor, I don't know if

1 we've gone on the records regarding instructions.

2 THE COURT: Oh, let's do. You were given
3 electronic copies. And now they are more correct,
4 because they are not going to testify. But we
5 anticipated based on our conversations.

6 MR. MURPHY: Your Honor, and I apologize.
7 And actually when Mr. Kent was discussing his
8 rather novel theory concerning his directed
9 verdict motion, it came up to me. I would like to
10 move to have the voluntary manslaughter
11 instruction given. I believe the State's evidence
12 supports it. There's testimony that first of all,
13 I think it's clear nobody knows exactly looking at
14 the evidence in the light most favorable to the
15 State, nobody knows exactly what happened on
16 Dingle Street between the decedent and assuming
17 they included Mr. Dargan.

18 There is testimony from one of the State's
19 witnesses that there was some level of dislike.
20 But most of the individuals testified there was no
21 motive or ill will between the two. I think there
22 is testimony that Mr. Dargan was called. He was
23 in some sort, and again in the light most
24 favorable to the State there was testimony that he
25 and Ms. Helton had some sort of a relationship.

1 I think that the jury can infer the fact
2 that she is upset and is saying that Mr. -- the
3 decedent, Mr. Scott, struck her or handled her
4 could have caused an individual such as the
5 defendant to be under some sort of excitement that
6 suffices to meet the evidence requirement for
7 voluntary manslaughter, which is less than malice.
8 So on the basis of that type of testimony, I would
9 submit there is a sufficient factual basis based
10 on the State's case for lesser offense of
11 voluntary manslaughter.

12 THE COURT: Let me hear from the State.

13 MR. MEADORS: Your Honor, I don't think
14 there's any at all.

15 THE COURT: Pure speculation is that what
16 you are saying?

17 MR. MEADORS: Yes, sir.

18 THE COURT: Mr. Murphy, I think so. It's
19 pure speculation as to what he was thinking and
20 whether there was any heat of passion. So I am
21 going to deny your motion. Any changes to the
22 charge?

23 MR. KENT: No changes. Do you want me to
24 renew the same argument that I did earlier.

25 THE COURT: I heard you. I will let the

1 State comply on that one.

2 MR. KENT: I just want to make one slight
3 point, if I would.

4 THE COURT: Yes, sir.

5 MR. KENT: When Mr. Brown was making the
6 comment that she was walking down the road.
7 That's not the point and time in which the phone
8 call would have been made. So I think it's in
9 error on the facts. What we're arguing is what
10 they had specifically said is she was still
11 emotional, and this was during the State's
12 opening statement and through other witnesses.
13 They were very specific; that she was clearly
14 emotional. She was under the stress. She was
15 according to them, acting crazy. She picked up
16 the phone and she was emotional. One witness said
17 she was still yelling when the phone call.

18 My argument would be if at that point and
19 time, she would have just herself turned around
20 and there was some question of her having a knife
21 and stabbed the individual, she herself would have
22 been entitled to a voluntary manslaughter charge
23 at that point and time. It's not down the road.
24 I know they talk about the sufficient cooling off
25 period. But we're not talking about down the

1 road. We're talking about her actions at the
2 point and time where she had a phone call
3 according to the State. For that reason, I would
4 request and I know I don't think there's any---

5 THE COURT: Voluntary manslaughter.

6 MR. KENT: I've never seen it. But
7 actually ask for it. But I'm just asking for the
8 record.

9 THE COURT: I think you're going to have
10 to go the Court of Appeals to get an answer on
11 that one. So I am going to respectfully deny
12 your motion.

13 MR BROWN: As to the charge respectfully,
14 Your Honor. And I am looking at the charge on
15 direct and circumstantial evidence. We have
16 already I think told defense counsel and brought
17 it to the attention. I believe State v. Logan is
18 where this particular charge was drawn from. And
19 it provides that when the defense requests this
20 charge, and this is the one provided. It
21 didn't -- the charge to my knowledge hasn't been
22 requested at this point, but it is one being
23 provided. And it does leave out a line that we
24 would very specifically want added.

25 I am looking at on page 99 of State v.

1 Logan. 405, S.C., 83. State v. Logan cite. I am
2 looking at page 99 of that. And where it begins
3 giving the charge. The first sentence of the
4 second paragraph provides crimes may be proven by
5 circumstantial evidence. And then the rest of it
6 is the same as to what's in here. But it leaves
7 that part. We specifically would like that in
8 that charge.

9 THE COURT: Well I think in my charge I
10 tell the jury that, you know, there is no
11 difference. I don't know. Do you all have any
12 objection to that? I mean, I say that several
13 times in there.

14 MR. MURPHY: I, that's fine.

15 MR. MEADORS: And Your Honor, we had
16 wanted the old circumstantial. They didn't
17 request the new one. So I assume they are not.

18 THE COURT: I am sure they are now.
19 Thank you. We will add that one line and then
20 that will be the charge. We will now we can take
21 about a 15 minute recess, and then will bring the
22 jury back in. Again you all can rest on the
23 record. And then we will go immediately into
24 arguments and charge. Thank you.

25 (Whereupon, the court takes a short

1 recess.)

2 THE COURT: You may bring the jury in.

3 (Whereupon, the following takes place
4 within the presence of the jury.)

5 THE COURT: Mr. Murphy, for the defendant
6 Mr. Dargan.

7 MR. MURPHY: Your Honor, the defense
8 Mr. Dargan rests. I would also at this point
9 renew all my prior motions.

10 THE COURT: Mr. Kent, for the defendant
11 Ms. Helton.

12 MR. KENT: Thank you, Judge. At this time
13 the defendant Helton agrees not to put on a case.
14 And we would renew all motions made during the
15 course of the trial.

16 THE COURT: Ladies and gentlemen, that's
17 all the testimony you are going to hear at this
18 point. Now is the time where the lawyers will
19 give you their closing arguments. I will then
20 give you the law that is applicable to this case,
21 and send you to begin your deliberations. We have
22 already made arrangements for you to have lunch
23 here. So is the State ready to proceed?

24 MR. MEADORS: The State is ready.

25 THE COURT: The defendants ready to

1 proceed?

2 MR. MURPHY: Yes, sir.

3 THE COURT: Thank you, Mr. Meadors.

4 MR. MEADORS: If it please the court,

5 Mr. Murphy, Mr. Kent. Solicitor, Mr. Brown.

6 Mr. Foreman, Ladies and gentlemen, good morning.

7 Mario Scott is dead. He's dead. And he
8 shouldn't be. There's no reason for it. There is
9 no excuse for it. But he's dead. Mr. Foreman,
10 and, Ladies and gentlemen, thank you all for being
11 here. Thank you for the attention you've given
12 all of us. I am not a jury watcher. I don't want
13 you to think I'm staring. And I try not to watch.
14 But when I'm looking over, you all are paying
15 attention. You know what's going on. And I want
16 to thank you for the attention you have given this
17 case and for listening to us. And that's all we
18 can ask; that you listen; that you care, and that
19 you follow the oath that Mr. Bradley gave you and
20 you follow the law that Judge Young is going to
21 give you. Thank you for being here.

22 I get to tell you now what I believe the
23 reasonable inferences are in this case based on
24 the evidence. These attorneys, fine attorneys
25 and friends get to do the same thing. When they

1 are through, I go, then they go, then the judge
2 will charge you the law and you will decide. So
3 it's no long before you get back and make a
4 decision.

5 As I discussed and I'll say briefly, not
6 on your observations. But all you can consider is
7 what you heard from this witness stand, the
8 evidence that came from the witness stand. And
9 you use your common sense. You use your eyes, you
10 use what you saw in here this week to decide what
11 is credible, believable. People's expressions.
12 People's answers. Real time, I call it. And you
13 got see a judge and that's what you will decide.
14 And keep your common sense as you go back there.
15 I think I will cover everything, I probably won't.
16 I'm getting old. They may bring up some stuff I
17 don't bring up or talk about. Go back there and
18 discuss everything.

19 Ladies and gentlemen, beyond a reasonable
20 doubt is your burden. His Honor is going to tell
21 you. It's not beyond all doubt. If that was the
22 burden, we really wouldn't need this court. It's
23 beyond a reasonable doubt. Beyond a doubt that
24 makes reasonable folks hesitate to act. I don't
25 always say that, but I don't we've met. I think

1 we've gone beyond. we don't have to. I think
2 we've proved it beyond all doubt. But our burden
3 is reasonable doubt. Beyond a reasonable doubt.

4 We don't have videos out there. And thank
5 God we don't. I don't want to be videoed all the
6 time. I don't want to have every movement out
7 there videoed. And that's the only way you'd ever
8 have something to come in. And some defense
9 lawyers think you need that or want that. I am
10 not saying these, but some of them do. Well you
11 didn't see it. You didn't have a video. Well
12 that's the real world. But you have are facts and
13 witnesses that come in and tell you what happened.

14 Direct evidence I heard something.
15 Direct evidence, I heard a fight. Direct evidence
16 I heard a fight. Direct evidence, I heard a
17 scream. I heard bad words. Circumstantial
18 evidence. Direct evidence is what you hear, what
19 you see, what you feel. And you heard witnesses
20 come tell you that. I received this in the mail.
21 Somebody told me that circumstantial evidence is
22 proof of a fact or facts indicating the existence
23 of the fact. And yesterday on the way home, the
24 bullet hole in Mario's body, we don't have the
25 bullet. We don't have the gun. But does that

1 mean he wasn't shot. Of course not. There's a
2 great example. There is a bullet entry and exit
3 wound on his body. Dr. Ross said that's what
4 caused his death. Does that mean he wasn't shot
5 because we don't have the bullet or the gun? Of
6 course not.

7 Common sense reaches in with direct and
8 circumstantial evidence. The judge is going to
9 say one is just as strong as the other one. I
10 like a good old circumstantial evidence. And
11 that's what we've got is strong, direct and
12 circumstantial evidence case. You know who else
13 knew it was strong, Gary Dargan. He knew it was
14 strong. Because since his arrest and even since
15 to this week he's been trying to get people to
16 change what they said because the circumstances
17 are strong.

18 And the thing about circumstantial
19 evidence cases, you can't make it up. But listen
20 to me. You can't make it all up. You can't have
21 a van being given by Clinton O'dell Roberts, with
22 writing on the side, that's given to Gary Dargan.
23 And Bernard Mellette happened to see a van flying
24 by him with writing on, doesn't know what it was.
25 But sees him go by with the van. Sees Gary get

1 out of that same van.

2 Because even Reco in cross, I think, to
3 one of the lawyers said well do you know what he
4 drives. Wasn't even my question. Well I know he
5 was in a van that night. That's just one of the
6 small circumstances to put together the piece of
7 the puzzle. What's murder. I have to go this
8 briefly. Murder is the killing, as I told you
9 before, and the judge will go over this, and I'll
10 brief. The unlawful killing of another human
11 being with malice aforethought, express or
12 inferred.

13 We don't always express. Well actually
14 we might. But express is, I am going to kill
15 you. I am going to kill you. Inferred in this
16 case, you can infer it from the use of a deadly
17 weapon. One weapon shot 7 bullets. Two of them
18 hit Mario. The rest of the shell casings, a drive
19 by. A drive by will tell I think we got down to
20 the minute. A minute or two. Credible. Drive
21 by. Malice. But you can infer malice. Don't be
22 confused with these legal terms, malice or
23 meanness or evilness or wickedness. You don't
24 actually have to have somebody tell you that. It
25 might have been Mellette on the stand said nobody

1 is going to come in and say I killed so and so.
2 That's not real. But malice and meanness and
3 evilness, you can infer it from someone walking
4 down the street and just da, da, da, da, da. That
5 use of a deadly weapon. That's malice. That's
6 malicious. But the law says that. aforethought
7 again, don't get tied up with the legal terms.
8 It's a term of art. Malice aforethought. It can
9 be established that it exists the instant the
10 trigger is pulled right there.

11 When you pull a trigger, what's going to
12 happen? Bullets are going to come out. If you
13 are shooting are somebody, they might die. He did
14 die. That's malice aforethought. It doesn't have
15 to be planned. It doesn't have to be
16 premeditated. You don't have to be thinking about
17 it two minutes before it happens. That's what the
18 law says. Malice aforethought. The instance of
19 the pulling of the trigger. And We don't have to
20 prove motive for the State. The law does not
21 require that. You won't hear it from the judge.
22 And we don't have to prove motive.

23 And sometimes when you don't have evidence
24 of a real motive, you say well what it is.
25 Sometimes it is even more malice. You just kill

1 them because you are mad. Now that's about as
2 malicious as it can be.

3 Now there is kind of a motive woven in and
4 out here. You've got the motive that Shonta
5 Helton is mad and angry. I'm going to go over
6 that in a little bit. It kind of starts the
7 process rolling. You heard something through
8 yesterday, and I believe again through cross, that
9 there's some beef perhaps or beef back from the
10 high school days between Mario and Gary. Is that
11 a motive. You don't have to have it, but it is
12 something there. Was that a part of process when
13 you heard she was getting mad and yelling. I
14 don't know. It's up to you all to consider it.
15 It came in through evidence. But we don't have to
16 have motive. And if somebody just killed somebody
17 because they are mad or for some other reason,
18 that's about as malicious as you can get.

19 Murder, malice aforethought. Accessory
20 before the fact, I'll talk about that again. What
21 happened. I know you all are tired. You maybe
22 tired of hearing me. It's been a long week. But
23 this an important time. This is the time where I
24 got to get up. It's time. This is time. This is
25 important. It's important to the defendants.

1 It's important to Mario's folks. It's important
2 to this community. It's time. So what happened.
3 Is there any dispute about what happened at that
4 house. You all got sick and tired of hearing it
5 probably. We brought up the witnesses.

6 There's going to be a party 333 Green
7 Swamp Road. Ladies night primarily, celebrating
8 Betty Welch getting a new job at El Cheapo's.
9 Let's have a party. Nothing wrong with that. And
10 they decided they are going have a party. And
11 they get to have a party and it's all ladies
12 except who. Mario. And he's dating Betty. And
13 I think it's important. He's just sitting in the
14 back room. He's not out with the ladies. He's
15 not a threat to anybody. He's not doing anything.
16 He's just sitting in the back by himself, letting
17 the ladies party. Nothing against the ladies.
18 But this particular night, this argument started.
19 Do you know exactly when it started, how it
20 started. No. Do we have to. You all have to
21 find that out, no.

22 But you know and argument started.
23 Somebody said it was over somebody talking about a
24 lady. You are anything but a lady. And then
25 Danielle may have got into it with Shonta. And

1 then whatever it starts, people are getting loud.
2 And it's getting loud. And that brings Mario from
3 the back. Staying in there with Betty. And
4 basically has come out you all don't disrespect.
5 You all calm down. It's gone outside now. And
6 you have got different places people are. Nobody
7 can say exactly where everybody is. That not
8 real. But you go outside and it's getting louder.

9 And Mario the testimony says, goes to
10 Shonta and may have said to somebody get your
11 trick friend out of here. Or you be quiet or
12 something. He got upset. She was being loud,
13 and wanted her to go so she wouldn't disrespect
14 Betty. That pretty much makes all the sense.
15 There's not much dispute about there. They're
16 outside. They're fighting. It's getting heated.
17 They're drinking. And then Shonta takes it to
18 another level.

19 Dispute about who hit who first. I don't
20 know. They're talking. They're shoving. He's
21 taking up on the porch. One thing for sure, he's
22 a old fellow. Nothing against that, but he's
23 small. Just a little old fellow between 105 and
24 130 according to his friend and the pathologist,
25 5'5. Not harming anybody. And they get out

1 there and the argument and the yelling, Shonta got
2 louder. He pushes her. And I hit Mr. Brown
3 first, I am going not going to do it again. But
4 he mashes her. It puts her wig aside. But it
5 makes her mad. It makes her mad. And her
6 friends, the people then start laughing. Just
7 laughing. Mario is dead. They start laughing and
8 she is angry. Well wait a minute, she's not
9 really angry. But oh, yes, she is.

10 And she goes inside. And several
11 witnesses and gets a knife. Now does she use that
12 knife. No. Could she have. I don't know. I
13 don't believe it is in dispute she got the knife.
14 And does that show what she is feeling right here.
15 Does that show what's in her mind? She goes and
16 gets a knife and comes out. A couple of ladies
17 said, what are going to do. You are going to be
18 drunk and hurt yourself on that. But she's got a
19 knife. Is she angry with a knife in her hand.
20 And she comes outside and they're trying to defuse
21 it.

22 And then several witnesses say Betty says
23 Mario just go home. And what does he do. He
24 starts walking off. He ain't got a car. He's
25 either got somebody driving or he's walking.

1 He's walking home. Little did he know that he was
2 walking to the graveyard. He didn't know. But he
3 starts walking home. And before that during the
4 process, what does Shonta Helton do? She calls
5 Gary Dargan. Of all the people in the world, she
6 calls Gary Dargan. And she says come get this,
7 M., I am not going say it. He put his hand on me.
8 Come push this. Come and talk to him. Come kill
9 this M. Come get this mother fucker. Does that
10 show what's in her mind? What she wants to
11 happen. Well let it go. Go Mario. Mario is
12 leaving. You all let him go.

13 The phone records are here. And we will
14 go over with you, her number calling Gary Dargan.
15 It's not in dispute. And he puts in her statement
16 later. She's got to. The witnesses there heard
17 it. Let's talk about who are you calling. Who
18 you are calling. She said Gary. People said she
19 said Gary, that's how I knew. And then the phone
20 records. And so Mario is leaving. And they are
21 watching. And I don't know if it's Tajuana,
22 Danielle or somebody, see Mario walking off down
23 toward El Cheapo. See her going behind him. Some
24 of them see him face to face. Danielle goes down
25 after him. Talks to him a minute. Says you want

1 to get in. No I don't want to get in. She keeps
2 on going. Was anybody worried about that?
3 Tajuana was. Kenyardo later said she was. Was
4 Betty? Don't know. They were drinking. It
5 doesn't mean Betty was a bad person that she
6 didn't call or didn't care. They were there
7 drinking. She knows both of them. Betty didn't
8 think anything was going to happen. She didn't,
9 or she would have I'm sure. She didn't know.

10 And they're drinking. And they're going
11 on partying. It doesn't matter what Betty
12 thought. Who was pushing it. And then aiding it,
13 and encouraged it, Shonta. We know what she
14 thought. Just not, I am going to get the knife.
15 Then the words. The bad words. Bad words. And
16 then what happened. And then you went get mad
17 with somebody, let's just talk about this. When
18 you get mad at somebody, y'all say something and
19 maybe do it. And then you go, oh, no, sir. My
20 words, then she's walking. Physically going after
21 them.

22 When I am talking about that aiding and
23 abetting, she may taking Gary to get him.
24 Following him down there. She's telling them
25 where she is. Aiding, abetting encouraging.

1 Physically. Her mind is thinking. And now her
2 body is following. Stop it, Shonta so he would be
3 alive and be here. Just don't follow him. She is
4 following him. She's going down.

5 Now what happens next. She's called Gary.
6 We don't know everything. We know the phone calls
7 are there. They've got a summary I am going to go
8 over with you a minute. We've got to know the
9 phone calls are there. Gary first said, I am not
10 going. He calls Robert Bernard Mellette. Robert
11 Bernard Mellette. And Robert said he is sleeping.
12 He gets a call about 11:45. Look at the tolls.
13 11:45. Come on, I need you. Didn't ask him what
14 he needed him for. He didn't say. If he needs
15 me, I am going. I know he helped me. And that's
16 just how close they are. And that's it really the
17 key to this case. He gets up to help a friend
18 without question. Doesn't ask. I am going to
19 help him.

20 That same friend who tries to turn and
21 tries to get him to change his statement and
22 attacks him. And attacks him. And ultimately
23 asks his brother to come in. And he put them in
24 that situation. But Robert went down. He's on
25 Guinyard. What you want. Well go get Shonta.

1 She's not down here... Where is she. Phone calls
2 back and forth. You will see them. I'll show
3 them to you in a minute. Phone calls back and
4 forth from Bernard to Gary, Gary to Shonta, Shonta
5 and Bernard ultimately cook up the last call being
6 12:10 and I'll show you where that is in a minute
7 on this diagram.

8 They hook up then. They talk them.
9 Called immediately after 12, because it says
10 12:10. And that's back from Shonta to Gary. And
11 there are a number of calls from Shonta then to
12 12:20. Why? She's in the car with Bernard. It's
13 common sense. She's in the car with Bernard.
14 It's his car. It's on Dingle Street. I told you
15 on first case credibility, believability, is every
16 case. It is in this case more than any case I've
17 ever done. Credibility and believability. She
18 says when she comes in, I stopped at the curve
19 there, I didn't go around on Dingle Street. And
20 the whole thing is, if I stop right there. That's
21 the story. I stop right there. No, ma'am. You
22 didn't. You kept going down Dingle Street and
23 that's where Robert picked you up. And his car
24 was messed. He put you in the side, and then he
25 kept on going down. And he called Dargan right

1 after that. And then the phone changes as he's
2 going down when Dargan is talking to him, coming
3 after him. And I'm going in the van. Right after
4 in the van.

5 But he picks her up there. And what does
6 he say? What does Robert Bernard Mellette say?
7 Because you remember the story is, you didn't.
8 You got to change this, months, over a year, you
9 can't have. You got to change this, Bernard.
10 Because why? Because it's good evidence. You've
11 got to say, you didn't see Mario with Shonta.
12 You've got say you didn't see Mario with Shonta.
13 You've got to change that. He can't have them
14 together. Because they are together on Dingle
15 Street where Bernard picks him up like Bernard
16 says, and they leave.

17 You picked him up, up here. No, sir. No,
18 I didn't. Bernard then leaves and goes down and
19 takes a right on South Sumter; coming behind him
20 we believe the evidence shows, and believe that
21 Dargan confirmed over the last few days with the
22 State. He comes by in this Wilson van, fires
23 multiple shots, comes down, and crosses over the
24 railroad tracks and passes Bernard. Bernard
25 doesn't know him. He doesn't know him. You know

1 it doesn't matter if Shonta didn't know it. She
2 doesn't have to know about the completed act. As
3 a matter of fact, under the law, the judge said
4 she can't be there. That's part of the accessory
5 before the fact. One reason she is charged with
6 it. She can't be there when it happens. So
7 that's why she is charged with accessory before
8 the fact. So that's why she is charged with
9 accessory before fact.

10 So they were gone. She encouraged it,
11 wanted it to happen. And then he's coming behind
12 and fires those fatal shots and then passes him.
13 And then passes him. And then passes him. But
14 getting back to what I was saying to what I was
15 saying, what did Bernard say when he first saw
16 him. They were arguing. She even got her last
17 mush in, I think he said. And then he said he
18 looked at Mario, maybe the last expression we've
19 had with Mario he's just doing like that, like
20 he's moving on. In him, what's real, what's
21 credible. I don't think anybody asked any
22 questions about this.

23 When she got in the car, what is her
24 thought? She's still mad. She demonstrates on
25 Robert Bernard Mellette, how she got mused. And

1 even hit him in the eye. You remember that?
2 Here's what son-of-a-bitch did to me. Here's what
3 that N. did to me. Still mad. Still angry. And
4 then he takes her home. Have they got to get away
5 from there? They do. Because it's right after
6 that, he comes down and kills him. Bernard picked
7 her up from there. Still following down Dingle.
8 They are probably right at Wright Street. But
9 she's following him. Still arguing with him.

10 There is something in the law called aided
11 to. You've got to encourage. I'm going to say
12 more about that at the end. But did aid. She's
13 on the phone with Gary. I think she's taking Gray
14 to him, because that's what happens. And he gets
15 executed right after that. She didn't have to
16 know he's coming back. But she's got to encourage
17 and urge him. But he sure comes right after
18 that.

19 These phone records, Chief Gardner gets up
20 here, you've got Gary Dargan's phone going from
21 the Lincoln Street area to the El Cheapo area.
22 And the time from the 12:10, 12:11, 12:10, 12:11
23 this is moving down in the area of South Sumter.
24 What does that tell you today? That tells me he
25 moving. He wasn't still. He's moving from where

1 he was the card game, to El Cheapo area, down
2 here. That's good circumstantial evidence. Where
3 was he? He was following them. You don't get any
4 better than that circumstantial evidence.

5 His phone moved in all the areas here,
6 here, here. Consistent with him passing the
7 phone. You couldn't have filled all of that. You
8 couldn't have known these phone calls were
9 happening if you were Clint O'dell Roberts. When
10 your van was there. It all fits together. What
11 do you have from Robert Mellette. Well you have
12 got Mellette moving from this area into the
13 El Cheapo area, down into the South Sumter area.
14 Is This phone call is moving consistent with
15 there? That's all we can show. I can't show you
16 exact location. The law doesn't require that.

17 It shows where the phone is and where it's
18 moving. Certainly not one place. Does that
19 corroborate Robert? Of course it does. Shonta
20 and you look for smoke screens and all. And we
21 asked Chief Gardner who wasn't here for all for
22 the trial today. This shows that Shonta was in
23 the El Cheapo area. Okay. Go back and look at
24 these. These phone calls here. We should go down
25 to where the body is. Okay. Go down to where the

1 body is.

2 At 12:10 there is no more phone calls from
3 her to any of these people, Dargan or Mellette.
4 You know why, she's in the car with Bernard. And
5 the next time her phone hits and Bernard, they're
6 down her at Lincoln. That's why, call, call,
7 call. All of sudden stop. She's not going to
8 call him if he's in the car. That's good
9 evidence. I got to put myself away from that,
10 Dingle Street now. I wasn't at Dingle Street.
11 That's not in the plan. Law enforcement
12 responds. They see the body. They go the house.
13 They find out about the fight. Who did she call.
14 Who was fighting with.

15 They went out and investigated, and found
16 the parties. Got subpoenas for the phone records.
17 Got the shell casings. Another example of
18 circumstantial evidence. We didn't see the gun.
19 Ballistics tells us all fired by the same gun.
20 Any question about that. The officer says he
21 remembers hearing it like it was the second,
22 shortly sometime before 12 and 12:24 whenever it
23 was.

24 Clinton O'dell. And he didn't know he was
25 coming in here; recovering crack addict. I gave

1 him that van before. He came back about four.
2 Was he acting different. He was acting a little
3 upset and different when he came back. Now let's
4 get into the version. And I'll covering
5 everything covered everything as quick as I can.
6 Who does Gary Dargan call when he get back? Who
7 called. Who does he call? He calls D. Prince.
8 Credibility, believability. What does he D.
9 Prince.

10 He says, look what do you need. She's at
11 a Christmas party. I got in a wreck in North
12 Carolina. No, you didn't. He's just lying like
13 he's doing. Why did he do that. He had to get
14 the heck out of there. He just killed somebody.
15 Well I'll be there as quick as I can, 8 to 10
16 minutes she comes and picks him up. Takes him.
17 And he starts driving around in his burgundy car,
18 to distance himself from that van. Common sense
19 coming back into this. She takes him away. Well,
20 Ms. Prince, did you ever hear from him again.
21 Yeah, I did. What did you do. I got a letter
22 from him. I got a phone call from him.
23 Did you get that typed. It's a letter.
24 No, I didn't get it yet. You've got the wrong
25 address. This is corroborated. It's

1 corroborating the lie. Well, I am going to send
2 it to you, look at this. She gets the letter.
3 She kept it. It's her statement she gave to the
4 police. And it's her statement he sent her. And
5 he's telling her, you can't say what you said. I
6 need you to change that I said I had a nephew up
7 here, because you can't say that. Because that's
8 a lie. He's desperate. I need you to say, there
9 is a bunch of money here. That's why I need you
10 to come get you. I need to change this. This is
11 okay.

12 Are you kidding me? Come, do you realize
13 this. Come into court, put your hand on the bible
14 in front of this judge and jury and lie. Come in
15 here and say lie. I didn't say that. Come in
16 here and cover me. No, sir. No, sir. She
17 didn't. She kept this. And for the record, I
18 want to thank her for that. I am not coming in
19 here and lie. He's worried about it. He
20 immediately calls her after coming back. After
21 you get the letters from him. Gets her in
22 distance from that car, the phone records 5482, is
23 her number. Look at who calls as soon as he gets
24 back from Lincoln Street, after the 12:010,
25 12:011, when he calls 5482, trying to get in touch

1 with Debbie Prince. Boom, boom, boom. She calls
2 him back. That's incredible progress. Good
3 progress, we submit. Look at the phone.

4 And then they talk to the police. And
5 they get at statements. Again, no big deal.
6 Shonta stayed a little longer. He apologized to
7 me later. Are you kidding me. Mario and I were
8 fine. We worked it out. I left right there.
9 Bernard picked me up and then took me to Lincoln
10 Street. No, ma'am, no, sir. Do you know why? If
11 Bernard, listen to me please. If Bernard had
12 taken her street to Lincoln Street, and it's all
13 credibility. Because if you can't believe this,
14 you can't believe it.

15 If Bernard had taken her to Lincoln
16 Street, you wouldn't see his call hit down to
17 South Sumter tower. And she can't get around
18 that. If he had gone straight to Lincoln it would
19 have been down there. And she doesn't have any
20 phone calls during that time period because
21 Bernard is just taking a right over South Sumter
22 after he's picked her up from Dingle. God bless
23 Mario, because she was arguing and still pissed
24 off, excuse my language. And told him, look what
25 he did to me. Has she got to distance herself

1 from there, you dad gum right she has.

2 And go back and look at the phone tolls.

3 Are there calls between Gary and Shonta after

4 12 o'clock, before she gave her statement that

5 day. Yes, sir, yes, ma'am. Wanted to know what

6 they're talking about on the phone call. You

7 know, I didn't ask these people to come into my

8 world. This is my world. It's the judge's

9 courtroom. It's my world right here. Reco Ham,

10 thanks to him, they go and talk to him. They

11 don't know. He's doing federal time. Probably

12 doesn't want to be here. He got some time he's

13 doing. Looking for a downward departure.

14 Mr. Title is going to write a letter. I'm going

15 to sign it with the solicitor's approval.

16 You're a the party. I'm at the party.

17 The card game. Lincoln Street, yeah, we were

18 playing cards. Pretty big stakes game it sounds

19 like. What happened. He got a phone call and he

20 left. Did he come back? He came back later in

21 the morning. What did he say. He said I think

22 killed somebody. I'm not sure he knew he killed

23 him. It doesn't matter, he killed him. He may

24 not have known.

25 As a matter of fact, that phone call went

1 to Kenyardo's phone. That's State's 3.
2 Kenyardo's phone is 1070. She didn't want to say
3 well I wasn't sure if that was my phone. Clearly
4 it's her phone number. May have been throwing
5 something out. That's her baby's father. One of
6 her children, I understand that. But it's her
7 phone of in evidence State's 3. Called from his
8 number to hers. 1070 at 12:55 when they are
9 outside of El Cheapo's. Tell Ms. Betty she might
10 want to go check up and see her man shot up down
11 on Dingle and Wright Street. Well he knows. He
12 knows who is shot up on Dingle and Wright Street.

13 Almost taunt her. You might want to go
14 check that out. State's 3. That phone call.
15 Reco Ham, he gets a letter from him. Gary is
16 writing him. Talking about some beef they had.
17 But then he's saying, I can't believe the
18 brother's aren't taking care of me out on the
19 streets. I can't believe they are not taking care
20 of me. See if you can reach out to some of the
21 them.

22 Marcus Mellette's house. Marcus
23 Mellette's house. Got that number, 4735, that you
24 heard called. You got to get it straight.
25 They're not taking care of me. I'm not trying to

1 be funny, but that's what he's trying to say.
2 Why aren't the streets taking care. And I've
3 never been allowed to do it, but I can do it in
4 this case. The streets came up to question the
5 defense. The streets came up. What do the
6 streets say. Well it's Marcus Mellette saying,
7 the streets ain't happy.

8 Little old and I don't mean this bad,
9 little old Marcus, (sic) little old thing, he
10 didn't need to die. I don't submit he even hit
11 him. Or that little strong hold, or whatever they
12 want to say, put a head lock on him. It sounded
13 like to me it wasn't even his fault. But that's
14 fine. What did he say, the street said he could
15 make a little headlock or a little push at the
16 most. He didn't need to be executed. No, sir,
17 the streets ain't happy with this.

18 This is justice in this courtroom. I
19 don't believe in street justice. It happens here,
20 in this courtroom with His Honor and the jury.
21 That's what it's all about. But it's something to
22 know what eve the streets know, this ain't right.
23 No, sir, this ain't right. No, sir. This
24 shouldn't have happened. It shouldn't have
25 happened to Mario. He didn't need to die. That

1 ain't right.

2 And that kind of becomes the theme,
3 doesn't it? This case he's got that he starts
4 sending letters. First to Kevin Mellette. And
5 that's kind of corroborate -- he corroborates all
6 the witnesses. He does. Just corroborates them.
7 Corroborates what they say with his letters, with
8 his phone calls. Kevin was helping me out to
9 start with. Kevin got in trouble. Something
10 about a woman up north, I am not sure. Now I
11 need to reach out to you Marcus. Your brother's
12 not -- I need you to help me. Don't let anybody
13 see this. You've got to get it right. Thinks
14 he's got a good case. Thinks he's going to be
15 able to sell it. We've got one problem. Your
16 brother is a problem. And his brother is a real
17 problem, because he's telling the truth.

18 I need you to reach out to your brother.
19 All because he accepts when there is money on
20 there, he doesn't take the calls. He doesn't pay
21 for calls to talk to him. You get caught in that
22 position, I guess. They've known him for 20
23 years. Called him up, 20 years. What does he
24 say. Help me. Reach out to me. You need to
25 tell Marcus puts him on. Marcus doesn't want to

1 get involved in this thing. Marcus didn't decide
2 to get involved in this thing. Reach out to your
3 brother. Look at this letter. He needs to change
4 and say he didn't pick him up where he picked him
5 up. He needs to say Mario wasn't with him. He
6 needs to say that. He's got to change that.
7 That ain't good for a jury to hear. We don't want
8 you to hear that.

9 And I don't know about that phone call,
10 after phone call, after phone call, after phone
11 call, after phone call. I think there are 4 or 5.
12 And then the letters corroborating the phone
13 calls. Corroborating. Look you've got to do
14 this. Reach out to these people. I can stay up
15 here up an hour and go over all of them. Reach
16 out to these people. Tell them. I can't believe
17 someone is not going to say they stayed at that
18 card game past 12. Give me an alibi there. Look
19 at all of them. Go change. What's wrong.

20 Oh, by the time they in are in the pod,
21 that's corroborated on one of the phone calls.
22 You remember when you were in the pod with him.
23 Told him he killed him. And here's the real Gary
24 Dargan on this tape. So what does he say to him,
25 oh, I knew that mother fucker dead. I knew that

1 mother fucker was dead. I guess he did, because
2 he's just coming down.

3 Why did you kill Mario. I knew he was
4 dead. It was in his mind. Well they ain't got to
5 prove premeditated. It was in his mind. One of
6 these statements in here, one of these statements
7 in here, he said, look, get him to testify. You
8 know, get him to change his statement. The most
9 they can do is charge him with filing a false
10 police statement.

11 He puts in here, that's why I say, we may
12 have express malice. He puts in here, well now he
13 didn't know he was going to be murdered. He
14 didn't know what was in my mind. Any doubt that
15 he killed him. Any doubt he's trying to get all
16 the testimony changed, because he knows he's dead.
17 You all go in and lie for him again. Go perjury
18 yourself. Go perjure. Go tell them this didn't
19 happen. Reach out them. People on the streets
20 aren't taking care of him. No, sir, the streets
21 aren't taking care of him. Because enough is
22 enough.

23 Now Mr. Murphy asked Robert Mellette, well
24 what is the truth. You want to know the truth, he
25 don't want the truth coming out. And that's what

1 all of that is about. And I think, I don't use
2 this much, but in this case, in this world, in
3 these streets, Robert Bernard Mellette, he did the
4 right thing, what he saw. Or get somebody he grew
5 up or get somebody to call him. Does it make any
6 sense that he would say this to somebody if it
7 wasn't the truth.

8 Gets out of bed to go help somebody. Goes
9 down there and then he tells exactly what he saw.
10 And maybe why he thought he would change it. Well
11 I know you are going to take care of me. No, sir,
12 I am not. This is my stand. This is where I am
13 going to do the right thing. And I think his
14 brother calls and calls. He ain't going -- he's
15 not changing. And I think he's proud of it. So
16 what does big brother do. He keeps those letters
17 and he comes in and says, yeah, my brother
18 wouldn't change it. And he shouldn't change it.
19 And the streets are saying is enough is enough.
20 And he should be alive Mario should. No, sir.
21 We're not going to lie to you.

22 And I think he said, I know he is
23 surprised I am here. But he kept the letter that
24 shows he lied. Outline what the witnesses say.
25 I don't know how else to show credibility. I

1 didn't mean to do that. You've seen where they
2 were. He showed where he picked him up. Showed
3 he went down Dingle Street. It was before Wright
4 Street. Picks her up and they go down to South
5 Sumter, and they come back. That's corroborated
6 by the phone tolls.

7 You've got phone calls around 12:04 and
8 12:07 between all the parties trying to locate
9 each other. Trying to locate each other. Got her
10 picked up. You've got different cell towers being
11 used by Gary. And one of them is almost exactly
12 in the middle where body is. He's transferred
13 from El Cheapo's down to here. If I'm repeating
14 myself, I am sorry. Calls you heard. Just
15 mentioned that briefly. Shonta puts herself with
16 Bernard and Bernard's phone puts him down at South
17 Sumter and back at Lincoln. That won't change
18 with the record.

19 And so we are back to where we started.
20 The evidence we submit is subject to Gary Dargan,
21 not credible. It has shown you in ways, In his
22 own words by getting people to change. I know
23 this is strong. You all please see that. But why
24 did it start. Why did it start. I am through
25 talking about that now. I submit the evidence

1 speaks itself respectfully. I don't know why he
2 killed him. Maybe it's high school. He had his
3 opportunity, but he killed him. He was proud
4 about it. He told somebody he killed him. He
5 tried to get them to cover it up. He did his best
6 to get it covered up.

7 But why did it even start that night. And
8 we come back to Shonta. Because Mario would still
9 be alive if it wasn't for that fight on 337 Green
10 Swamp. He'd still be here. We wouldn't be here.
11 And the judge will tell you Accessory before the
12 fact, you've got to urge, come kill, come kill.
13 You know, kill him. Aid, promote, support. Come
14 kill him. She's got the knife, she's following
15 him. Assist. This could be any of these. It
16 doesn't have to have to be all of them.
17 Encourage. That's enough. Assist, she took him
18 to his grave. It didn't matter if he she knew he
19 was going ot kill him. Didn't know if she knew
20 exactly what to do. She wanted to kill him. The
21 law doesn't require that.

22 But she walked him down there. And that's
23 where Bernard picked her up. And then Gary comes
24 after us. Aided, promoted, or abetted. The
25 judge will tell you that. You can aid or abet.

1 What's abet mean? Encourage. What other words
2 can you say, come kill him. Encourage. Appear to
3 favor or support. And it doesn't even end there.
4 You can just think about this. After she gets
5 back and the van passes Bernard and Bernard said
6 that the van beats them to the house on Lincoln
7 Street, as it should. And he sees Gary get out of
8 the van, just a few seconds past them earlier.
9 Right before the shots were fired.

10 She gets out. What's her mind set.
11 What's the first thing she says. The very first
12 thing. You didn't kill -- you going to do nothing
13 to that mother fucker. Ms. Shonta Helton. Who's
14 thinking about going to get ice creme, she's
15 telling somebody to kill him. And he did. Ladies
16 and gentlemen, I apologize if I talked too long.
17 I want to thank you very briefly. I want to thank
18 to thank the judge. Thanks to everybody that
19 assisted in this case. When you go back after
20 you've judge charge, all I can ask you to do is
21 review the evidence, use your common sense.
22 Think, talk about things, and we respectfully
23 submit that after you heard the judge's charge,
24 you will come back with a verdict that says on
25 December 8, 2012, Mario Scott was at a party.

1 Just abiding himself. Came out to break up a
2 fight. Left.

3 Shonta Helton got on the phone and said,
4 Gary come do something to this son of a bitch this
5 mother fucker. Gary took it as an opportunity
6 and did it. She was mad at first, because he
7 didn't know he did it. And then he spent the next
8 year and a half trying to cover it up. Getting
9 people to change their stories so you all wouldn't
10 hear the real story. But you heard the real
11 story. And you heard it all. And you saw it all.
12 And you felt it all. You felt it all. And it's
13 time for justice now. He can't direct anymore.

14 He can't say, say this. He can't look
15 like he has through those letters that came out
16 saying, you do this. You do that. You do this.
17 No, sir, no, ma'am. The treat said no, sir, we
18 are not doing it for you. We respectfully submit
19 that the evidence says, no, sir, we are not doing
20 it for you Ms. Helton. And we are going to find
21 you guilty thank you.

22 THE COURT: Mr. Murphy.

23 MR. MURPHY: May it please the court.

24 THE COURT: Yes, sir.

25 MR. MURPHY: Good afternoon. You know

1 when I spoke to you on Monday, It seems a lot
2 longer than that. I asked you on behalf of my
3 client, Mr. Dargan, that which any citizen is
4 entitled to, and that is an opportunity to have
5 the law applied to him correctly, for careful
6 analysis of the facts and a sober reasonable
7 conclusion. And that is still what we require.
8 The judge will tell you even now after you have
9 heard all the evidence and I'll talk about it, in
10 a little bit.

11 Even now after you've heard Mr. Meadors
12 sum up the State's version of what they've heard,
13 even now, Mr. Dargan is entitled to that
14 presumption of innocence I talked about in my
15 first remarks to you. And that's important. And
16 it's important because when you walk in there and
17 start thinking about this case and start
18 deciphering through what you've heard and what
19 we've argued and the different questions, and you
20 give them that benefit of the doubt. You know,
21 the judge will talk to you about reasonable doubt.
22 He will talk to you about how you have got to be
23 firmly convinced that he pulled that trigger like
24 Mr. Meadors stated he did. You have to be firmly
25 convinced beyond a reasonable doubt. And unless

1 you are firmly convinced he should be acquitted.
2 That's what the law requires. That's what the law
3 requires.

4 So I would ask you, you know, heard a lot.
5 And I will address it in a minute. A lot of it is
6 surprising. But even now, he is entitled to that
7 presumption. He is innocent under the law. And
8 I'd ask you to remember that, because it's
9 important. This isn't the streets. You're not
10 just a conduit to hear, well they think he's
11 guilty. I mean, you know, I don't understand
12 that. But this is a court of law. This is a
13 court of law. So remember that, and think about
14 that after you go in there and start talking with
15 the with each other.

16 Now, Mr. Meadors said, and what has to be
17 the understatement of the year, that they've
18 demonstrated and they've showed that my client
19 isn't credible. That's the understatement of the
20 year. I mean they've clearly demonstrated beyond
21 a reasonable doubt that Mr. Dargan is a liar. And
22 they've demonstrated beyond a reasonable doubt
23 that he attempted to fabricate an alibi defense.
24 And the bulk of their argument today, and actually
25 when you think about it, the bulk of their case,

1 were those letters and was that aspect of it about
2 Mr. Dargan in reaching out and trying to fix
3 things that really didn't need fixed.

4 Now why. Why would an individual do that.
5 Well, you know, the State's position obviously is
6 because their case was just so overwhelming that
7 Mr. Dargan was plotting and planning and
8 manipulating and trying to get -- create an alibi
9 defense because he did it. I mean that's what
10 their argument is, well, you know, it shows he did
11 it. It corroborates that he must have done it. I
12 think the reason is really and you know look if
13 that, and again, please don't make a judgment
14 until you go in there and start thinking about it.
15 But, you know, hey, there is nothing I say. I
16 mean there is nothing I can say that's going to
17 change that. Okay.

18 But I think the rationale that was
19 proposed to you, the reasons are simple. You
20 know there's a saying, I don't know who said it,
21 but you hear it all the time. What a tangled web
22 we weave when we first deceive or something like
23 that. It's probably not perfect. And what this
24 starts with is who Gary Dargan is. And we
25 brought this up. I'm not going to stand up here

1 and say that my client is the greatest thing since
2 sliced bread. He's a drug dealer. We brought
3 that up. He's a product of the streets. He is
4 not a nice guy. Anybody who is listening to those
5 phone calls and read those letters, heard that
6 language, he's not a nice guy, okay. But he is a
7 product of the streets.

8 And if you read those letters. And we're
9 going to ask you please to look through them and
10 read them. And I'm going to highlight certain
11 areas. And I promise I won't be long, but I am
12 going to highlight certain things that are
13 important. The streets mean a lot to him. I mean
14 that whole persona of being the drug dealer and
15 things. So when he's called in those by those
16 police, he lies. Obviously he's not at a poker
17 game the night of this murder. Obviously. The
18 telephone records show that. Obviously he isn't.
19 Okay. Obviously. And I would contend that the
20 State's case demonstrated that. He's not where he
21 is supposed to be, where he told the police he was
22 going to be. So that's the lie. I wasn't at this
23 poker game. Okay. Why. Why is he lying to the
24 police.

25 Well I would submit to you that he's a

1 drug dealer. He uses the van from, you know, the
2 medical van to deal. The telephone records show
3 and I invite you to look at the telephone records
4 both before and after the December 8th and
5 December 9th our time frame that the expert -- I
6 mean, no reflection on them. I mean that's the
7 time frame they're concerned about. But look at
8 those records. He's all over the place, okay.
9 He's all over the place. He's all over the place
10 after that, okay. There's testimony that he deals
11 drugs. He's doing something he doesn't want the
12 police to know.

13 He's aware that his ex-girlfriend, it's
14 somebody he obviously still had some sort of
15 contact with, got in a fight with a guy who ended
16 up dead. He's concerned about that. He starts
17 making phone calls. The first one, the first time
18 that the evidence shows he's aware that somebody
19 is dead is close to one o'clock. It's on that
20 phone call. That's the testimony. He's aware of
21 that.

22 The streets, the streets probably because
23 of the fight that went on earlier that night,
24 assumed that he's involved. So he knows what the
25 streets are saying. The rumor mill. Well, you

1 know, what this isn't the streets. This isn't the
2 conduit by which the streets and their justice, is
3 divvied out for that man. The street word isn't
4 good enough, but he's aware of that. So, yeah, he
5 does lie. He lies to Officer Kelly.
6 Detective Kelly, and then it starts. And then it
7 starts.

8 He's scared, although he won't admit it,
9 and he's a control freak. I think that's pretty
10 clear from all these letters. And as is typical
11 with individuals like Mr. Dargan, he doesn't, and
12 I think that is reflected in those letters. He
13 has 0 trust in the police, 0 trust in the justice
14 system, 0 trust in his own attorney, who he got
15 stuck with.

16 So he's going take matters into his own
17 hands. He's going to do and, you know, one of the
18 letters talks about the guys that he is listening
19 to while he is lockup. Guys like Kevin. There is
20 some guy in there called gold tooth or gold mouth,
21 something like that. And it's in there. You can
22 read it. Getting his situation together. Putting
23 his story together, because that's what he knows.
24 That's what he thinks he needs to do. That's the
25 explanation.

1 Now let's look at the letters, and again,
2 read those letters again, please. Read the
3 letters again. There really is nothing in those
4 letters if you read them carefully which indicate
5 any any admission that he was on dingle street
6 that night or that he, he actually did it. I
7 mean, we're going to deal with Mr. Ham and Mr.
8 Mellette in a minute. But read those letters.
9 They are all about constructing this fabricated
10 defense he thinks he needs. But there is no, for
11 lack of a better word, and I don't mean this
12 disrespectfully to anybody, there is no smoking
13 gun in his language in those letters.

14 And why is that important. We'll look.
15 It is obvious that he thinks these letters are
16 never going to see the light of day. Obviously.
17 He is putting, those are his honest and as
18 forthright as a guy like him can be. Those are
19 what his thoughts are on this case. And it's all
20 about the mechanics of creating a defense. But he
21 doesn't really talk about the victim at all. So
22 that's important. If you read the letters
23 carefully, there's nothing in there that's an
24 admission..

25 There is certainly and I'll talk about it

1 in regard to both Mr. Mellette and Mr. Ham. In
2 the letters to Mr. Mellette, if you're the control
3 freak that Mr. Dargan is, okay. Obviously not a
4 very good one. But if you're the control freak
5 that Mr. Dargan is, and you're writing a guy that
6 you've admitted to that you have killed a person,
7 you are going to reference that somewhere. You're
8 going to say, hey, and by the way, don't forgot
9 you don't need to mentioning anything about what
10 we talked about. Or you don't need to be
11 mentioning anything about what i told you. I
12 mean, either directly or in code as Mr. Mellette
13 talked about it. You're going to say something
14 about it. Because that's more important than
15 anything else. If you said it, and you've know --
16 you've confessed to somebody, you know about it.
17 You're going to reach out to that person and say,
18 hey, keep us on the low. That's nowhere in these
19 letters.

20 And I submit to you that demonstrates
21 Mr. Mellette in regard to that aspect, and I'll
22 deal with Mr. Mellette in a minute, that statement
23 was never made. The same thing with Mr. Ham.
24 He's reaching out to Mr. Ham in jail. He thinks
25 Mr. -- he, you know, the word is on the streets

1 again, that Mr. Ham is in jail, because Dargan set
2 him up. My client set him up. He talks about
3 that. Talks about his situation. If he had told
4 Mr. Ham he killed Mario that night, don't you
5 think he'd struck that in the letter. Hey, in
6 code. Hey, don't mention anything about what I
7 told you. You don't even know. I hope we are
8 cool about that. Nothing. There's nothing like
9 that in there. And I would submit to you that's
10 because he never made those statements. He never
11 made those statements.

12 That's the kind of thing that would be in
13 a letter like that. A letter and letters that you
14 don't think are ever going to be released to
15 anybody. Letters you give you give to people you
16 trust or you think you can believe or whatever.
17 But you certainly don't think are going to be read
18 in open court. That's the rawest insight into
19 Mr. Dargan. And that rawest insight does not
20 provide a basis to conclude that he made those
21 admissions. Or that he killed Mr. Scott. In both
22 of the letters, in two of the letters, I
23 shouldn't say both. In two of the letters, he
24 specifically talks to Mr. Mellette about their
25 discussions in A pod. Nothing in there about the

1 admissions. Nothing in there. It's all about I
2 thought your brother was going to tell the truth.
3 And I'll get in to that in a little bit too. But
4 there's nothing -- you know, he specifically
5 references both in two of those letters, that
6 discussion in A pod. And in neither one does he
7 saying anything about, hey, and don't say what I
8 told you. It wouldn't be in there if it was true.
9 And it's not.

10 That we subunit demonstrates that those
11 admissions never happened. Now, those are the
12 letters, okay. The product of a desperate man who
13 street's cred is more important to him than
14 anything else. And that's kind of pathetic, and
15 that's kind of sad but that's what he is. And
16 that street cred., is all he really has. That's
17 what he values above everything else. You read
18 those letters over and over again. He's concerned
19 about what street says. That's all he cares
20 about. And you what, that's disturbing, but it
21 doesn't make him a murderer. And it doesn't prove
22 that he killed someone.

23 Now let's turn a little bit to what should
24 be the meat of the State's case. And that is the
25 two admissions, one by Mr. Mellette that my

1 client -- by admission I mean admission of my
2 client. Supposedly the statement my client made
3 that killed Mr. Scott to Mr. Mellette. And the
4 statement he made to Mr. Ham that he thought he
5 killed somebody. two admissions.

6 Let's deal with Mr. Ham first. Mr. Ham is
7 in federal prison. He's got over 20 years in.
8 He's -- if he helps government he gets -- if he
9 helps the State, he's going to get his time cut.
10 That's what he's looking for. So that's a
11 motivation. That impacts his credibility. He
12 says that Mr. Dargan left the game and then came
13 back, and my notes say 3 o'clock in the morning.
14 Maybe I wrote it down wrong. If you need to.
15 listen to it again. But he says he came back to
16 the game and told him, hey, I think I killed
17 somebody. Take a look at Exhibit 51, the
18 telephone records themselves. Okay.

19 Tower 43 is the Lincoln street power.
20 There are pings, one ping in particular on
21 Mr. Dargan's phone at tower 43. After that, from
22 43 minutes after midnight, to 1:59 in the
23 morning, on 12/9/14 Mr. Dargan is on the move.
24 Towers 560, 567. He's not at tower 43. That
25 conversation couldn't have taken place; not the

1 way Mr. Ham, I mean, it just didn't take place.
2 The game had to have been over by then. All
3 right. It didn't happen. Their own evidence.
4 It's inconsistent.

5 And you combine that with the lack of any
6 reference to this admission in the letter to Mr.
7 Ham, and I submit. But I don't blame him. He's
8 in here trying to get his time cut, but he's not
9 telling the truth about that part. I mean he's
10 just not. Mr. Mellette. You know, Mr. Mellette,
11 you know he comes across as a nice guy. And, you
12 know, he probably is a pretty nice guy if truth be
13 told. But you know, he too is a product of the
14 streets. And he just got tired of getting
15 harassed and getting bullied. And I think and I
16 submit to you that he thought he would put an end
17 to it by adding some -- adding a little bit to
18 those letters and sealing the deal.

19 I mean, he probably, you know, if the
20 street tells him that Mr. Dargan is involved in
21 this, 80 percent street of what the street tells
22 him is true. I mean that's what he said. So
23 there's a little street justice. He is a vehicle
24 to street justice. He's going to put the final
25 nail in Mr. Dargan's coffin. And let's look at

1 that admission and does it make sense.

2 I've already addressed the letters. Here
3 Mr. Dargan is writing his home boy spilling all
4 this, you know, his guts to a guy who trusts and
5 that it don't make sense that he won't have
6 mentioned those admissions. And, you know, look,
7 I mean there is one letter in particular where
8 Mr. Dargan tells Mr. Mellette, look, my attorney's
9 investigator is coming out. And you talk. And
10 you get the brother to talk to him. You talk to
11 him, you get your brother to talk to him. The
12 March letters, lastly, March 8th, says hey, I got
13 word that you did what you were supposed to do
14 with the investigator. Because he writes him a
15 letter. I met with my attorney and his
16 investigator. You did what you were supposed to
17 do, but your brother still lost the reservation .

18 Now his testimony is that the Investigator
19 is sent to him, to talk to him about his
20 grandmother. This is a murder case. And the
21 investigator, his investigator hired by his
22 attorney, the one he is stuck with, sends the
23 investigator out there to talk about his
24 grandmother. Now that makes no sense. He lied.
25 He had to have lied. That makes absolutely no

1 sense. He's congratulating him after the fact,
2 but then he's lying. He lied. Again, that
3 impacts his credibility.

4 Mr. Mellette is, exaggerates.

5 Mr. Mellette is I guess for lack of a better word,
6 the vehicle of street justice. For those reasons,
7 I would contend that those admissions are not
8 believable. They're just not believable. Now in
9 his opening statement and again here in his
10 closing, the solicitor stated look, the evidence
11 supports the proposition that my client's driving
12 down Dingle Street and he executes Mr. Scott.
13 That's what they said. And I would submit to you
14 when you boil it down, that's what they have to
15 prove. Have they. Have they.

16 Mr. Dargan is driving around that night.
17 He clearly isn't where he later said he was.
18 Okay. I proposed reasons for that. Ten blocks
19 and driving around the area, 10 blocks is what the
20 expert said. They can -- 10 block area to where
21 these phone pings are. 10 blocks. Look this is a
22 murder case. This isn't hand grenades. And this
23 isn't horse shoes. This a murder case. Ten
24 blocks doesn't cut it. No one places him on
25 Dingle Street. Nobody. No one. Telephone calls

1 that he makes to people that night. Focus on what
2 you heard about what he said that night to people.
3 He's trying to get word to Betty Welch that her
4 man got shot up. Now he seemed concerned.

5 Well he also was aware that there was
6 an -- there was fight earlier that night between
7 the victim and his girl. Yeah, he's concerned.
8 Yeah. He wants to know what's going on. Sure.
9 The streets started talking. Okay. He's
10 listening. He hears talk. He wants to set this
11 thing straight. This is nothing sinister about
12 that if you focus on what the testimony of those
13 witnesses were that night. That first day of the
14 trial, all those witnesses say he didn't have a
15 beef with Mr. Scott. The only guy that says he
16 has a beef was Marcus Mellette. The code talker.
17 Talking about his code in these letters. He's
18 the only one he said he had a beef. Everybody
19 else says no. There's nothing between these guys.

20 You know, Mr. Dargan he doesn't -- well I
21 have no other way to put it. I mean look he's not
22 a nice guy. He's not a nice guy. I mean, I think
23 those letters, you look at those, the life he has
24 lead. And he's guilty of lot of things. He's
25 certainly guilty of subordinating perjury. That's

1 the technical term for the crime he committed.
2 And if he continues to live this life, you know,
3 he's probably going to get in trouble again. But
4 if you examine this evidence soberly and
5 dispassionately like you should, and I know you
6 will, and you give him the benefit of the doubts,
7 the many doubts I would submit that exist in this
8 case that he's entitled to, you will come to the
9 conclusion that he's not guilty; that the State
10 hasn't met its burden, and he should be acquitted.
11 Thank you.

12 THE COURT: Thank you, Mr. Murphy.
13 Mr. Kent.

14 MR. KENT: My oldest -- well actually it's
15 my baby brother had a child, I guess, about 4 or 5
16 years ago. And we don't get to see them much
17 because they actually live in Great Britain. And
18 so this past December they actually all came down
19 and visited. And it was exciting for everybody
20 because we finally had the whole together. If
21 you've seen a little black child with a British
22 accent, it's one of the cutest things you've ever
23 seen in your entire life. And she says things
24 very strange, and so I love her more than anything
25 in world.

1 And so the two us of were sitting down one
2 day and I was playing chess with my older brother
3 who was also home with his family. So she comes
4 in and says, uncle Shaun, uncle Shaun, teach me
5 how to play chess. So we get all the pieces. She
6 says, teach me how to play chess. Go through all
7 the pieces on what's important. I try to teach
8 each piece moves. And you can't move each piece
9 out of the place where it's supposed to be. She
10 said, I got it. You got it, we're ready to go.
11 Let's play some chess. So I moved my first piece.
12 I put my little pawn up two spaces. All of fa
13 sudden, she grabs her queen and moves it all the
14 way down and says I win, checkmate.

15 Well it doesn't work that way, darling.
16 You can't just move one piece all the way around
17 to where you want it to work, and tell it what to
18 do. She says but that's a powerful piece. I can
19 move it. I can move it. I said, no, you can't
20 just move your pieces around wherever you want
21 them to go and tell them what you want to do. She
22 got this curious look and she just looked at me
23 and said, why. Because that's just not how we do
24 this. And that's what the State of South Carolina
25 is trying to do. They're trying to make these

1 pieces fit inside the puzzle that they want them
2 to fit in. They've decided that they don't have
3 the strongest of cases, so what they're going to
4 do is move their queen wherever they needed to
5 move it.

6 So how does that start. Ladies and
7 gentlemen, I look at this case in three parts.
8 And the first part, of course, is how everything
9 started out. This grandiose statement that they
10 talk about from Shonta Helton. And this statement
11 that everyone talks. You remember when I came up
12 to you in opening statement, I was pretty clear.
13 I don't think I had much. I don't think I said
14 anything that was disturbing. I said, we're not
15 going to hide the fact the phone call was actually
16 made. There was a party, and there was a phone
17 call. And the question that we're going to have
18 is what was that conversation that was actually
19 said. What did she actually say.

20 Well the the way I look at it, and the
21 State moving the pieces wherever they pull them,
22 we heard from a bunch of different witnesses,
23 around, four or five different girls who were at
24 the party. Every one of them said something
25 different. Every one of them says Shonta Helton

1 says something different when he made that phone
2 conversation. Well what is the State focused on.
3 Well we only care about one thing. We heard one
4 thing. All she said, was kill him, kill him, kill
5 him. How many times did Mr. Meadors get up there
6 and yell, kill him, kill him, kill him.

7 How many witnesses said that? One. one.
8 And what did all the other witnesses say. They
9 all heard something different. One of them said,
10 come get him. One of them heard, Gary he put his
11 hands on me. One of them said, handle this. I was
12 talking some folks and one of the things that
13 jumps out of my mind is when you hear certain
14 words they resonate in your mind. If you all
15 remember Solicitor Tyler Brown was sitting here,
16 and he was reading those awful letters with awful
17 language, and he was reading them. And at one
18 point in time as he was reading them, he made a
19 mistake in a word. You all can go back and think
20 about it. If you remember that word he made
21 mistake he accidentally said the word, kill. And
22 then stopped and corrected himself. Go back to
23 your jury room and ask how many of you all
24 remembered hearing that word kill. Because there
25 are certain words you will hear that you just

1 don't forget.

2 All of you go back there and say, do you
3 remember when he said, kill by mistake. Not
4 yelling, and not loud, just talking. Said the
5 word kill. However on a quiet night, no music, no
6 cars going by, no one yelling, one person on the
7 phone. Sitting here as I said, screaming at the
8 top fo her lungs, only one person heard the word
9 kill. Their queen. But that's got to be the most
10 important part of their case, doesn't it. Let's
11 not talk about the other people, because that's
12 what becomes important, what she actually said.

13 Let's says she did pick up the phone and
14 called him up, which I say she did call. Gary,
15 he put his hands on me. Come get me. Get me out
16 here. I am angry. I am upset. Do they still
17 have a case. Well, no. So they can't mention
18 that conversation. Gary, he put his hands on me.
19 Come handle this mother fucker. Well we can't say
20 that, that doesn't work for him. Gary come get
21 this mother fucker. Well we can't say that. That
22 doesn't work for us. Let's just focus on kill.
23 Let's move our chest piece where we is, because
24 what we care about is the conviction, not what
25 happened. Chess pieces where they needed to be.

1 Well then let's go to the second part of
2 what is possible. Let's take the State's theory
3 for argument. Let's say she said it. I don't
4 think she did. And I don't even think the
5 evidence is close to saying she said it. Well
6 let's say she did. She picks up the phone. Gary,
7 come kill, and actually it was a detailed sentence
8 if you remember. It wasn't come kill this mother
9 fucker. She said a detailed two sentence that she
10 said that no one else heard, just her. Well then
11 they have to prove something else. They have to
12 prove her intent. They have to prove what she
13 wanted. And they have to prove that Gary actually
14 understood the conversation, interpreted the
15 conversation and he was going to do, what she said
16 she said she wanted him to do. We don't know what
17 happened on the other end of that phone
18 conversation. That's not important, because the
19 State didn't even put their pieces where they
20 needed to put them.

21 Their expert that they put on the stand,
22 Heath Gardner, I asked him about the phone
23 conversations, these phone tolls that were so
24 important, I asked him one question, Heath in your
25 expert opinion, you're the expert, the one the

1 State has put up here, do the phone conversations
2 corroborate everything that Shonta Helton gave in
3 her statement, yes, sir it does.

4 So what the State do in their closing.
5 Well she wasn't here the whole time. We've got to
6 move that piece afternoon because that just makes
7 sense; that Shonta could possibly be telling the
8 truth. So let's move the piece around, because if
9 we don't move it, oh, my God, the jury may not
10 convict her. So let's call into question our own
11 expert Ladies and gentlemen. Heath Gardner could
12 not have been telling us what really happened.
13 Chess pieces, moving them around. Chess pieces.

14 Then let's talk about some of the
15 witnesses. And I'm not going to be long as
16 everyone else. Let's just talk about some of the
17 witnesses. The witness who I found, the most
18 compelling witness that I found, the one that most
19 sense, the one seemed had nothing to lose was
20 Marcus Mellette. He got on the stand. He sat
21 there and he told us, he was cross examined. He
22 didn't waiver. He said, this is what is known.
23 What I found was absolutely fascinating what he
24 talked about. Something that the State didn't
25 mention. I guess that's just not important. What

1 did he say. And we were in A pod, he said he was
2 going to kill him anyway.

3 They've known each other forever. They've
4 had beef going back to like 1996, 1997. They've
5 never gotten along. They don't like each other.
6 Oh my God, no. Detective Kelly, you heard this
7 information. Did you look into this at all. No.
8 I think that's kind of important. It might be.
9 But that's not what's important. It's important
10 if a conviction. Not necessarily finding what
11 actually happened. So what do I think happened.
12 Part 3, one I wasn't out there. I don't know.
13 Shonta was at a party. Shonta was angry. Shonta
14 did get upset. Someone did mush her in the face.
15 She did make a phone conversation. And she did
16 call Gary Dargan, and let's not hide the fact
17 about it. And I haven't hit in that since our
18 opening statement. That did happen. She made a
19 phone call. She called Gary, and I don't know.
20 Neither does the State of South Carolina and
21 neither does Gary Dargan. Or only Gary Dargan
22 knows what she said.

23 And then I started thinking as I was
24 sitting there right at the table, and the most
25 important quote of the entire case, I think, came

1 from the State of South Carolina themselves. Last
2 words John Meadors said, Gary, took this an as
3 opportunity. The State said that. And that's
4 when it kind of clicked with me. Gary took it as
5 an opportunity.

6 So let's put the pieces of the puzzle
7 together, if you will. Phone conversation. Gary,
8 he hit me. Gary he laid hands on me. Remember
9 somebody said, I think she said something like
10 Mario. Who hit you. Mario. Come get me the hell
11 out of here. She leaves. She's still angry. He
12 hit me. I can't believe he hit me. Leaves. Gary
13 picks up the phone conversation. He calls
14 somebody else. He calls Mr. Mellette. He picks
15 up Mr. Mellette, he's like, go get him. He goes
16 and gets him. Or goes and gets her. What do they
17 say, the phone register supports what she says
18 happened. That's what their expert said. Gets in
19 the car, she leaves.

20 Gary is clearly still around there.
21 You've heard all the phone recordings. You've
22 heard everything. Someone he doesn't like.
23 Someone he has a beef with. Someone he has a
24 problem with. Unbeknownst and unrelated to Shonta
25 Helton he decided to do things on his own.

1 There's their motive. But guess what the great
2 State of South Carolina, with all these people,
3 let's count them, 1, 2, 3, 4, 5, 6, 7 people
4 sitting in there, as they huddle, go through their
5 information, go through their evidence, oh, my
6 God, not one of them can go do some dang research
7 outside and figure out what actually happened.

8 All of this power, all this money, all
9 this influence and that's what they have to give
10 you. A witness got on the stand and said, this is
11 why this happened. And what do they do. They
12 sat there. Someone's on trial, as she sat here
13 everyday, and they sat there, all the money, all
14 the power, all the influence in the State of South
15 Carolina. They can find phone records. They can
16 find letters. They can find all of this stuff.
17 And what is the evidence they have offered you
18 against Shonta Helton? In conversations from
19 9 people who were intoxicated, who all are saying
20 the same thing. And when we look those
21 conversations, let's make this real clear. What I
22 find really peculiar about, and if you listen to
23 those conversations that everybody got on the
24 stand, he's exactly right. They talk about the
25 party. Everything is consistent with the party.

1 They talk about fight starting, they talk about
2 everything. Then they all get the statements
3 wrong. And then know even. Than only thing they
4 kept getting wrong is what she said. I found that
5 a little peculiar. But the State didn't think
6 that was important to bring that out. All the
7 money, all the power, all the influence. The
8 State of South Carolina, all 7 of them, huddle
9 around trying to make a decision.

10 And this is what our great State of South
11 Carolina has to offer you. In an attempt to
12 convict someone for accessory before the fact of
13 murder saying that helped in the plan and
14 preparation. She encouraged, she abetted, she did
15 all that fancy language and they can't prove what
16 was in her mind. What was in her mind, she was
17 upset. And she called somebody to get her out of
18 there. She picked up the phone and she made phone
19 call. I don't know what was in her mind. And I
20 don't think the State has come close to trying to
21 prove what was in mind. They guessed. They
22 estimated. They haven't put any witnesses on.

23 And if you paid attention the last couple
24 of days, you haven't heard a lot of questions out
25 of me. In my opening statement I told you about

1 mom and dad. Well mom and dad are fighting. And
2 they have proven, I think, a lot. I would
3 wholeheartedly agree that the State has proven a
4 lot. They have proved that Gary Dargan is a liar
5 They have proven that Gary Dargan is evil. And i
6 think they have come pretty close to proving that
7 he killed that man.

8 All of which shocks the conscience. And
9 what ends up happening sometimes because I have
10 been In John Meadors; that I have been a
11 prosecutor. And you've sat there and you've
12 looked at the human frailty, and you've tried to
13 figure out why would somebody do it. Well
14 sometimes people are just evil. Sometimes people
15 are just bad. And sometimes people have in
16 debtors from 1996 and 1997. And we're seeing
17 them. And so what ends up happening with the
18 State and before they do this, because I agree
19 with them, they found out when Marcus Mellette got
20 on the stand, they needed to put it in a nice bow.
21 They needed to figure out a reason because
22 sometimes you know we will look at somebody and
23 say, he's just bad. So who need a reason. What
24 is our reason. I got it, Shonta Helton.

25 You remember when I asked Detective Kelly.

1 I said now she came in, and she turned herself in
2 December 10th. She's the one of the first people
3 to give a statement. What's important about
4 trying to get everybody's statements to the same
5 time. Because we don't want the streets talking.
6 We don't words going out. So people are
7 murmuring. All these girls around there are
8 talking. On my gosh, Shonta turned herself in.
9 She's been arrested for the murder. Somebody gave
10 a statement two days later. What do they have
11 time to do. That's why we get statements as close
12 to the event as possible so things like this don't
13 happen.

14 My gosh, Shonta, turned herself in. You
15 know, what she must have been saying. Because
16 they were all intoxicated. They were all drunk.
17 Somebody starts thinking a little bit later. You
18 know what, she must have been saying she wanted to
19 him to kill him. That's the only thing that makes
20 sense. Because no one wants to believe in the
21 evil of man. Sometimes people are just evil. The
22 judge is going to instruct you in just a moment on
23 a bunch of things on the law. He's going to tell
24 you about the law in this case. And he's going go
25 through a litany of things. And I want you pay

1 careful attention to what the law is, in this case
2 specifically.

3 One of the things he's going to talk to
4 you about very quickly that's everybody has been
5 talking about is reasonable doubt. Reasonable
6 doubt is the type of doubt that leaves you firmly
7 convinced. You must be firmly convinced. If you
8 are not firmly convinced, then guess what, then
9 you can't find anybody guilty. So I heard that
10 phrase, and everybody hears that phrase, and I was
11 like what the heck does that possibly mean. I'll
12 be honest with you, I didn't know what the phrase
13 meant. It's a story I tell all the time when I
14 try to explain how I understood what reasonable
15 doubt was.

16 I went to law school in Michigan. I went
17 to Carolina for undergrad. I played soccer here
18 at Carolina and went to law school in Michigan.
19 Got out of Michigan, and came back. I practiced
20 law in Aiken, South Carolina for awhile. And
21 then went down to Charleston and was a prosecutor.
22 And I'll be honest, the entire time I was in
23 Aiken, I didn't understand what reasonable doubt
24 was. You hear the phrase, but you don't really
25 understand what it is.

1 So as I'm coming home one day, and it's
2 one of those spring days kind of like it is today.
3 Not as cold. It's pollen in the air. You know,
4 everybody's cars are cover in yellow right about
5 now. Everybody's car is yellow. Everybody has
6 got their allergies. My family is all sitting
7 inside the house, my little brother, the one who
8 has a child over in England, chess. They are all
9 inside the house. My mom is cooking in the
10 kitchen. She's cooking collard greens and chicken
11 down in Summerville, South Carolina. And the
12 smells are wafting through the environment. And
13 the smell is awesome.

14 My dad has got his music playing in the
15 background. He's got Percy Sledge playing, When a
16 Man loves a Woman, is blaring throughout the
17 house. So it's just one of those typical southern
18 days. And we're all sitting there. My little
19 brother is playing in the middle floor, just
20 playing, hanging out. And as he's playing, all of
21 sudden he mouths off to my mom. My dad became
22 incensed because the one thing he could not stand
23 was someone who would talk back. He got angry.
24 So he looks at my little brother and he says, you
25 take yourself right upstairs, and I do not want

1 you slamming any doors. Why did he say that?
2 Because my brother had an awful habit of slamming
3 doors behind him, because that was his little act
4 of deviance. Let me slam a door and let me show
5 you who runs this house. So my dad was very
6 clear, you run your butt upstairs and don't you
7 dare slam the damn door.

8 My brother is angry. He goes walking
9 around the way. He goes upstairs in the family
10 room above the garage, the frog. And all of a
11 sudden you hear it like clockwork. Boom. The
12 door slams. Dad gets rage in his eyes. You can
13 see it happen. He's angry. He's incensed. All
14 of a sudden he starts storming up those steps. My
15 mom starts storming behind him. He's angry. My
16 mom is yelling, Herman, don't kill him. Herman,
17 don't kill him. I'm behind him, Herman, kill him.
18 Herman, kill him. Because I want to see my
19 brother get beat. I'm the big brother.

20 So we're all storming up the stairs
21 together. Dad is incensed. Dad is angry. Percy
22 Sledge is playing throughout the house, when a Man
23 Loves a Woman. You can smell the collard greens.
24 All of a sudden, there's pollen everywhere. We're
25 all storming up the steps. Dad is incensed. He's

1 mad. He didn't do what he was supposed to do. He
2 opens the door. Window is open. Percy Sledge
3 playing. Collard greens going, and there's my
4 little brother right there in the middle of the
5 floor, looking at my dad.

6 Dad is angry. He goes running right up to
7 him, as mad as you possibly see. My brother looks
8 at him, dad I didn't slam the door. It was the
9 wind. And I'm just sitting there waiting for him
10 to get smacked. Dad clearly doesn't him. Doesn't
11 believe that's what really happened. he raises
12 his hand, he gets ready to hit him. And when he
13 does Percy Sledge playing in the background.
14 Collard greens wafting. Pollen everywhere. You
15 get a little tuft of to wind just come in. Just a
16 light breeze. My dad pauses. He hesitates to
17 act. He is not firmly convinced at that point and
18 time no matter what the evidence showed at that
19 time. No matter what he thought he was looking
20 at. He wasn't firmly convinced.

21 And at that point and time, Ladies and
22 gentlemen, I understood what reasonable doubt was.
23 The fact at that point and time at that moment,
24 when he hesitated, when he wasn't firmly
25 convinced, I understood what reasonable doubt was.

1 The judge has told every one of you, you cannot
2 discuss this case. In a couple of minutes that
3 admonition will be lifted and you will be allowed
4 to discuss the case. You will go in the back and
5 make a verdict.

6 You will go home and your family is going
7 to ask you what you have been doing. And you're
8 talk about it. It's either going to be today.
9 It's going to be in 6 months. It's going to be
10 5 years. You'll talk about it. And you'll talk
11 about the case and the crazy lawyer was sitting
12 there with hands up, way entirely too long. And
13 someone is going to say to you, well did you do
14 the right thing. If you have doubt, don't have
15 them in 5 or 10 years. Don't have them in 5 or 20
16 minutes. If you have doubts, have them now. If
17 you have doubts, you have them now. Because down
18 the road, it's too late for Shonta. Thank you so
19 much.

20 THE COURT: We will take a 5-minute
21 recess. And then we will come back in and I will
22 charge you the law. Ladies and gentlemen, do not
23 discuss this case with anyone. Thank you.

24 (Whereupon, the court takes a short
25 recess.)

1 THE COURT: Ladies and gentlemen, all of
2 the testimony and other evidence in this case, has
3 been presented. The attorneys have made their
4 closing arguments to you. Now is the time where I
5 will charge you the law that is applicable to this
6 case. Ladies and gentlemen, I remind you that
7 during this trial you and I have certain duties to
8 perform. As the trial judge it is my
9 responsibility to preside over the trial of this
10 case, and I also have the duty to rule on the
11 admissibility of the evidence offered during this
12 trial.

13 Now, Ladies and gentlemen, you are you
14 consider only the competent evidence before you.
15 If there was any testimony ordered stricken from
16 the record in this case during this trial, you
17 must disregard that testimony. You are to
18 consider only the testimony which has been
19 presented from this witness stand and any exhibits
20 which have been made a part of the record in this
21 case, and any stipulations of counsel and any
22 facts taken as judicial notice during this trial.
23 I have the additional duty, Ladies and Gentlemen,
24 to charge you the law that is applicable to this
25 case. And as the presiding judge, I am the sole

1 judge of law in this case. And it is your duty as
2 jurors to accept and apply the law as I now state
3 it to you. If you already have some idea as to
4 what the law is or what the law ought to be, and
5 it does not agree with I now tell you the law is,
6 you must abandon this idea, because you were sworn
7 to accept and apply the law exactly as I now state
8 it to you.

9 Ladies and gentlemen, in every case tried
10 in this court before a jury, the jury becomes the
11 sole and exclusive judges of the facts in this
12 case. And as a trial judge, I cannot intimate,
13 state, comment or make any statement to the trial
14 jury about the facts in this case. Since you are
15 jury, you are sole judges of the facts and you are
16 not to infer by anything that I have said during
17 the progress of this trial in ruling upon the
18 admissibility of the evidence or otherwise or
19 anything that I now say during the course of these
20 closing arguments to you, that I have any opinion
21 about the facts in this case. The law simply does
22 not allow me to have an opinion about the facts in
23 this case. This is a matter solely for you, the
24 jury to determine. And as jurors, it is your duty
25 to determine the effect, the value, the weight and

1 the truth of the evidence that is presented during
2 this trial.

3 Now, Ladies and Gentlemen, the indictment
4 in this case, indictment 2013-GS-43-239 alleges 3
5 counts against these defendants: Gary R. Dargan
6 and Shonta L. Helton. Count 1 alleges that Gary
7 R. Dargan committed murder on or about
8 December 9th 2001. Count 2, alleges that Gary R.
9 Dargan did possess or visibly display a firearm
10 during the commission of a violent crime on or
11 about December 9th 2012. Count 3, alleges that
12 Shonta L. Helton committed accessory after the
13 fact of murder on or December 9, 2012.

14 Now, Ladies and Gentlemen, I've told you
15 several times and I remind you the fact that the
16 defendants were arrested, charged and indicted is
17 not evidence in this case and cannot be considered
18 by you as evidence of guilt. Nor does it create
19 any presumption or inference of guilt. The
20 indictment is simply the formal written document
21 which contains the charges made against the
22 defendants and it is the formal document by which
23 this case is brought into this court.

24 Now, Ladies and gentlemen, the defendants
25 have pled not guilty to the charges in the

1 indictment. And that plea puts the burden on the
2 State to prove each and every -- each defendant
3 guilty. I remind you a person charged with
4 committing offense in South Carolina is never
5 required to prove his or her innocence. I charge
6 you, Ladies and gentlemen, this is an important
7 rule of law that the defendant in a criminal trial
8 no matter how serious the charges might be, will
9 always be presumed innocent of the crime for which
10 the indictment was issued unless guilt has been
11 proven by evidence satisfying you of that guilt
12 beyond a reasonable doubt.

13 The presumption of innocence does not end
14 when you begin your deliberations, but it
15 accompanies the defendant throughout the trial
16 until you reach a verdict of guilt based on
17 evidence satisfying you of that guilt beyond a
18 reasonable doubt. The presumption of innocence is
19 no like a robe of righteousness that is placed
20 about the shoulders of the defendant which remain
21 with that defendant until it has been stripped
22 from the defendant by evidence again satisfying
23 you of that defendant's guilt beyond a reasonable
24 doubt.

25 Now the presumption of innocence is not a

1 mere legal theory. It is not just a legal phrase.
2 But is a substantial right to which every
3 defendant is entitled again unless you the jury
4 are satisfied with evidence of the defendant's
5 guilt beyond a reasonable doubt. Now, Ladies and
6 gentlemen, there are two types of evidence which
7 are generally presented in during a trial. There
8 is direct evidence and circumstantial evidence.
9 Direct evidence is the testimony of a person who
10 claims to have actual knowledge of a fact; such
11 as, an eye witness. It is evidence which
12 immediately establishes the main fact to be
13 proven. Circumstantial evidence is proof of a
14 chain of facts and circumstances indicating the
15 existence of a fact. It is evidence which
16 immediately establishes collateral facts, from
17 which the main fact may be inferred.

18 And circumstantial evidence is based on
19 inference and not on personal knowledge or
20 observation. Crimes may be proven by
21 circumstantial evidence. And the law makes no
22 absolutely no distinction between the weight or
23 value to be given either direct or circumstantial
24 evidence. However to the extent that the State
25 that the relies on circumstantial evidence, all

1 the circumstances must be consistent with each
2 other and when taken together point conclusively
3 to the guilt of the accused beyond a reasonable.

4 If these circumstances merely portray the
5 defendant's behavior as suspicious, the proof has
6 failed. The State has the burden of proving the
7 defendant guilty beyond a reasonable doubt. And
8 this burden rests with the State regardless of
9 whether the State relies on direct evidence,
10 circumstantial evidence or some combination of the
11 two. You should weigh all the evidence in this
12 case. And after weighing all the evidence if you
13 are not convinced of the guilt of the defendant
14 beyond a reasonable doubt, you must find each
15 defendant not guilty.

16 Not necessarily, Ladies and gentlemen, you
17 must determine the credibility of witnesses who
18 have testified in this case. And credibility
19 simply means believability. And it becomes your
20 duty as jurors to analyze and to evaluate the
21 evidence and determine which evidence convinces
22 you of its truth. In determining the
23 believability of witnesses who have testified in
24 this case, you may believe one witness over
25 several witnesses or several witnesses over one

1 witness. You may believe a part of the testimony
2 of a witness and reject the remaining parts of the
3 testimony of that same witness.

4 You may believe the testimony of a witness
5 in its entity or reject the testimony of a
6 witness in its entity. Ladies and gentlemen, you
7 may consider whether any witness has exhibited to
8 you any interest, bias, prejudice or other motive
9 in this case. You may also consider the
10 appearance and manner of a witness while on the
11 witness stand. Now, Ladies and gentlemen, rules
12 of evidence ordinarily do not permit witnesses to
13 testify to opinions or conclusions. An exception
14 to this rule exists for expert or witnesses we
15 call expert witnesses. A person who by education
16 and experience has become an expert in some art,
17 science or profession may give an opinion as to
18 the subject matter that the witness claims to be
19 an expert in and may also give the reasons for
20 that opinion.

21 You should consider the -- any expert
22 opinion given by a witness and like all the other
23 evidence, give it the weight you think it
24 deserves. And if you decide that an expert
25 witness' opinion is not based on sufficient

1 education and experience or if you decide that the
2 reasons given in support of the opinion are not
3 sound or that that opinion is outweighed by other
4 evidence, you may disregard the opinion entirely.
5 And an expert witness' testimony is be given no
6 greater weight than that of other witnesses,
7 simply because the witness is an expert. And you
8 do have to accept an expert's opinion even though
9 it is uncontradicted.

10 Now, Ladies and gentlemen, I instruct you
11 and I emphasize the fact that the defendants in
12 this case did not testify is not a factor to be
13 considered by you in any way in your deliberations
14 and in your consideration of the question of guilt
15 or innocence of each defendant. It must not
16 considered by you in any manner whatsoever. A
17 defendant has the constitutional right to remain
18 silent and the assertion of this right must be not
19 be considered by you in your deliberations. And I
20 repeat, under the oath you are to draw no
21 conclusion whatsoever from the fact that the
22 defendants in this case did not testify. And the
23 fact that the defendants did not testify should
24 not even be discussed in the jury room.

25 The burden of proof as I have stated to

1 you, is on the State and the defendants are not
2 required to prove their innocence. The burden of
3 proof remains on the State to prove guilt beyond a
4 reasonable doubt. Now, ladies and gentlemen, we
5 have discussed reasonable doubt throughout this
6 trial and this begs the question, you know, what
7 is a reasonable doubt in the law. A reasonable
8 doubt is the kind of the doubt that would cause a
9 reasonable person to hesitate to act. The State
10 has the burden of proving defendant's guilty
11 beyond a reasonable doubt. And some of you may
12 have served as jurors in civil cases where you
13 were told that it only necessary to prove that
14 fact is more likely true than not; such as, "by the
15 greater weight or the preponderance of the
16 evidence. But in criminal cases the State's proof
17 must be more powerful than that. It must be
18 beyond a reasonable doubt. And proof beyond a
19 reasonable doubt is proof that leaves you firmly
20 convinced of the defendant's guilt.

21 Now, Ladies and gentlemen, there are vert
22 few things in this world that we know with
23 absolute certainty. And in criminal cases the
24 law does not require proof that overcomes every
25 possible doubt. If based upon your consideration

1 of the evidence you are firmly convinced that
2 either or both defendants are guilty of the crimes
3 charged, you must find that defendant guilty. If
4 on the other hand you think there is a real
5 possibility that either or both defendants are not
6 guilty, you must give that defendant the benefit
7 of the doubt and find him or her not guilty.

8 Now, Ladies and gentlemen, the defendant
9 Gary R. Dargan is charged with murder. The state
10 must proof beyond a reasonable doubt that
11 defendant killed another person with malice
12 aforethought. Malice is hatred, ill will or
13 hostility towards another. It is the intentional
14 doing of a wrongful act without just cause or
15 excuse and with intent to inflict an injury or
16 under circumstances that the law will infer an
17 evil intent. Malice aforethought does not require
18 that malice exists for any particular time before
19 the act is committed. But malice must exist in
20 the mind of the defendant just before and at the
21 time the act is committed. Therefore, there must
22 be a combination of previous evil intent and the
23 act.

24 Malice aforethought may be expressed or
25 inferred. These terms express or inferred do not

1 mean different kinds of malice but merely the
2 manner in which the malice may be shown to exist.
3 That is either by direct evidence or by inference
4 of the facts and circumstances which are proved.
5 Express malice is shown when a person speaks words
6 which express hatred or ill will for another. Or
7 when the person prepared beforehand to do the act
8 which was later accomplished. For example, lying
9 in weight for a person or any other acts or
10 preparation going to show that the deed was within
11 the defendant's mind would be express malice.

12 Malice may be inferred from conduct
13 showing a total disregard for human life. And
14 inferred malice may also arise when the deed is
15 done with a deadly weapon. A deadly weapon is any
16 article, instrument or substance which is likely
17 to cause death or great bodily harm. And whether
18 an instrument has been used as a deadly weapon
19 depends on the facts and the circumstances of each
20 case. And the following are examples of
21 instruments which may be deadly weapon. A pistol,
22 a shotgun, a rifle, a gun may be a deadly weapon,
23 even if it is not operating.

24 Now, Ladies and gentlemen, the defendant
25 Shonta L. Helton is charged with being an

1 accessory before the fact of a murder. In order
2 to prove this crime the State must prove a
3 reasonable doubt that the defendant beyond a
4 reasonable doubt, that the defendant advised,
5 agreed, urged, counseled, hired or in some way
6 aided or abetted another person to commit a crime,
7 and that the defendant was not present when the
8 offense was committed. Aid means to help to
9 promote the course or accomplishment of, to give
10 support or to give assistance to. Abet means to
11 encourage or appear to favor or support.

12 Ladies and gentlemen, the defendant Gary
13 R. Dargan is also charged with possession of a
14 weapon during the commission of a violent crime.
15 The State must prove beyond a reasonable doubt
16 that the defendant was in possession of a firearm
17 or visibly displayed what appeared to be a firearm
18 during the commission of a violent crime. And a
19 firearm means any weapon which will or is
20 designated to or may be readily converted to expel
21 a projectile. And this would include a pistol or
22 a revolver.

23 In order to find the defendant Gary R.
24 Dargan guilty of possession of a weapon during the
25 commission of a violent crime, you must first find

1 the defendant guilty of committing a violent crime
2 or attempting to commit a violent crime and I
3 instruct you that murder is a violent crime.

4 Now, Ladies and gentlemen, for each
5 defendant there are two possible verdicts which
6 you may find on each charge. In this case the
7 charge of indictment 2013-GS-43-239 Count 1,
8 murder. You may find the defendant
9 Gary R. Dargan either not guilty or guilty.
10 Likewise on the charge of Count 2 of that
11 indictment possession of a weapon during the
12 commission of a violent crime, you may find the
13 defendant, Gary R. Dargan either not guilty or
14 guilty. And finally on the charge of Count 3 of
15 that indictment accessory before the fact of
16 murder, you may find the defendant Shonta L.
17 Helton, either not guilty or guilty.

18 Now, Ladies and gentlemen, there is no
19 significance whatsoever in the order that I that I
20 state these possible verdicts, it's simply that
21 one must be stated first.

22 Now, Ladies and gentlemen, your verdict
23 must be unanimous. All 12 of you must agree on
24 the verdict. And on each charge as to each
25 defendant must be deliberated upon independently

1 and a verdict rendered separately as to each
2 charge and your decision must not be based on
3 sympathy, passion, prejudice, emotion or any other
4 consideration that is not in evidence in this
5 case.

6 Mr. Foreman, I will send back you this
7 verdict form. When you make your decision you
8 will check each block as to each defendant and
9 then sign your name and date it. And then knock
10 on the jury room door. Then you will be brought
11 back here into courtroom through your publication
12 of your verdict will be made. Now, Ladies and
13 gentlemen, please, I'm going to send you back to
14 the jury room, but please don't begin your
15 deliberations there are still some matters that I
16 just discuss with the attorneys before you begin
17 your deliberations.

18 Thank you, Ladies and gentlemen. If you
19 could please separate the alternate in the
20 hallway.

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

23 THE COURT: Are there any other exceptions
24 to the charge that were made that have not already
25 been put on the record.

1 MR. MEADORS: Not from the State.

2 MR. MURPHY: No, Your Honor.

3 MR. KENT: Nothing additional other than
4 what was already put on.

5 THE COURT: Thank you. If you call can
6 get together and get the evidence and we'll send
7 it back to the jury so they can begin their
8 deliberations.

9 (Whereupon, at 2:20 p.m. jury commences
10 deliberates.)

11 (Whereupon, at 2:35 p.m. jury has a note.)

12 THE COURT: The question is what time did
13 Scott die. And I just wanted to go over it with
14 you all before I gave an answer. I think there's
15 evidence of that in the record. If I remember
16 correctly the deputy or the police officer who was
17 patrol at Trinity said he heard about 12:10. He
18 heard the shots. Got there. And Scott was dead.
19 And then the pathologist said that that was the
20 type of the wound that he wouldn't have made it
21 but a minute or two. So I think there's evidence
22 in the record. Do you all agree with that?

23 MR. MEADORS: I remember him saying -- I
24 remember Tyler had the witness, but I remember
25 him saying he was dead when he was there.

1 THE COURT: So that was between 12, I mean
2 there was a range of, you know, a short period of
3 time.

4 MR. MURPHY: I don't know that there is a
5 specific time frame.

6 THE COURT: I don't think anybody knows.

7 MR. MURPHY: So whatever that police
8 officer testified to I think is about as good as
9 we are going to get.

10 MR. MEADORS: That was 12:16.

11 THE COURT: That was Rusty Brannon, right?

12 MR. MEADORS: Yes, sir.

13 THE COURT: Do you want me to say that
14 Lieutenant Brannon testified to that? Or just say
15 that is in the record?

16 MR. KENT: I would say there is evidence
17 in the record.

18 MR. MEADORS: It's probably better,
19 because it would call attention to that, because
20 he doesn't really know.

21 THE COURT: I mean it's a general time of
22 death. What I am going to say is think it's a
23 general time of death is in the record.

24 MR. KENT: Evidence of the general time of
25 death is in the record. I have no problem with

1 that, Judge.

2 THE COURT: Do you all want to read what I put
3 down there? The court is at ease pending the call of
4 the verdict.

5 (Whereupon, at 2:40 p.m. jury commences
6 deliberations.)

7 (Whereupon, at 3:55 p.m. jury reaches
8 verdict.)

9 THE COURT: I understand the jury has
10 reached a verdict, let's bring them in. Hold on a
11 second. Let me remind everyone on this jury has
12 been here for all week. There will be no show of
13 emotion either way. If somebody does not think
14 they can contain their emotions now would be a
15 good time to leave. Thank you.

16 (Whereupon, the following takes place
17 within the presence of the jury.)

18 THE COURT: Mr. Foreman, has the jury
19 reached a verdict?

20 THE FOREMAN: Yes, sir.

21 THE COURT: Is it unanimous?

22 THE FOREMAN: Yes, sir.

23 THE COURT: Please hand it to Mr. Bradley.
24 Mr. Bradley, please publish the verdict. The
25 defendants will please stand.

1 THE BAILIFF: For the State of South
2 Carolina, County of Sumter, in the Court of
3 General Sessions, Docket No. 2013-GS-43-0239.
4 State of South Carolina versus Gary R. Dargan, and
5 Shonta l. Helton, defendants. The charge No. 1 as
6 the charge of murder, we the jury unanimously find
7 the defendant Gary R. Dargan, guilty. Charge No.
8 2 has to the charge of a of possession of a weapon
9 during the commission of a violent crime, we the
10 jury unanimously find the defendant Gary R.
11 Dargan, guilty. Charge No. 3, as to the charge of
12 accessory before the fact of murder, we the jury
13 unanimously find the defendant Shonta l. Helton,
14 guilty.

15 Signed Terrance Jenkins, foreperson, dated
16 17th day of April 2014. Ladies and gentlemen, if
17 this is your verdict, so say you all by raising
18 your right hand, please. Thank you.

19 THE COURT: Do the defendants request
20 polling of the jury?

21 MR. MURPHY: No, Your Honor.

22 MR. KENT: Yes, Your Honor.

23 THE COURT: Please poll the jury as to Ms.
24 Helton.

25 THE BAILIFF: Yes, sir, Judge. Ladies and

1 gentlemen, when I call your name, please stand,
2 and answer two questions for me. Terrance
3 Jenkins, as to defendant Helton, is this your
4 verdict and still your verdict?

5 THE FOREMAN: Yes.

6 THE BAILIFF: James Johnson, as to the
7 defendant Helton, is this your verdict and still
8 your verdict?

9 THE JUROR: Yes, sir.

10 THE BAILIFF: Misue Hood, as to defendant
11 Helton, is this your verdict and still your
12 verdict?

13 THE JUROR: Yes, sir.

14 THE BAILIFF: Michael Mitchell, as to
15 defendant Helton, is this your verdict and still
16 your verdict?

17 THE JUROR: Yes, sir.

18 THE COURT: Ms. Tiffany Jackson, as to
19 the defendant Helton, is this your verdict and
20 still your verdict?

21 THE JUROR: Yes, sir.

22 THE BAILIFF: Antwoine Wright, as to
23 defendant Helton, is this your verdict and still
24 your verdict?

25 THE JUROR: Yes, sir.

1 THE BAILIFF: Wanda Commander, as to the
2 defendant Helton, is this your verdict and still
3 your verdict.

4 THE JUROR: Yes, sir.

5 THE BAILIFF: John Gadson, as to the
6 defendant Helton, is this your verdict and still
7 your verdict?

8 THE JUROR: Yes, sir..

9 THE BAILIFF: Mat Brunson, as to defendant
10 Helton, IS this your verdict AND still your
11 verdict.

12 THE JUROR: Yes, sir.

13 THE BAILIFF: Sandra Tremlin, as to
14 defendant Helton, is this your verdict and still
15 your verdict?

16 THE JUROR: Yes, sir.

17 THE BAILIFF: Jerry Gains, as of the
18 defendant Helton, is this your verdict and still
19 your verdict?

20 THE JUROR: Yes, sir.

21 THE BAILIFF: Gwendolyn Copeland, as to
22 defendant Helton, is this your verdict and still
23 your verdict?

24 THE JUROR: Yes, sir.

25 THE BAILIFF: Thank you. Your Honor, the

1 jury has been polled and the verdict stands.

2 THE COURT: Ladies and gentlemen of the
3 jury, let me take this opportunity to thank you
4 for your attention all this week. Thank you for
5 coming to a verdict. And I would say the same
6 thing if you had gone the other way and found him
7 not guilty. You have listened to the evidence.
8 That's what we do in a free country. We don't let
9 one side decide it. We let the people decide it.

10 Ladies and gentlemen, let me remind you
11 that this counts as your juror's service, so you
12 don't have to do jury service for the next 3 years
13 if you don't want to. And you certainly can't do
14 it for the next year. Ladies and gentlemen, I
15 have told other juries, I get to sit -- I've got
16 the greatest job in the world, because I get to
17 sit between these two flags as I do my work every
18 day. And these flags that are here are pieces of
19 cloth. But they want they represent are the ideas
20 that make this country great. And, Ladies and
21 gentlemen, you know many people have died for
22 these flags. Many people bled for these flags.
23 But today, remember you did all that you can,
24 because flags represent freedom. And somebody can
25 only be convicted after they come in front of the

1 people to be convicted.

2 And I want you to leave out of here,
3 Ladies and gentlemen, and think of yourselves as
4 the fibers and the threads that make up the idea
5 of freedom that is represented. Now, Ladies and
6 gentlemen, you are going to be \$15 a day. Fifteen
7 dollars a day for what you have done. Now that's
8 not going to buy a lot, but in the idea of
9 freedom, it buys an unmeasurable amount. They
10 always say what makes America great. Well it's no
11 the lawyers. It's not the politicians or anybody
12 like that. It's people like you all, who leave
13 their jobs and their families and their homes to
14 come here and resolve situations for the
15 defendants and for the State.

16 And on behalf of Sumter County, the State
17 of South Carolina, and United States of America, I
18 would like to thank you. And, Ladies and
19 gentlemen, it would be honor before I release you.
20 to shake your hands and thank you for your
21 service. And, Ladies and gentlemen, as I said
22 every time you left this courtroom, what did I
23 tell you, don't discuss this case. Well you can
24 now discuss it with anyone you want to for as long
25 as you want to or as little as you want to. Thank

1 you, Ladies and gentlemen. If you need a work
2 excuse, they've got them outside.

3 Ladies and gentlemen, thank you so much
4 for your service. Ladies and gentlemen, I am
5 going to sentence these defendants at 4:45. I am
6 going to give the parties. If you have been here
7 all along, if you would like to be here for the
8 sentencing, you can sit out there where you want
9 to, or actually you can sit in the jury box if you
10 would like to. Or you can go about your business,
11 however you want to. Thank you, sir.

12 THE COURT: Post-trial motions from the
13 defendants.

14 MR. MURPHY: Your Honor, I would just
15 renew all the motions I made during the trial.

16 MR. KENT: The same. We renew all motions
17 made during the course of the trial including our
18 recusal motion. Our motion for a directed verdict
19 motion. And our request to have voluntary
20 manslaughter charge.

21 THE COURT: Okay. And I am going to hear
22 from the State.

23 MR. BROWN: Your Honor, I think our
24 argument has been made throughout this case.
25 Voluntary manslaughter, we outlined the grounds as

1 to why that wasn't appropriate. There is no
2 evidence of voluntary manslaughter here. There is
3 evidence of murder here. And I believe the jury
4 appropriately found that. As to any other motions
5 that we were heard, we would ask to extend the
6 arguments we extended earlier, and we would ask
7 that the verdict stand.

8 THE COURT: Thank you. I have heard the
9 motions. I am going to respectfully deny your
10 motions at this time. I will sentence the
11 defendants at 4:45. Please take them down and
12 have them postured for sentencing. Thank you.

13 MR. FINNEY: Your Honor, please, if the
14 court would allow us, we have some family members
15 that would like to say a few words to the court.

16 THE COURT: Certainly.

17 MR. FINNEY: Can we have Ms. Gainey,
18 please.

19 MS. GAINEY: Your Honor, I am Rosa Gainey.
20 I am Mario's mother.

21 THE COURT: Yes, Ma'am.

22 MS. GAINEY: I am Mario's mother.

23 THE COURT: Yes, ma'am.

24 MS. GAINEY: I feel like I'm in a hole.
25 I've been in a hole since my boy died. I can't

1 dig my way out. If it wouldn't hurt bad. If he
2 had died in a car accident or was sick, but just
3 this shooting down in the street like a dog. I
4 wasn't there. I couldn't help him. I wasn't
5 there. I couldn't help him. I felt like if I was
6 there, I could help him. I am sick, Your Honor.
7 I can't function. Please, I feel like you should
8 give him life and give her life. They take my
9 son's life. They still are here. Their mother
10 can visit them. I can't see my son no more. And
11 it has affected my life. My family's life. And I
12 was just wishing that you give them life. And I
13 thank you, sir.

14 THE COURT: Yes, ma'am. Thank you.

15 MR. FINNEY: Your Honor, I now have the
16 sister, Ms. Smalls.

17 THE COURT: Good afternoon, ma'am.

18 MS. SMALLS: My name is Tabitha Smalls.

19 Your Honor,---

20 THE COURT: Yes, ma'am.

21 MS. SMALLS: ---it has been very difficult
22 for us to function as a family, because a part of
23 us is gone. It just like a leg or an arm being
24 cut off. And we out doing the best to our ability
25 to function. I have -- we have another brother

1 who was very close Mario. He couldn't even bring
2 himself to come to these proceedings to see what
3 would happen. Your Honor, I don't wish death upon
4 anyone. No even Ms. Shonta or Mr. Gary. I ask
5 God to have mercy on their souls for what has
6 happened. But I do ask that you do give justice,
7 serve justice here today for what has happened to
8 with my family. They -- he deserves that. He may
9 not have there been that much to deal with, but
10 he meant a lot to us.

11 When the proceedings was going on I heard
12 Mr. Dargan words, he said in his letters, I'm
13 fighting for my life. You're fighting -- you were
14 fighting for your life, Mr. Dargan, but you had no
15 respect for my brother's life. I will pray for
16 you.

17 THE COURT: Thank you.

18 MR. FINNEY: Your Honor, Mario had a
19 relationship with Ms. Pew. And of that
20 relationship came a daughter. And the daughter is
21 17 years old now, but she couldn't be here today.
22 She wanted you to hear from her though, and here's
23 the letter by her mom.

24 THE COURT: Thank you.

25 MS. PEW: When my father was shot, it

1 changed my life forever. I became very depressed.
2 So many of our life dreams died when my father was
3 kill so suddenly. He will never see me graduate
4 or hear my accomplishments. I will never be able
5 to talk to him about school or any of my life
6 decisions. He won't be able to see married. Or
7 I'll never get a hug or see him smile again.

8 These are the things that I cherish and
9 look forward to the most. No one can replace him
10 or his love. I felt very angry. I was told he
11 was shot at 8 times. That was a crude way and
12 unnecessary way to shoot at human that many times.
13 Even in self defense. I was devastated and very
14 emotional Even emotional now I still have
15 emotional breakdowns. If my father hit this woman
16 and even if she was defending herself, he did not
17 have to shot 8 times and just left to die.
18 Everyone deserves to be treated with some sense of
19 kindness. I was always told, two wrongs don't
20 make a right. I pray every day that the person
21 who shot my father would have to pay for the cruel
22 and inhumane way my father was killed.

23 I pray that he asks for forgiveness. And
24 that he realizes that this was the right thing to
25 do. It is my hope that the person who ended my

1 father's life will be punished for killing my
2 dreams.

3 THE COURT: Thank you.

4 MR. FINNEY: Your Honor, on behalf of the
5 State, I want to thank law enforcement. I want to
6 staff, John and Tyler and Tom. They do a great
7 job. I appreciate the court's patience in getting
8 things done, especially with the technology we
9 have got to use. This is a situation where the
10 tragedy of Mario Scott can't really be measured.
11 But to add to it, the loss and the impact on the
12 families of defendants, just adds on to it.

13 We very appreciate very much appreciate
14 what the jury did, giving us their time and
15 patience. And we want to the court for their --
16 for its patience. As far as sentencing, you have
17 heard from the family. We think the record
18 speaks for itself. Mr. Brown has the prior
19 records to put in the record on both defendants.
20 We would ask you to sentence accordingly.

21 THE COURT: Mr. Brown, what are the
22 defendant's prior record.

23 MR. BROWN: Yes, Your Honor. I'll begin
24 with Ms. Shonta Helton's criminal history. In
25 2006, she was convicted of possession---

1 THE COURT: Go slow.

2 MR. BROWN: Yes, sir, Your Honor.

3 Possession of cocaine base. First offense. This
4 was in 2006. She received 2 years and a \$500
5 fine. This was suspended to probation. Alcohol
6 and drug testing. In 2006, later that same year,
7 she had possession of marijuana. She received a
8 conditional discharge. In 2008, there was another
9 possession of crack cocaine charged as a first
10 offense. She received 6 months. In 2009, she had
11 an habitual traffic offender. She was committed
12 to 4 years concurrent with a current driving under
13 suspension sentence that is unlisted on this.

14 In 2011, she was convicted of driving
15 under suspension third or subsequent, uninsured
16 motor vehicle and habitual traffic offender.
17 These all appear to be jail fines of around \$2100
18 and 150 days type sentences. And in 2012, she had
19 another DUS and an uninsured motor vehicle, which
20 were 90 days and 30 days.

21 May it please the court on Gary Dargan.

22 THE COURT: Yes, sir.

23 MR. BROWN: Your Honor, his criminal
24 history begins in 1998. In 98, he was convicted
25 of distribution of crack cocaine, resisting

1 arrest, strong armed robbery and criminal
2 conspiracy. Your Honor, these appear to all have
3 run currently with one another for a 15 year
4 sentence, suspended to 5 years and 3 years
5 probation.

6 There are various sentences for each of
7 those but they were all what his concurrent
8 sentences added up to. 2001, there was a failure
9 to stop for a blue light. That was convicted to
10 one year concurrent with the probation revocation
11 from the earlier charge, and he was a violation
12 of 18 months.

13 In 2001, there is a distribution of that
14 crack cocaine. He received 18 months revocation
15 from the earlier sentence. It ran concurrent.
16 That revocation as well as a one year concurrent
17 sentence for failure to stop for a blue light.
18 2003, he had an unlawful carrying of a weapon.
19 possession of a stolen pistol. And having a gun
20 on premises where alcohol was sold. These were
21 all convictions of 13 months that ran concurrent
22 with one another. In 2004, there was another, it
23 looks like actually that have may been what back
24 on the last one. But in what appears to be 2004,
25 2005 range there was a possession of a pistol,

1 unlawful carrying and manufacturing and
2 distribution of crack cocaine 15 months.

3 In 2006, there was an assault upon an a
4 correctional employee for one year, and which he
5 had time served on. And then in 2012, driving
6 under suspension, uninsured motor vehicle and use
7 of license on a place other than vehicle, which
8 all just fines. That's his criminal history, Your
9 Honor.

10 THE COURT: Thank you. Mr. Murphy.

11 MR. MURPHY: Your Honor, I just want to
12 acknowledge the family of Mr. Dargan who has been
13 here through the trial. Also, my client wishes to
14 make a very short statement.

15 THE COURT: Yes, sir.

16 THE DEFENDANT: First I want to say, I am
17 sorry for the pain in all the families went
18 through. The decedent and everybody's family.
19 The victim's family. I pray for everybody's
20 family. Ms. Scott, I pray for you obviously. I
21 know how you feel. As far as the prosecutors, the
22 detectives, the judge, all of you jack legs that
23 testify on me, all of you all suck my dick. I
24 didn't do it.

25 THE COURT: Thank you. Mr. Kent.

1 MR. KENT: Judge, out of deference to the
2 court and no disrespect on behalf Ms. Helton, I
3 did instruct her because of her appellant rights,
4 not to the address the court. And that's not
5 because she is trying to disrespect the court and
6 disrespect the family. I hope you understand.
7 She had extreme remorse as a result of what
8 happened. But just very candidly I have expressed
9 to her as I have done with every client after they
10 have convicted, I always instruct them not to
11 address the court. But please don't take that as
12 she's trying to show any ignorance or deference to
13 the court or the family as to what's happened.

14 She is very, since the day that I met,
15 Shonta, she's been very concerned about what
16 actually transpired. She is very concerned about
17 what has happened. And, judge, when I sat down
18 and talked to her initially we sat down and talked
19 for quite some time about this case, she's been
20 very forthright coming in and talking to me every
21 time. When I came to her as recently as last week
22 and talked to her about potentially wanting to
23 work this case out. And work out of some type of
24 plea negotiations. She is very adamant the entire
25 time that she had nothing do with this. And

1 that's why we find ourselves here at trial right
2 now. I did not display and anger at the jury. I
3 trust the jury system. And I actually said that.
4 Quite frankly, I definitely the trust the jury
5 system. Unfortunately, we have found ourselves in
6 a nuance next to an individual as you have seen,
7 has shown no remorse. Shown no remorse in the
8 course of this letters. And I think unfortunately
9 we have been tied inside his web.

10 I have talked to the family of Mr. Scott.
11 They have been without a doubt, one of the most
12 remarkable families I have met at this time. They
13 have been generous. They've been very kind
14 throughout this entire time. Ms. Helton's family
15 is back here, Judge. I have told them candidly, I
16 think you know exactly what they say if they would
17 have stood up. When Ms. Helton and I have talked,
18 she has been very well prepared of what type of
19 sentence she is going to be looking at. So it's
20 not a question of coming unprepared. Even though
21 it's an accessory after -- before the fact of
22 murder, she is looking at the same exact sentence
23 as the shooter in this case. Understanding that,
24 she is still prepared to go to trial.

25 What I would ask, Your Honor, and I think

1 you can see there is a difference between the two
2 individuals. Not only the record, from
3 culpability and what we're looking at. I know the
4 court's hands are somewhat are tied because of the
5 discretion of the legislature and how the?
6 Sentences looks.

7 That's the only thing I am going to argue
8 this point based upon the jury has actually said
9 and not based upon the my belief in the facts.
10 But the jury has made it very clear that they
11 believe that Shonta made a phone call; during that
12 phone call made a request that someone come kill
13 someone. What troubles me is making that phone
14 call in our system, becomes a 30 year to life
15 sentence. If she would have simply -- if she
16 would have actually even pulled out a gun and shot
17 somebody, she would looking at less time.
18 Understanding she has much of a less limited
19 record compared to her co-defendant. Looking at a
20 30 year to life sentence, I would ask, Your Honor,
21 to sentence on the lower end of that sentence.
22 I know that is for a lot, because there is
23 a life taken. I do not believe candidly from
24 talking to Ms. Helton, from even listening to the
25 witnesses today, it was ever the intent or ever

1 the prowess of Ms. Helton to hope that anyone was
2 going to die that day. She is very troubled. I
3 know she wishes she could address the court, but I
4 told her not to. That would be the extent of our
5 presentation, Judge. And, again, please don't
6 take anything from the fact that she is not
7 addressing the court today.

8 THE COURT: Thank you. I have listened to
9 the victims. I have listened to the defendant's.
10 I have listened to the defendant's attorneys. I
11 have listened to the state. What we have here is
12 a very sad situation of an innocent man, who was
13 kind of hanging out with people. Doing what
14 people do. And he disrespected someone. Or was
15 disrespectful to someone. As a result, Ms. Helton
16 order Mario's capital punishment for being
17 disrespectful. Mr. Dargan without question
18 carried the sentence as the executioner. I'm
19 amazed how people act.

20 I find that Mr. Dargan is an unrepentant
21 murderer. He is epitome of evil in our society.
22 He not only did this act, but then he tried to
23 subvert this court system by getting other people
24 to lie for him. This court shall show no mercy
25 on Mr. Dargan. He shall receive the sentence of

1 life imprisonment, plus 5 years. And because I
2 have to, I will run them concurrently. Otherwise
3 I would run them consecutively. And I would give
4 him all that I could.

5 Ms. Helton, although she is very wrong in
6 this situation and I don't know this would have
7 happened without her. It may have at some point
8 and time. But the sentence I am giving her is
9 substantial, but I am not going to max her out on
10 this one. She will receive a sentence of 35
11 years. That is the sentence of the court. And I
12 would like to commend the lawyers in this matter,
13 because you all certainly upheld your civility.
14 And I think considering what you had to work with,
15 you did all that you could. Thank you, gentleman.

16 -----End of Requested Transcript of Record-----

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C-E-R-T-I-F-I-C-A-T-E

I, Margaret T. Sullivan, Court Reporter, for the Third Judicial Circuit of the State of South Carolina, do hereby Certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced on April 14th -17th 2014, in the General Sessions Court, Sumter County, Sumter, South Carolina.

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

9/22/14
DATE

Margaret T. Sullivan
COURT REPORTER

My Commission expires: 9/7/2021

725

WITNESSES

C. Osteen Sumter Police Dept.

N. Kelly

DOCKET NO. 2013-GS-43-0239

The State of South Carolina

County of SUMTER

COURT OF GENERAL SESSIONS

February TERM 2013

ARREST WARRANT NUMBER

2012A4310200567 2012A4320100654
2012A4320100655

THE STATE

vs.

GARY R. DARGAN

SHONTA LARISSA HELTON

ACTION OF GRAND JURY

True Bill

Brick McDonald

Foreperson of Grand Jury
Date: 2/7/13

Indictment for

Murder
Possession of a Weapon during the Commission of a
Violent Crime
Accessory Before the Fact of Murder

VERDICT

Ernest A. Finney III

ERNEST A. FINNEY, III, SOLICITOR

Foreperson of Petit Jury
Date:

STATE OF SOUTH CAROLINA)
)
COUNTY OF SUMTER)

INDICTMENT FOR

Murder
Possession of a Weapon during the Commission of a Violent
Crime
Accessory Before the Fact of Murder

At a Court of General Sessions, convened on February 7, 2013 the Grand Jurors of
SUMTER County present upon their oath:

COUNT ONE - MURDER

That Gary R. Dargan did in Sumter County, on or about December 9, 2012, willfully, feloniously, and intentionally kill the victim, Mario Scott, with malice aforethought, either express or implied, by means of shooting said victim with a firearm, and the victim did die as a proximate result thereof on or about December 9, 2013 in Sumter County, in violation of Section 16-03-0010, S. C. Code of Laws, 1976, as amended.

COUNT TWO - POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME

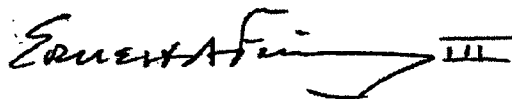
That Gary R. Dargan did in Sumter County, on or about December 9, 2012, possess a firearm, or visibly display what appeared to be a firearm, or visibly displayed a knife, during the commission or attempted commission of a violent crime, in violation of Section 16-23-0490, S. C. Code of Laws, 1976, as amended.

COUNT THREE - ACESSORY BEFORE THE FACT OF MURDER

That Shonta L. Helton, did in Sumter County on or about December 9, 2012, advised or agreed with or urged or hired or in some way aided, counseled or encouraged the principal felon to commit the felony of Murder, but was not present when the crime was committed, in violation of the Common Law and Section 16-01-0040, 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.

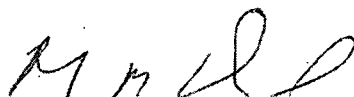
Solicitor



CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the 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."

July 24, 2015



Robert M. Dudek
Chief Appellate Defender

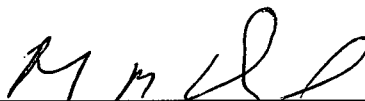
South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

CERTIFICATE OF COUNSEL FOR APPELLANT

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

July 24, 2015



Robert M. Dudek
Chief Appellate Defender

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

ATTORNEY FOR APPELLANT

RECEIVED
JUL 24 2015
SC Court of Appeals

②

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Sumter County

William Jeffrey Young, Circuit Court Judge

ORIGINAL
RECEIVED
JUL 24 2015
SC Court of Appeals

THE STATE,

RESPONDENT,

V.

GARY R. DARGAN,

APPELLANT

APPELLATE CASE NO. 2014-000851

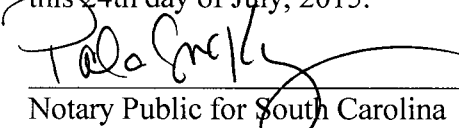
CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Donald J. Zelenka, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201 this 24th day of July, 2015.



Cruise Mitchell
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 24th day of July, 2015.



(L.S.)
Notary Public for South Carolina

My Commission Expires: July 24, 2022