

STATE OF SOUTH CAROLINA

In The Court of Appeals

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APPEAL FROM FLORENCE COUNTY

George C. James, Jr., Circuit Court Judge

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THE STATE,

RESPONDENT,

V.

WAYNE ALBEON SCOTT, JR.,

---

APPELLANT

APPELLATE CASE NO. 2013-002365

---

RECORD ON APPEAL

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| STATE OF SOUTH CAROLINA | ) | COURT OF GENERAL SESSIONS |
|                         | ) | TWELFTH JUDICIAL CIRCUIT  |
| COUNTY OF FLORENCE      | ) | CASE NO. 2013-GS-21-391   |

|                          |   |                      |
|--------------------------|---|----------------------|
| STATE OF SOUTH CAROLINA, | ) |                      |
|                          | ) |                      |
| Plaintiff,               | ) |                      |
|                          | ) |                      |
| -vs-                     | ) | TRANSCRIPT OF RECORD |
|                          | ) |                      |
| WAYNE ALBEON SCOTT, JR., | ) |                      |
|                          | ) |                      |
| Defendant.               | ) |                      |
|                          | ) |                      |

September 19, 2013  
 Florence, South Carolina

B E F O R E:

THE HONORABLE HOWARD KING, Judge

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

MATTHEW R. OZMENT, Esquire  
 Attorney for the Plaintiff

WILLIAM E. GROVE, Esquire  
 Attorney for the Defendant

KRYSTAL J. SMITH  
 Court Reporter

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E X H I B I T S

| <u>NO.</u> | <u>DESCRIPTION</u> | <u>ID.</u> | <u>EV.</u> |
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(No Exhibits Presented)

1 SEPTEMBER 19, 2013

2 (WHEREAS this matter was scheduled for a motion hearing,  
3 the defendant appeared along with his counsel of record.  
4 The hearing began at 11:10 a.m.)

5 THE COURT: All right, Mr. Ozment, what's the first  
6 matter we have this afternoon -- this morning?

7 MR. OZMENT: Your Honor, we're here on Mr. Grove's motion  
8 under the Protection of Persons and Property Act.

9 THE COURT: Put -- put the case on the record, please,  
10 sir, the name and number.

11 MR. OZMENT: I was in the process of pulling my file when  
12 you came out. Your Honor, Indictment 2013-GS-21-391, the  
13 State versus Wayne Albeon Scott. Mr. Scott is charged with  
14 murder and possession of a weapon during a violent crime, and  
15 I believe Mr. Grove has a motion under the Protection of  
16 Persons and Property Act for immunity in this case.

17 THE COURT: All right. All right, the Court does have a  
18 copy of the court's file -- clerk's file, and I do see Mr.  
19 Grove's motion. Wait a minute. No, what I see -- what I  
20 have, Mr. Grove, is a copy of your motion on the bond. I  
21 don't see -- is there -- there's a motion under Rule 5. Is  
22 there a written motion on this, Mr. ---

23 MR. GROVE: Judge, I believe it was memorialized in an  
24 order from last term, which would be I guess August. Mr.  
25 Ozment and I had scheduled this several weeks in advance.

1 There may not be a -- a literal form motion, but the State is  
2 certainly on notice and the motion was -- the issue was  
3 presented to our chief administration judge for criminal court  
4 ---

5 THE COURT: Judge Brown?

6 MR. GROVE: --- Judge Brown to schedule this hearing  
7 during this term. Presuming the defense is unsuccessful, the  
8 trial is set for the end of next term in October.

9 THE COURT: All right. So the motion is made pursuant to  
10 Section 16-11-410 of the Code of Laws of South Carolina  
11 entitled the Protection of Persons and Property Act, and the  
12 case law as set forth in State v. Duncan, 392 S.C. 404, 709  
13 S.E.2d 662, a 2011 case of our Supreme Court. That case  
14 outlined the procedure to be followed and the degree of proof  
15 that must be shown by that.

16 Before we get into the merits of the matter, first of  
17 all, I would say, of course, under *Duncan* it is the motion of  
18 the defense and the defense has the burden of proving by the  
19 preponderance of the evidence or greater weight of the  
20 evidence that the defendant is entitled to immunity under 16-  
21 11-410, and will be allowed to put up whatever testimony he  
22 wishes to put up in that regard first. Then I will hear from  
23 the -- from the State and any evidence, if necessary, from the  
24 State as well, but we'll get into that as we go forward.

25 Before we go forward with the evidence on the motion made

1 by the defendant, let me tell everyone here that I know that  
2 this is a matter that is very emotional to all of the parties  
3 who are involved and to the victim's family and to the  
4 defendant's family. I would remind everyone that this is a  
5 court of law and that I'm going to require that order and  
6 decorum be maintained in the courtroom, and if there's anyone  
7 who thinks that they cannot sit quietly during this testimony  
8 without expressions of emotion or any kind of demonstrative  
9 expressions whatsoever, then you will -- I would ask you to  
10 leave the courtroom now. I will tell you that if there are  
11 unwarranted emotions or unwarranted outbursts in the  
12 courtroom, they would be subject to punishment by the Court  
13 for contempt.

14 All right, Mr. Grove, it's your motion so you may  
15 proceed.

16 MR. GROVE: Thank you, Your Honor, may it please the  
17 Court. The defense would call Michael Bruce.

18 THE COURT: All right. Come around, please.

19 THE CLERK: If you will, sir, come to the witness stand  
20 and if you'll stop right there in front of the Bible, place  
21 your left hand on the Bible, and raise your right hand. Do  
22 you swear to tell the truth, the whole truth, and nothing but  
23 the truth, so help you God?

24 THE WITNESS: I do.

25 THE CLERK: Please be seated right there in the witness

MICHAEL BRUCE - DIRECT EXAMINATION BY MR. GROVE

1 chair and state your full name for the record.

2 THE WITNESS: Larry Michael Bruce, II.

3 MICHAEL BRUCE, being first duly  
4 sworn, testifies as follows:

5 DIRECT EXAMINATION

6 BY MR. GROVE:

7 Q: Good morning, Mr. Bruce. How are you doing?

8 A: I'm doing all right. How about yourself?

9 Q: I'm doing all right. Obviously, you know why we're here  
10 today talking about Wayne Scott and Steve Springs?

11 A: Yes, sir.

12 Q: All right and this is involving an incident that took  
13 place in September of last year?

14 A: Yes, sir.

15 Q: Are you aware of that?

16 A: (Witness nods head.)

17 Q: All right and I'll ask you first how -- where do you  
18 live?

19 A: Lazy Lane.

20 Q: Where is that?

21 A: Pamplico, South Carolina.

22 Q: Is that in Florence County?

23 A: It's Florence County, yes, sir.

24 Q: And what do you do for a living?

25 A: I work in -- I run heavy equipment. I'm a heavy

MICHAEL BRUCE - DIRECT EXAMINATION BY MR. GROVE

- 1 equipment operator. At the time, I was a painter.
- 2 Q: When you say at the time, you mean in September of last
- 3 year?
- 4 A: Yes, sir.
- 5 Q: Who did you work for?
- 6 A: My dad.
- 7 Q: What's his name?
- 8 A: Larry Bruce.
- 9 Q: And you painted for him?
- 10 A: Yes, sir.
- 11 Q: How old are you?
- 12 A: I'm twenty-eight.
- 13 Q: You know Wayne Albeon Scott, Jr.?
- 14 A: Yes, sir.
- 15 Q: How do you know Wayne?
- 16 A: Him and my daddy been buddies ever since I can -- was a
- 17 little boy.
- 18 Q: Do you know what Wayne does for a living?
- 19 A: He's a painter.
- 20 Q: Have you ever worked with him?
- 21 A: Yes, sir.
- 22 Q: How often do y'all work together?
- 23 A: When I was working with my daddy, we worked together
- 24 about every day.
- 25 Q: Did you work with him on September 24<sup>th</sup>, 2012?



## MICHAEL BRUCE - DIRECT EXAMINATION BY MR. GROVE

- 1 A: Is that the day of the incident?
- 2 Q: Yes.
- 3 A: Yes, sir.
- 4 Q: Do you remember what y'all did for work that day?
- 5 A: We was painting a house.
- 6 Q: Okay.
- 7 A: The whole entire house.
- 8 Q: What -- what did you do after work?
- 9 A: We went hunting.
- 10 Q: Where did you go hunting?
- 11 A: On -- on my property down there in Pamplico.
- 12 Q: Okay. Did y'all work all day that day? A nine to five?
- 13 A: Yes, sir.
- 14 Q: And you went hunting shortly after that?
- 15 A: Yeah. Yes, sir.
- 16 Q: How long did y'all hunt?
- 17 A: Probably two hours and something. We didn't get the
- 18 whole hunt in.
- 19 Q: Until it got dark?
- 20 A: Almost. Not -- not quite dark.
- 21 (Whereupon, there is a pause in the questioning as the
- 22 proceedings are interrupted by the bailiff concerning a
- 23 jury question.)
- 24 THE COURT: Go ahead, Mr. Grove.
- 25 MR. GROVE: Thank you, Your Honor.

MICHAEL BRUCE - DIRECT EXAMINATION BY MR. GROVE

- 1 Q: So you and Wayne -- you call him Sonny, right?
- 2 A: Yes, sir.
- 3 Q: You and Sonny quit hunting right before dark?
- 4 A: Yes, sir.
- 5 Q: What happened after that?
- 6 A: I had to carry Sonny home.
- 7 Q: Okay. Do you remember Sonny having a conversation on the
- 8 phone?
- 9 A: Yes, sir.
- 10 Q: Do you know who he was having that conversation with?
- 11 A: Yes, sir.
- 12 Q: Who was he -- who was he talking to on the phone?
- 13 A: Mr. Steve, whatever his name is.
- 14 Q: Steve Springs?
- 15 A: Yes, sir.
- 16 Q: Are you talking about the victim in this case?
- 17 A: Yes, sir.
- 18 Q: Mr. Steve Springs?
- 19 A: I don't really know him well. Yes, sir.
- 20 Q: But you know that ---
- 21 A: Him and Sonny was arguing. I knew of him.
- 22 Q: Sonny was on the phone with the man who is now deceased?
- 23 A: Yes, sir.
- 24 Q: When did their conversation start? Do you remember?
- 25 A: Not -- not quite. Not -- I don't really remember when it

MICHAEL BRUCE - DIRECT EXAMINATION BY MR. GROVE

1 -- when I come out the woods, they was on the phone.

2 Q: So before you started to take Sonny home, he was having a  
3 conversation with Mr. Springs?

4 A: Yes, sir.

5 Q: What -- what was the substance of their conversation?

6 Are you -- are you -- are you aware?

7 A: I'm not quite sure. They was arguing with each other.

8 Q: Okay and at some point shortly thereafter, you started to  
9 carry Sonny home?

10 A: Yes, sir.

11 Q: Did he stay on the phone with Mr. Springs?

12 A: Yes, sir.

13 Q: Okay. At any point, did you speak to Mr. Springs?

14 A: Yes, sir.

15 Q: What was the substance of your conversation with Mr.  
16 Spring?

17 A: Well, he -- when him and Sonny was arguing on the phone,  
18 I told Sonny -- I said just hang the phone up on the joker,  
19 you know.

20 Q: Why -- let me stop you right there. Why did you tell him  
21 to hang up the phone with Mr. Springs?

22 A: Because they were steady arguing and ---

23 Q: Okay.

24 A: --- I told him to hang up the phone. I -- I reckon he --  
25 he heard me say that and I said it a little bit different.

MICHAEL BRUCE - DIRECT EXAMINATION BY MR. GROVE

- 1 Q: Okay. When you say he heard me say that ---
- 2 A: Mr. Steve.
- 3 Q: Okay.
- 4 A: The deceased heard me say that on the phone. Like I told
- 5 him -- I said hang the phone up on the stupid -- I -- I said a
- 6 different word, but joker.
- 7 Q: Sure.
- 8 A: You know and I reckon he heard me say that and he told
- 9 Sonny to give me the phone and then I took the phone and I was
- 10 like, man, y'all just chill out with all this, and he started
- 11 cussing at me and all kind of stuff, and I hung the phone up
- 12 on him. I hung Sonny's phone up and then he called right
- 13 back.
- 14 Q: Okay.
- 15 A: And then I -- I didn't answer it. Sonny answered it.
- 16 Q: How long do you think it takes to drive from your house
- 17 in Pamplico to where Sonny lives?
- 18 A: Fifteen, twenty minutes.
- 19 Q: Do you know -- do you know where Sonny lives? I don't
- 20 mean his address, but ---
- 21 A: Yes, sir.
- 22 Q: Do you know what road he lives on?
- 23 A: I don't know the name of the road, but I -- yeah, I know
- 24 the road.
- 25 Q: Is it in Florence?

## MICHAEL BRUCE - DIRECT EXAMINATION BY MR. GROVE

- 1 A: Yes, sir.
- 2 Q: So you drove from Pamplico to Florence with Sonny in the  
3 car?
- 4 A: Yes, sir.
- 5 Q: And he and Steve Springs were having a conversation back  
6 and forth?
- 7 A: Yes, sir.
- 8 Q: And at some point you just testified you hung up the  
9 phone on Mr. Springs, and Mr. Springs called right back?
- 10 A: Yes, sir.
- 11 Q: How many times -- and I'm not going to hold you to a  
12 specific number. How many times do you think Mr. Springs  
13 called Sonny during that drive?
- 14 A: Probably twice I'd say.
- 15 Q: More than once?
- 16 A: Yeah.
- 17 Q: Maybe more than twice?
- 18 A: Maybe. I -- I don't know a specific number.
- 19 Q: But multiple times?
- 20 A: Yeah.
- 21 Q: All right.
- 22 A: They was back and forth with each other arguing.
- 23 Q: And -- and they were -- these phone calls, at least after  
24 you hung up, they were initiated by Mr. Springs?
- 25 A: Yes, sir.

MICHAEL BRUCE - DIRECT EXAMINATION BY MR. GROVE

1 Q: He called Sonny Scott?

2 A: After I hung up?

3 Q: Yes.

4 A: Yes, sir.

5 Q: The -- Sonny did not call Steve Springs at that point?

6 A: No, sir.

7 Q: We're not sure -- you testified earlier you're not sure  
8 who started the -- the original conversation?

9 A: No, I'm not sure about that. After I hung the phone up,  
10 Mr. Steve called right back.

11 Q: Okay. Did Mr. Springs ever make any threats to you while  
12 you were on the phone with him?

13 A: He told me he was going to beat my butt.

14 Q: Okay. Are you aware as to whether or not he made any  
15 threats to Sonny Scott?

16 MR. OZMENT: Your Honor, I'd object to any hearsay.

17 THE COURT: All right. That would be hearsay, would it  
18 not?

19 MR. GROVE: I -- I would ---

20 THE COURT: How else would he know?

21 MR. GROVE: It would be a present sense impression, Your  
22 Honor.

23 THE COURT: No, it wouldn't either. It would be a  
24 conversation because the only way he would know would be if  
25 the victim told him that he made threats. That would be the

MICHAEL BRUCE - DIRECT EXAMINATION BY MR. GROVE

1 only way that he would know that. I'll sustain that  
2 objection.

3 Q: Mr. Springs made threats to you?

4 A: Yes, sir.

5 Q: And after you drove from Pamplico up here to Florence,  
6 you dropped off Sonny Scott at his house?

7 A: Yes, sir.

8 Q: Did you say anything to Sonny after this conversation  
9 with Mr. Springs? Did you say anything to him?

10 A: To Sonny?

11 Q: Yes.

12 A: Yeah. I told Sonny don't worry because -- I told Sonny  
13 don't worry about it. He ain't coming. Because he told Sonny  
14 he was coming to his house to beat his -- I told Sonny don't  
15 worry about that. That man ain't coming to the house. I  
16 didn't think he was going to come or nothing like that. I  
17 told Sonny don't worry about it. Just wait on Gloria, his  
18 wife, to get home because he was locked out the house and I  
19 told him just don't worry about it. He sat on the porch and I  
20 shot back home. I figured Gloria would be there in the next  
21 few minutes, you know.

22 Q: So you -- you dropped him off and then you left and went  
23 back to Pamplico?

24 A: Yes, sir.

25 Q: And when did you find out that Steve Springs was dead?

MICHAEL BRUCE - DIRECT EXAMINATION BY MR. GROVE

1 A: The next morning.

2 Q: How long have you known Steve Springs?

3 A: I don't know him.

4 MR. GROVE: I don't think I have any further questions at  
5 this time. Thank you, Mr. Bruce.

6 THE COURT: Cross examination, Mr. Ozment?

7 MR. OZMENT: Very briefly, Your Honor.

8 CROSS EXAMINATION

9 BY MR. OZMENT:

10 Q: Mr. Bruce?

11 A: Yes, sir.

12 Q: You testified that when you hung up the phone, Steve  
13 called Mr. Scott back; is that right?

14 A: Yes, sir.

15 Q: At any time during this ride, did you ever see Mr. Scott  
16 call Steve?

17 A: No, sir.

18 Q: And you don't know who initiated the first conversation?

19 A: No, sir. I don't know who started the call, so no.

20 MR. OZMENT: No further questions, Your Honor.

21 THE COURT: Anything further, Mr. Grove?

22 MR. GROVE: No, Your Honor.

23 THE COURT: All right. All right, thank you. You may  
24 step down. Counsel, I need to ask you to step back just a  
25 moment and I've got a question from the jury that I've got to



1 address on the other case, but y'all can stay right here in  
2 the courtroom. Don't get far. Just move back from the table  
3 a little bit and let Ms. Crayton have a seat at the counsel  
4 table there and you can sit right back there and let Mr. Bell  
5 and -- and his client have a seat at the counsel table. Let  
6 me see the note.

7 (Whereupon, there is a break in the proceedings from  
8 11:26 a.m. until 11:44 a.m.)

9 THE COURT: All right, Mr. Ozment, Mr. Grove, let's come  
10 back up and resume the matter with regard to Indictment Number  
11 13-0391, State versus Scott.

12 MR. OZMENT: Your Honor, may we approach?

13 THE COURT: Yes, sir.

14 (Whereupon, a bench conference is held off the record.)

15 THE COURT: All right, Mr. Grove, you may proceed. Call  
16 your next witness.

17 MR. GROVE: Thank you, Judge. I beg the Court's  
18 indulgence. Your Honor, at this time the defense would call  
19 Gloria Scott.

20 THE COURT: All right. Come around, please, Ms. Scott.

21 THE CLERK: If you will, ma'am, place your left hand on  
22 the Bible and raise your right hand. Do you swear to tell the  
23 truth, the whole truth, and nothing but the truth, so help you  
24 God?

25 THE WITNESS: I do.

GLORIA SCOTT - DIRECT EXAMINATION BY MR. GROVE

1 THE CLERK: Please be seated and state your full name for  
2 the record.

3 THE WITNESS: Gloria Shanowen [phonetic] Scott.

4 GLORIA SCOTT, being first duly  
5 sworn, testifies as follows:

6 DIRECT EXAMINATION

7 BY MR. GROVE:

8 Q: Good morning, Gloria. How are you?

9 A: Good.

10 Q: Good. Obviously, you know why we're here today?

11 A: Yes, sir.

12 Q: How do you know Sonny Scott?

13 A: That's my husband.

14 Q: And how long have y'all been married?

15 A: Seventeen years.

16 Q: Where do y'all live?

17 A: Sharon Road, Florence.

18 Q: That's in Florence County, obviously?

19 A: Yes.

20 Q: Do you remember September 24<sup>th</sup> of 2012?

21 A: I do.

22 Q: What were you doing that day?

23 A: Working that day.

24 Q: What -- what were you doing late that afternoon?

25 A: I picked my grandson up from school and it was Skateland.

## GLORIA SCOTT - DIRECT EXAMINATION BY MR. GROVE

1 night that night and so he stayed with me after school and I  
2 was at the house.

3 Q: You said it was Skateland night?

4 A: Yes.

5 Q: What do you mean?

6 A: The school has one night a month that they allow the  
7 children to go to Skateland for a reduced price and -- and  
8 just something to do with the school.

9 Q: And that's a skating rink?

10 A: Yes.

11 Q: Here in Florence?

12 A: Yes.

13 Q: Did you take him there?

14 A: I did.

15 Q: What time did y'all head over there?

16 A: Five thirty, quarter to six, because I think it starts at  
17 six o'clock.

18 Q: And stayed there for a while?

19 A: Yeah. I think it's over with at eight.

20 Q: Okay. What did you do when you left?

21 A: I took him home.

22 Q: And where does he live?

23 A: He lives on South Canal Drive, which is off of Pamplico  
24 Highway behind Greenwood Elementary.

25 Q: Where is that in relation to Florence?

GLORIA SCOTT - DIRECT EXAMINATION BY MR. GROVE

1 A: I mean it's down Pamplico Highway. It's still Florence  
2 County, but it's down Pamplico Highway. If you're familiar  
3 with Greenwood Elementary, it's about four blocks behind  
4 Greenwood.

5 Q: Okay and you took him there?

6 A: Yes, I did.

7 Q: To his home?

8 A: Yes.

9 Q: You dropped him off?

10 A: Yes.

11 Q: Did you stay?

12 A: No.

13 Q: What happened when you left?

14 A: I left him and I -- he got out of the vehicle and I --  
15 his mother met him at the door and I just explained to her he  
16 had done his homework and everything and I ---

17 Q: Let me stop you right there. Who is his mother?

18 A: Crystal Hanna.

19 Q: Go ahead.

20 A: And that he had done his homework and everything and I  
21 just dropped him off and said see you later, and I left and  
22 proceeded home down Pamplico Highway.

23 Q: Let me stop you again. Leaving your daughter's house I  
24 guess -- Crystal Hanna is your daughter?

25 A: Yes.

## GLORIA SCOTT - DIRECT EXAMINATION BY MR. GROVE

1 Q: Leaving her house and going to your house, estimate for  
2 me how long it would normally take you?

3 A: Five minutes.

4 Q: Okay. All right. So pick up where you left off. You  
5 had just left Crystal's house and you were headed home.

6 A: I had just left Crystal's house and I was headed home  
7 down Pamplico Highway towards Freedom Boulevard and I don't  
8 know if I called Janice or if Janice had called me.

9 Q: Let me stop you again. Who is Janice?

10 A: Janice Springs, the victim's wife.

11 Q: Okay.

12 A: And I was speaking to her on the phone. It wasn't a very  
13 long conversation. It was quick and I told her that my  
14 husband was beeping in and I would call her back and I hung up  
15 the phone with her and clicked over to my husband.

16 Q: And when you say your husband was beeping in, you mean  
17 Sonny?

18 A: Correct.

19 Q: And when you say that he was beeping in, you mean he was  
20 calling you?

21 A: He was calling me.

22 Q: While you -- while you were on the phone with her?

23 A: That's correct.

24 Q: And you answered the phone and -- and you talked to  
25 Sonny?

## GLORIA SCOTT - DIRECT EXAMINATION BY MR. GROVE

1 A: I did.

2 Q: What was the impression that you got from your  
3 conversation with him?

4 A: Well, I knew he had been hunting with Michael and so I  
5 answered the phone and he said he shot him.

6 MR. OZMENT: Your Honor, I'd object.

7 THE COURT: All right.

8 MR. OZMENT: Hearsay.

9 THE COURT: Yeah.

10 Q: You can't -- you can't tell me what he said.

11 A: Oh, I'm sorry.

12 Q: You can tell me what you told him or an impression that  
13 you got from the conversation.

14 THE COURT: No, you can't tell an impression. That's  
15 just another way of saying hearsay. Now, if you want to try  
16 to get it in as not being hearsay because it's not offered for  
17 the truth, that may be one thing, but an impression is just  
18 another way of getting around the hearsay rule, Mr. Grove.

19 Q: What did you do as a result?

20 MR. GROVE: I'm sorry, Your Honor.

21 Q: What did you do as a result of your conversation with  
22 Sonny?

23 A: I went a little bit faster in going home.

24 Q: Okay. How long do you think it took you to get home  
25 after your conversation with Sonny?

## GLORIA SCOTT - DIRECT EXAMINATION BY MR. GROVE

1 A: Two minutes because I was right there at the hospital by  
2 then.

3 Q: Which hospital?

4 A: Carolina Hospital.

5 Q: Okay. Did you at any point call 9-1-1?

6 A: Yes, sir.

7 Q: What did you tell 9-1-1?

8 A: That my husband had had an altercation with a gentleman  
9 and I hadn't gotten to the scene yet. I was on my way and  
10 they asked me at some point I guess to check and see -- feel  
11 for a pulse, and so when I had gotten to my house, I had to  
12 turn some lights on because my outside lights weren't on, and  
13 I turned some lights on and I went to the vehicle where the  
14 victim was and felt behind his ear for a pulse.

15 Q: Did you find a pulse?

16 A: No, sir.

17 Q: And when you say the victim, we're talking about the  
18 deceased?

19 A: Yes.

20 Q: What's his name?

21 A: Steve Springs.

22 Q: And at this point when you get home, you're actively on  
23 the phone with 9-1-1?

24 A: I am.

25 Q: Okay and I'm not going to hold you to a number of

GLORIA SCOTT - DIRECT EXAMINATION BY MR. GROVE

1 minutes, but I'm going to ask that you -- that you guesstimate  
2 for me how long after you arrived did EMS or first responders  
3 or the fire department or officers arrive?

4 A: After I arrived at my home, it was just minutes that they  
5 were there, like -- and I stayed on the phone with them the  
6 entire time and it's right after I felt for a pulse I think  
7 first responders, two gentlemen in a vehicle with lights,  
8 pulled up and came to the -- up to the scene.

9 Q: And what did you do once they arrived?

10 A: I hung up the phone with 9-1-1 and they were asking  
11 questions as to where my husband was and I just answered all  
12 their questions that I could.

13 Q: Sure and at that time where was Sonny?

14 A: He was in the house sitting on the couch.

15 Q: Okay. At some point did you direct either an officer or  
16 a first responder or some member of authority to a gun?

17 A: Yes.

18 Q: Where was the gun located?

19 A: On my bed.

20 Q: And you -- did you give them directions as to where it  
21 was?

22 A: Yes.

23 Q: Did you go and bring it to them?

24 A: No. I told them where it was.

25 Q: And they went and retrieved it?



## GLORIA SCOTT - CROSS EXAMINATION BY MR. OZMENT

1 A: At some point, yes.

2 MR. GROVE: I don't think I have anything further at this  
3 time.

4 THE COURT: All right. Cross examination, Mr. Ozment?

5 MR. OZMENT: Thank you, Your Honor.

6 CROSS EXAMINATION

7 BY MR. OZMENT:

8 Q: Ms. Scott, how long have you known -- had you known Mr.  
9 Springs?

10 A: Years. He had been working for me.

11 Q: All right. When you say working for you ---

12 A: Doing heating ---

13 Q: --- what kind of relationship, if you don't mind?

14 A: He was doing heating and air for my boss and I managed  
15 the rental properties for him, so.

16 Q: So he was the heating and air repair man?

17 A: That's correct.

18 Q: Okay. How long had he been working for you and your boss  
19 in that capacity?

20 A: A few years.

21 Q: Okay. Were y'all friends or acquaintances or anything  
22 outside your working relationship?

23 A: Yes.

24 Q: What would you say you are?

25 A: Friends.

GLORIA SCOTT - CROSS EXAMINATION BY MR. OZMENT

1 Q: Around the month leading up to this, do you know if Mr.  
2 Springs had any relationship with your daughter?  
3 A: I do.  
4 Q: When did you find out about that relationship?  
5 A: I think it was March or April.  
6 Q: Of which year?  
7 A: Last year.  
8 Q: How did you find out about that relationship?  
9 A: I believe it was through my daughter's husband and Mr.  
10 Springs, a combination of the two.  
11 Q: Okay. Kind of put two and two together?  
12 A: Yes, sir.  
13 Q: All right. Did you ever have any conversations with your  
14 daughter about that relationship?  
15 A: I did.  
16 Q: Okay. Did you confront her about that ---  
17 A: I did.  
18 Q: --- relationship? Did you approve of that relationship?  
19 A: I did not.  
20 Q: Did you tell your daughter that?  
21 A: I did.  
22 Q: Did you ever address that relationship with Mr. Springs?  
23 A: I did.  
24 Q: Did you voice to him that you approved of it or  
25 disapproved of it?

GLORIA SCOTT - CROSS EXAMINATION BY MR. OZMENT

1 A: I had told him that I had disapproved of the situation,  
2 yes.

3 Q: Was that a kind of an ongoing conversation that you  
4 didn't approve of that relationship?

5 A: It was.

6 Q: How long was that kind of ongoing dialog that you didn't  
7 approve of that relationship?

8 A: Probably from the beginning I had -- you know, at one  
9 point I had told him that I felt they needed to confront their  
10 spouses on -- on it and go from there.

11 Q: And were you still confronting him about that  
12 relationship up until basically his death or within a couple  
13 days anyway?

14 A: I had. I had, you know, expressed to him my concerns  
15 with the fact that there were two small children involved.

16 Q: Okay. Those were -- would be your grandchildren?

17 A: They are.

18 Q: Okay. Did it change you and Mr. Springs' relationship  
19 the fact that he was now with your daughter?

20 A: A little bit. He didn't come to my home a lot. He  
21 hadn't been to my house in two and a half months.

22 Q: And prior to that ---

23 A: Prior to that night.

24 Q: And prior to that, would he come by occasionally?

25 A: He would come by every Friday to pick -- to bring bills

## GLORIA SCOTT - CROSS EXAMINATION BY MR. OZMENT

1 and -- and pick up his pay for the week.

2 Q: How did he do that for the last two and a half months?

3 A: He would send his son or he would ask me to meet him  
4 uptown.

5 Q: Okay. Did y'all ever have a fight -- I mean a verbal  
6 fight about ---

7 A: Yes.

8 Q: --- this? Cussing each other?

9 A: Probably.

10 Q: Okay. Now, what about your husband? Did he know about  
11 this relationship?

12 A: He did right towards the very end.

13 Q: Okay. Did -- did you tell him about it or did he ---

14 A: My son-in-law and I did.

15 Q: Okay. Did he approve of it?

16 A: No.

17 Q: Okay. Would you say that you and he kind of had the same  
18 opinion of that relationship?

19 A: We did.

20 Q: Okay and for clarification, your daughter -- she is not  
21 his biological daughter; is that right?

22 A: That's correct.

23 Q: She's his stepdaughter?

24 A: That's correct.

25 Q: Okay. So that would be his step-grandkids?

## GLORIA SCOTT - CROSS EXAMINATION BY MR. OZMENT

- 1 A: Yes.
- 2 Q: The kids that you were concerned about?
- 3 A: Yes.
- 4 Q: Did you and your husband ever have any conversations  
5 regarding any way to deal with this ongoing situation between  
6 your daughter and Mr. Springs?
- 7 A: Not really. I had told him that I had given up on the --  
8 the situation as far as if that's what she wanted to do, that  
9 was -- that was her.
- 10 Q: Okay. Did it make you mad?
- 11 A: Yes.
- 12 Q: Did it make your husband mad?
- 13 A: A little bit, yeah.
- 14 Q: You testified earlier that you got home and you were on  
15 the phone with 9-1-1 and all that, but you -- after you got  
16 off the phone with your husband when you were on the way home,  
17 you said you were near Carolinas Hospital. Where's the next  
18 place that you went?
- 19 A: To my neighbor who lives behind me. Well, a few houses  
20 behind me.
- 21 Q: Who's that?
- 22 A: Carl.
- 23 Q: Okay. Why did you go to Carl's?
- 24 A: That's where my husband was.
- 25 Q: Okay. Was your husband there when you arrived?

## GLORIA SCOTT - CROSS EXAMINATION BY MR. OZMENT

1 A: He was.

2 Q: Where was he? Inside? Outside?

3 A: He had -- he was inside.

4 Q: Okay and what did you do when you got to Carl's?

5 A: I asked him to come and get in the truck with me.

6 Q: Okay.

7 A: And he got in the truck with me and we went to the house.

8 Q: Did he tell you what happened?

9 A: Yes.

10 Q: What did he say?

11 A: He said that he had shot him.

12 Q: Did you know who "him" was at that point?

13 A: I did.

14 Q: Okay and it was Steve Springs?

15 A: Yes.

16 Q: Okay. Did he give you any details or just I shot him?

17 A: I mean he had said that they had argued, but that he had

18 come up there because my concern was he was supposed to be at

19 Michael's hunting.

20 Q: I'm sorry. I just -- I'm just trying to be clear on who

21 he was. You said he had come up there.

22 A: That Steve had come to the house.

23 Q: Okay.

24 A: And my husband had told me that Steve had come up to the

25 house and that they had gotten into a verbal argument.

GLORIA SCOTT - CROSS EXAMINATION BY MR. OZMENT

1 Q: Okay.

2 A: And that -- can I tell you what he told me?

3 Q: You can tell me what your husband told you.

4 A: My husband just said that he had threatened him and I  
5 didn't -- I wasn't concerned as to what all was said at this  
6 time, and I just was like okay and then he said, you know,  
7 that he had shot him and ---

8 Q: Did your husband tell you what gun he shot him with?

9 A: I -- I knew.

10 Q: Why did -- how did you know?

11 A: Because I took it inside.

12 Q: Okay. What -- well, we'll get to that in just a minute.

13 When you say that Steve had -- your husband said that Steve  
14 had threatened him. Did your husband say was that verbally or  
15 physically?

16 A: I think it was verbally. I don't ---

17 Q: Okay.

18 A: I mean I don't know. He said he was out of the vehicle,  
19 you know.

20 Q: Okay.

21 A: At the front of his vehicle. So I don't know what  
22 physically transpired.

23 Q: I mean what -- okay, okay and I guess I'm saying your  
24 husband didn't tell you that Steve, for instance, was a foot  
25 away from him and in the process of say punching him or

## GLORIA SCOTT - CROSS EXAMINATION BY MR. OZMENT

1 striking him or something like that and he shot him?

2 A: No. He said he was approaching him and that he had asked  
3 him to leave.

4 Q: Okay, but the threats were verbal threats?

5 A: I think -- yes, sir.

6 Q: Okay. Did you husband tell you where your husband was  
7 when this was going on?

8 A: He said he was sitting on the front porch of my office.

9 Q: Okay. Is your office at your house?

10 A: It is.

11 Q: Okay. Well, explain to me I guess what -- if I was  
12 standing there kind of where was your husband and what's the  
13 house -- give me kind of a relationship?

14 A: I have -- I have an office, a ten by ten office that sits  
15 right at the end of my trailer right at -- if I pull in my  
16 driveway straight, my headlights are on my office.

17 Q: Okay.

18 A: And there's a platform deck that sits at the front of the  
19 office and my husband was sitting on that.

20 Q: Is the deck enclosed or is it opened up?

21 A: Open..

22 Q: Okay. So how many -- has it got stairs going up to it?

23 A: One step.

24 Q: One step and then a platform?

25 A: Yeah.



GLORIA SCOTT - CROSS EXAMINATION BY MR. OZMENT

- 1 Q: How big is the platform? How big are we talking about?
- 2 A: Six by six.
- 3 Q: Okay. So kind of like a landing area?
- 4 A: Yes.
- 5 Q: It's not like you got rocking chairs and ---
- 6 A: No.
- 7 Q: Okay.
- 8 A: Just a little step.
- 9 Q: All right and so your husband said he was sitting on the
- 10 step?
- 11 A: Yes, sir.
- 12 Q: Okay. You picked up your husband at the house. You then
- 13 took him back to your house?
- 14 A: Yes, sir.
- 15 Q: Okay. Well, when you got to your house, tell me the
- 16 first thing you did?
- 17 A: I took the gun. I got my keys, I took the gun off of the
- 18 back of the truck, and went inside to get a light because it
- 19 was dark because my outside porch light on the house or the
- 20 office weren't on at the time, and I turned on some lights to
- 21 go out and feel for a pulse.
- 22 Q: Okay. You mentioned the gun was in the back of the
- 23 truck. How did the gun get in the back of the truck?
- 24 A: My neighbor put it in the back of the truck.
- 25 Q: All right. I guess -- when did your neighbor put it in

## GLORIA SCOTT - CROSS EXAMINATION BY MR. OZMENT

1 the back of the truck?

2 A: When I was at Carl's.

3 Q: You were at Carl's? Tell me why did the neighbor have  
4 the gun?

5 A: I guess my husband ---

6 Q: Let me back up. How -- do you know how the neighbor got  
7 the gun?

8 A: I -- I was told that my neighbor got the gun from my  
9 husband, that he was asked to do something with the gun and my  
10 neighbor went and retrieved the gun and brought it back to me  
11 ---

12 Q: Okay.

13 A: --- when I asked for it.

14 Q: Did your husband tell you that he had told the neighbor  
15 to do something with the gun?

16 A: No.

17 Q: Okay. Did you ask your husband where the gun was?

18 A: I was confronted when I pulled up at Carl's by my  
19 neighbor that said he had the gun and I told him to retrieve  
20 it and bring it back to me.

21 Q: Okay. Which neighbor is this that we're currently  
22 talking about?

23 A: Mr. Watson.

24 Q: Okay. What's his first name?

25 A: George.

GLORIA SCOTT - CROSS EXAMINATION BY MR. OZMENT

- 1 Q: Did he put it in the back of the truck or did you take it  
2 from him and put it in the back of the truck?
- 3 A: I believe he put it in the back of the truck.
- 4 Q: Okay and when you say back of the truck, you mean like an  
5 extended cab or do you mean the outside back part like the  
6 bed?
- 7 A: The bed of the truck.
- 8 Q: Okay. So let's go back. You got home. You -- where did  
9 you put the gun?
- 10 A: In the back -- it was in the back -- oh.
- 11 Q: From the back of the truck ---
- 12 A: From the back of the truck to my bedroom. I laid it on  
13 the bed.
- 14 Q: Okay. I gotcha. Was that the gun that Sonny had been  
15 hunting with?
- 16 A: It was.
- 17 Q: Okay and that's why he had it with him?
- 18 A: That's correct.
- 19 Q: Okay. What kind of gun is that? Do you know?
- 20 A: Thirty ought six.
- 21 Q: Do you know what make?
- 22 A: I think it's a Remington.
- 23 Q: Okay. Once the police got there, did -- did you talk to  
24 them at all?
- 25 A: Yes.

## GLORIA SCOTT - CROSS EXAMINATION BY MR. OZMENT

1 Q: Did you tell them essentially what you're telling us here  
2 today?

3 A: Yes.

4 Q: Okay. Did they talk to your husband?

5 A: Yes.

6 Q: All right. Did -- were you there when he was talking to  
7 them?

8 A: Yes.

9 Q: Did you hear the conversation?

10 A: Some of it.

11 Q: Okay. From what you heard him say, did that line up with  
12 what he had told you earlier in the evening?

13 A: Yes.

14 Q: Okay. Did you and him ever have any conversations about,  
15 you know, kind of getting his story straight as to what he  
16 needed to tell the police?

17 A: I just told him he needed to tell them what happened.

18 Q: Okay.

19 MR. OZMENT: I beg the Court's indulgence for just one  
20 moment.

21 Q: When you got to the house, did you see Steve's vehicle  
22 there?

23 A: I did.

24 Q: Where was it?

25 A: Parked right in front of my office.

## GLORIA SCOTT - CROSS EXAMINATION BY MR. OZMENT

- 1 Q: All right.
- 2 A: I mean in that spot.
- 3 Q: And there's like a drive there?
- 4 A: Yes.
- 5 Q: Okay. Where was Steve's body?
- 6 A: In the doorway of his van.
- 7 Q: Okay. Where did you park your truck when you pulled up?
- 8 A: Kind of on the side of my office.
- 9 Q: Okay. So let's say you're looking at me. I'm your
- 10 office. The van was here. I guess here would be the steps
- 11 where the -- where's your truck?
- 12 A: His van was here. There was another vehicle here and I
- 13 just kind of pulled up.
- 14 Q: Okay and what side of the van was Steve's body on?
- 15 A: On the driver's side.
- 16 Q: Okay. Was his door open?
- 17 A: It was.
- 18 Q: Was he in front of the door or behind the door?
- 19 A: Behind the door.
- 20 Q: Okay. Did you have to move him at all to check for a
- 21 pulse?
- 22 A: No.
- 23 Q: You were able to reach and you did not feel a pulse at
- 24 that point?
- 25 A: No, I did not.

GLORIA SCOTT - CROSS EXAMINATION BY MR. OZMENT

1 Q: Did you see any signs of life at that point?

2 A: No.

3 Q: When you had spoken to your husband earlier, had -- after  
4 he said he had shot Steve, did he say about how he died? Did  
5 he die immediately or did he -- did he -- did he give you any  
6 details on that?

7 A: No, sir.

8 MR. OZMENT: No further questions at this time, Your  
9 Honor.

10 THE COURT: Redirect?

11 MR. GROVE: Thank you, Judge.

12 REDIRECT EXAMINATION

13 BY MR. GROVE:

14 Q: Gloria, earlier, you said that you didn't approve of  
15 Steve's relationship with your daughter. Is Steve married?

16 A: Yes.

17 Q: Is your daughter married?

18 A: Yes.

19 Q: Are they married to each other? Or were they married to  
20 each other? Were -- were Steve and your daughter married to  
21 each other?

22 A: No.

23 Q: But both of them were married?

24 A: Correct.

25 Q: Is that the substance of why you didn't approve?

GLORIA SCOTT - REDIRECT EXAMINATION BY MR. GROVE

- 1 A: Yes.
- 2 Q: You also said that Steve hadn't been by your house in two  
3 and a half -- three months?
- 4 A: Correct.
- 5 Q: And you also said that he would send his son by to pick  
6 up his paychecks or to drop off things?
- 7 A: Yes.
- 8 Q: Or he would meet you somewhere else?
- 9 A: That's correct.
- 10 Q: Earlier, Mr. Ozment asked if -- if you were mad about  
11 their continued relationship. Describe that for me?
- 12 A: I mean I didn't approve, but my main concern was my  
13 grandchildren.
- 14 Q: Would you say disappointed with their relationship?
- 15 A: Very much so.
- 16 Q: Frustrated with their relationship?
- 17 A: Yes.
- 18 Q: And I -- I know you didn't measure this, but you said  
19 that the van was pulled straight into the office, right?
- 20 A: Yes.
- 21 Q: Or in the direction of the office?
- 22 A: Yes.
- 23 Q: And that Sonny was sitting on the landing area right  
24 there in front of the office?
- 25 A: Correct.

## GLORIA SCOTT - REDIRECT EXAMINATION BY MR. GROVE

1 Q: Can you estimate for me -- and I know that's probably a  
2 difficult thing to do. How far away was the van?

3 A: If I'm Sonny sitting on the office step, I would say the  
4 van is probably at the tables out there. The front of the van  
5 would be ---

6 Q: Okay.

7 A: --- that far.

8 Q: Did you observe -- you said that the door to the van was  
9 open?

10 A: Yes.

11 Q: And that Steve was leaned in -- into the door?

12 A: He was in a crouched position inside of the door.

13 Q: So is it fair to say he was sort of leaned up against the  
14 side of the van into the driver's door?

15 A: I think more of his back was where the door shuts.  
16 Whatever that part is, his back was more up against that  
17 portion of the -- of the van.

18 Q: Did you observe any bullet holes in the window of the  
19 van?

20 A: No, sir.

21 Q: Did you observe any bullet holes in the door of the van?

22 A: No, sir.

23 Q: Okay and when you got to the house, you were the one that  
24 checked for a pulse on Steve?

25 A: Yes.



GLORIA SCOTT - REDIRECT EXAMINATION BY MR. GROVE

1 Q: In fact, I think you may have testified earlier you were  
2 on the phone with 9-1-1 when you checked for a pulse?

3 A: Yes.

4 Q: Did you find a pulse?

5 A: No.

6 Q: Okay.

7 THE COURT: Anything else, Mr. Grove?

8 MR. GROVE: No, Your Honor, nothing.

9 THE COURT: Anything else? All right.

10 MR. OZMENT: Nothing from the State.

11 THE COURT: All right. Thank you. You may step down.

12 (Whereupon, the witness leaves the stand at 12:13 p.m.)

13 THE COURT: All right, counsel, if you'll step back, I've  
14 been advised that we have a verdict in the other case so we  
15 want to take care of that matter at this time.

16 MR. GROVE: Certainly, Judge.

17 (Whereupon, there is a break in the proceedings from  
18 12:14 p.m. until 12:33 p.m.)

19 (Whereupon, a bench conference is held as follows.)

20 MR. GROVE: Just for scheduling purposes, Judge,  
21 presuming that Matt has to put up a case, he's got several  
22 witnesses to call.

23 THE COURT: You need to speak up a little better.

24 MR. GROVE: Presuming that Matt has to put up a case and  
25 you find that I've made a prima facie case, I've only got one

1 more witness. Where we're at your discretion as to the  
2 scheduling, but we were thinking maybe call -- I'm going to  
3 call the defendant and have his testimony, then make an  
4 argument and then maybe break for lunch ---

5 THE COURT: Yes, sir.

6 MR. GROVE: --- because he'll have ---

7 THE COURT: That's what I'll do.

8 MR. GROVE: He'll have a couple of hours' worth.

9 MR. OZMENT: Okay.

10 THE COURT: Let me ask you something. I'm curious about  
11 this. This is all new law.

12 MR. OZMENT: Right.

13 THE COURT: And everybody's kind of plowing new ground  
14 here. If you put the defendant up -- the last one I had --  
15 I've only had one of these -- one other of these Castle  
16 Doctrine things, and the defendant did not testify. How does  
17 that impact on his Fifth Amendment rights?

18 MR. GROVE: My position is that those statements can be  
19 used for impeachment purposes at a trial should his testimony  
20 be different otherwise, but absent that, it would be the  
21 equivalent of a suppression hearing where the defendant could  
22 testify and those statements could only be used against him  
23 should he testify at a subsequent trial and it be  
24 inconsistent.

25 THE COURT: I think I probably need to warn him that that

1 is your opinion.

2 MR. GROVE: Mm-hmm.

3 THE COURT: And it may not be the opinion -- and I don't  
4 know what the State would want to do. The State may decide  
5 they would want to use that in their case in chief and it  
6 would be up to the trial judge to decide whether or not that  
7 was prior sworn testimony, which normally is admissible  
8 against somebody, but it's normally impeachment. But I think  
9 I do need to give him little bit of warning about that just in  
10 case.

11 MR. GROVE: Sure.

12 THE COURT: Okay.

13 MR. OZMENT: I think that's the right thing to do.

14 THE COURT: Yeah.

15 (Whereupon, the bench conference ends.)

16 THE COURT: All right. We are back on the record now  
17 with regards to the matter of the State versus Scott and I  
18 think we can go probably without interruption as far as other  
19 matters are concerned. We did have a trial of a case going on  
20 and I had no control over what we were doing there, but we had  
21 to take care of those matters. But we are now concluded with  
22 those matters and I can devote full attention to this matter.

23 Mr. Grove, you may proceed with the -- with your  
24 presentation in support of your motion for immunity.

25 MR. GROVE: Thank you, Judge, and if I may beg your

1 indulgence one moment?

2 THE COURT: All right. You understand that you're not  
3 asking the best source in the world?

4 MR. GROVE: I'll take what I can get, Judge.

5 MR. OZMENT: Your Honor, in regard to no more  
6 interruptions, the Attorney General is actually here with one  
7 plea. Maybe before we break for lunch ---

8 THE COURT: Okay.

9 MR. OZMENT: --- if you wouldn't mind maybe hearing one  
10 plea so she can get back to Columbia?

11 THE COURT: All right. We may -- good morning. How are  
12 you today? Good to see you.

13 THE ATTORNEY GENERAL: Good to see you, Judge.

14 THE COURT: Well, would you like to go ahead so that we  
15 won't have any more interruptions and let me go ahead and take  
16 that plea and then we can go ahead and break now and then that  
17 way -- I don't know. This next witness may take a little bit  
18 of time so go ahead and take the Attorney General's plea and  
19 then come back at two o'clock and just go straight through?

20 MR. OZMENT: That is in your discretion.

21 THE COURT: Does that suit you?

22 MR. OZMENT: Yeah, that -- whatever is easiest.

23 THE COURT: Does that suit you, Mr. Grove?

24 MR. GROVE: That's perfectly fine with me.

25 THE COURT: We've got the AG here and we've got a plea.

1 How long is your plea going to take?

2 THE ATTORNEY GENERAL: Just a couple of minutes, Your  
3 Honor, very short.

4 THE COURT: Oh, okay. Well, if it's just going to take  
5 -- how long do you think this witness will take? It may take  
6 a few minutes?

7 MR. GROVE: More than a couple, Judge.

8 THE COURT: All right. Maybe we ought to do that. Let's  
9 -- let's go ahead and adjourn the hearing on Scott at this  
10 particular time so we can take care of this Attorney General's  
11 matter and let's say -- let's be back at 1:45. That's about  
12 an hour and six or seven or eight minutes and go forward at  
13 1:45 and go straight through on the Scott matter until we get  
14 it concluded.

15 MR. OZMENT: That will be fine.

16 THE COURT: All right. We'll be in recess then on the  
17 matter of the State versus Wayne Scott until 1:45 and the  
18 spectators and everyone else -- let's do this, Mr. Ozment and  
19 Mr. Grove. I know this is a matter of a lot of emotions  
20 involved. I will excuse Mr. Grove, your client and the -- his  
21 supporters at this time and ask everybody else to remain for a  
22 few minutes until they get on the elevator. And we'll wait  
23 just a few minutes, Mr. Ozment, and then I'll excuse you and  
24 the victim's family.

25 MR. OZMENT: Thank you, Your Honor.

1 (Whereupon, there is a break in the proceedings from  
2 12:39 p.m. until 1:47 p.m.)

3 THE COURT: All right. We're back on the record with  
4 regard to the matter of the State versus Scott and the motion  
5 pursuant to Section 16-11-410. The movant, Mr. Scott, was  
6 presenting the testimony that he wished to present. Mr.  
7 Grove, you may proceed.

8 MR. GROVE: Thank you, Honor, and before we begin, I've  
9 handed a copy to Mr. Ozment. I would like to approach, Your  
10 Honor, if I may, and hand you Simmons v. United States. It's  
11 a federal court case and we had briefly discussed this at  
12 sidebar prior to our lunch break regarding our client's  
13 testimony and possible Fifth Amendment issues that may arise  
14 sometime later. I did just for the purposes now want to put  
15 my position on the record regarding his testimony today and  
16 the State's potential to use that testimony later on.

17 My position would be the State's only availability to use  
18 that testimony later would be to impeach with prior  
19 inconsistent statements I suppose Your Honor could say.  
20 Simmons -- the holding in Simmons, Simmons testified at a pre-  
21 trial hearing, a Fourth Amendment suppression hearing, and  
22 that testimony was used against him later on after the  
23 suppression was denied. The Court held that -- the Supreme  
24 Court held that that testimony should not have been used  
25 against him as to guilt or innocence.

1           Certainly, it could have been used against him to  
2   impeach, but not guilt or innocence. They essentially said it  
3   created sort of a Hobson's choice where the defendant could  
4   make an effort to present a valid claim that he found and  
5   thought there was support for, but would have to do so through  
6   testimony, and that would give him the choice of pursuing that  
7   claim that he thinks he has valid grounds for versus waiving  
8   his Fifth Amendment right and that that was not something the  
9   Supreme Court was inclined to support.

10           I -- I understand Your Honor is not in a position to make  
11   a ruling one way or the other. I only put that on the record  
12   for -- for purposes of asserting my position prior to Mr.  
13   Scott's testimony.

14           THE COURT: All right. I would acknowledge that and, of  
15   course, the problem that I see -- and I'm not going to rule on  
16   whether or not he waives his Fifth Amendment rights. I just  
17   want him to be aware that down the line there could be that  
18   possibility because I think you've got a different situation  
19   in a immunity hearing where he's going to be testifying on the  
20   merits of what happened, as opposed to a suppression hearing  
21   as to whether certain evidence should be admitted because of  
22   an invalid search warrant or no search warrant or whatever the  
23   case may be.

24           Simmons apparently was a pre-trial motion for suppression  
25   of certain evidence and I'm not sure what the reason for the

1 motion for suppression, but I think there is some difference,  
2 and Simmons may be controlling and it may not, but I want Mr.  
3 -- Mr. Scott, I want you to understand and I understand that  
4 Mr. Grove wants to call you in connection with the motion that  
5 he's making on your behalf to have this Court decide that you  
6 are immune from prosecution pursuant to South Carolina Stand  
7 Your Ground law and that if I should rule against you -- and  
8 if you do testify and I should rule against you, this Court  
9 cannot advise you, will not advise you, and will not take any  
10 position on whether your testimony can be used against you in  
11 a trial and to what extent it can be used against you. Do you  
12 understand that?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: And that would -- in other words, you're  
15 taking the witness stand in this case at your own peril. Do  
16 you understand that?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: All right. Along with that warning then, I  
19 want you to understand that because I don't know what the  
20 ruling would be and I don't know how the State would intend to  
21 use your testimony at a later time. It may be that it would  
22 only be for impeachment purposes, but I do think there is a  
23 difference between a -- a hearing pursuant to Section 16-11-  
24 410 and an evidence suppression hearing because of an invalid  
25 search warrant or whatever the case may be.



1 But I want you to understand that -- that you may by  
2 taking the stand here -- I can't say this, but you may by  
3 taking the stand here may waive your Fifth Amendment rights at  
4 a trial. Do you understand that?

5 THE DEFENDANT: Okay.

6 (Whereupon, the defendant and his counsel confer.)

7 THE DEFENDANT: Yes, sir, I understand that.

8 THE COURT: You understand? All right. Thank you, sir.  
9 Yes, sir, Mr. Ozment?

10 MR. OZMENT: Your Honor, at this point I'm not prepared  
11 to argue and I think it's proper for the trial judge to have  
12 the ultimate call as the gatekeeper on this issue. One thing  
13 I would just like to point out that Your Honor may want to go  
14 -- Mr. Scott -- Mr. Scott has also given statements to law  
15 enforcement in this case which the State may intend to use in  
16 its case in chief. So certainly, even if he didn't testify at  
17 trial, those statements and the difference with what he  
18 testifies here today would in a way be impeachment evidence,  
19 and so that may be one distinction with the Simmons case. I  
20 just wanted to bring that up.

21 THE COURT: All right, fine. That's on the record.  
22 Okay, thank you. You understand, Mr. Grove, and he's willing  
23 to go forward with those -- with those caveats?

24 MR. GROVE: Yes, Your Honor. Thank you.

25 THE COURT: All right. All right, thank you. We will

WAYNE A. SCOTT, JR. - DIRECT EXAMINATION BY MR. GROVE

1 proceed. Go ahead. You may continue to present the testimony  
2 you wish to present in support of your motion, Mr. Grove.

3 MR. GROVE: Thank you. In light of that, Your Honor,  
4 we'd call Wayne Albeon Scott, Jr.

5 THE CLERK: If you can, sir, place your left hand on the  
6 Bible and raise your right hand as much as you can. Do you  
7 swear to tell the truth, the whole truth, and nothing but the  
8 truth, so help you God?

9 THE DEFENDANT: Yes, ma'am.

10 THE CLERK: Okay.

11 THE DEFENDANT: I do.

12 THE CLERK: If you will, be seated and state your full  
13 name for the record.

14 THE DEFENDANT: Wayne Albeon Scott, Jr.

15 WAYNE SCOTT, JR., being first duly sworn,  
16 testifies as follows:

17 DIRECT EXAMINATION

18 BY MR. GROVE:

19 Q: Mr. Scott, how are you? Everybody calls you Sonny; is  
20 that right?

21 A: Yes, sir.

22 Q: Do you mind if I call you Sonny now?

23 A: No, that'd be fine.

24 Q: And you know why we're here?

25 A: Yes, sir.

## WAYNE A. SCOTT, JR. - DIRECT EXAMINATION BY MR. GROVE

1 Q: And you've been sitting here and you've heard some  
2 questions and answers being given and asked by -- by different  
3 people; right?

4 A: Yes, sir.

5 Q: We're talking about Steve Springs and September of last  
6 year?

7 A: Yes, sir.

8 Q: What were you doing September 24<sup>th</sup> of 2012?

9 A: When I got up, I went to work that morning.

10 Q: Where do you work?

11 A: Larry Byrd's Painting, paint contractor.

12 Q: Okay and who were you working with?

13 A: Me and Michael and a couple more other guys that he was  
14 using that week.

15 Q: Do you remember where y'all were painting?

16 A: Yeah. It was over behind Dennis Brick off of 52.

17 Q: Okay.

18 A: I don't remember the name of the sub -- the subdivision,  
19 something Gates.

20 Q: But somewhere here locally?

21 A: Summer Gates. I'm sorry. Yeah. The name of it was  
22 Summer Gates.

23 Q: Okay, but that's -- that's somewhere here locally around  
24 here?

25 A: Yes, sir, here in Florence. Yes, sir.

## WAYNE A. SCOTT, JR. - DIRECT EXAMINATION BY MR. GROVE

1 Q: What did you -- how long did you work?

2 A: We worked about I think until about five o'clock.

3 Q: Okay. All day?

4 A: Yeah, all day. Yes, sir.

5 Q: What did you do after work?

6 A: Me and Michael got together and we was talking about  
7 going hunting and I told him that my grandson would probably  
8 go with me. So when we went by my house -- when me and him  
9 decided to go, we went by my house to get my grandson, but he  
10 decided that he wanted to go to Skate Night because it wasn't  
11 like once a month with my wife. So she -- he went with her,  
12 and me and Michael went hunting.

13 Q: Where did y'all go hunting?

14 A: We went out on Michael's property on Lazy Lane.

15 Q: Where's Lazy Lane?

16 A: Pamplico.

17 Q: Okay. I'm not going to hold you to a -- to an exact  
18 amount of time, but how long did y'all hunt?

19 A: A couple hours, you know.

20 Q: And at some point, obviously, you stopped?

21 A: Yeah, yeah.

22 Q: Okay.

23 A: A few hours, yes.

24 Q: Right. What happened when y'all were done hunting?

25 A: We come out the woods and went to Michael's house and I

WAYNE A. SCOTT, JR. - DIRECT EXAMINATION BY MR. GROVE

1 was thinking about -- you know, I had some old fans and stuff  
2 at my home and I was thinking about making box -- I mean fans  
3 for my work for us to, you know, work and stuff for them  
4 houses is so hot. So I called Mr. Springs to ask him a few  
5 questions about how to go about hooking them up and all, and  
6 Mr. Springs, for some reason, he just seemed different and he  
7 went to blabbing off about his relationship with this ---

8 MR. OZMENT: Your Honor, I would object to any ---

9 A: --- young girl.

10 MR. OZMENT: --- hearsay.

11 THE COURT: Wait just a minute now. I'd be glad to hear  
12 from you if you think it's admissible, Mr. Grove.

13 MR. GROVE: Your Honor, it's a statement by a party  
14 opponent. He's the -- he's the victim in this case who is  
15 supposed to be -- the deceased is who he's referring to in  
16 this conversation with him. One, I think that it comes in  
17 under statement by a party opponent. He's certainly the  
18 person that I guess from whom the allegations extend.

19 THE COURT: How can -- how can the State refute that?

20 MR. OZMENT: Your Honor, the State is a party to this  
21 case. Mr. Springs is not a party to this case.

22 THE COURT: Yeah. The victim is not the party. The  
23 State is the party. You know, unless -- if you're proffering  
24 it under most -- admission of party opponent, the objection is  
25 sustained.

## WAYNE A. SCOTT, JR. - DIRECT EXAMINATION BY MR. GROVE

1 MR. GROVE: I beg the Court's indulgence.

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

3 Q: Don't tell me what Mr. Springs said, but you were having  
4 a conversation with Mr. Springs?

5 A: Correct.

6 Q: And at this time, you were where?

7 A: At Michael Bruce's house.

8 Q: Okay. At some point, you left Michael Bruce's house?

9 A: Correct.

10 Q: Where were you going then?

11 A: Home.

12 Q: How long do you think you were at Michael Bruce's house  
13 before you left?

14 A: Maybe fifteen, twenty minutes.

15 Q: Okay.

16 A: Not that long.

17 Q: And again, you had just finished hunting?

18 A: Yes, sir.

19 Q: Okay. So you were on your way home. How were you  
20 getting there?

21 A: Mr. Michael Bruce.

22 Q: You rode in his vehicle?

23 A: Yes, sir.

24 Q: What kind of -- what kind of vehicle?

25 A: He's got a Charger.

WAYNE A. SCOTT, JR. - DIRECT EXAMINATION BY MR. GROVE

- 1 Q: Okay and on the way home, you're having a continued  
2 conversation with Mr. Springs?
- 3 A: Well, off and on.
- 4 Q: And again, don't yet ---
- 5 A: Yeah.
- 6 Q: --- yet tell me what he said to you.
- 7 A: Like I said, off and on, off and on like ---
- 8 Q: What do you mean off and on?
- 9 A: I had to keep hanging up on him because he was just  
10 cussing me and steady calling me and stuff.
- 11 Q: Okay. He'd called you?
- 12 A: Yeah.
- 13 Q: You mean when you say he called you, you mean he -- he  
14 called you from his phone to your phone?
- 15 A: Yes, sir.
- 16 Q: You got an idea as to how many times?
- 17 A: It was two or more.
- 18 Q: Okay.
- 19 A: It was two or more I mean.
- 20 Q: How far away is Pamplico, Lazy Lane which is where you  
21 were hunting, from your house?
- 22 A: Twenty minutes. Twenty -- twenty-five minutes.
- 23 Q: And -- and in that twenty minutes or so, how much of that  
24 time do you think you were having a conversation with Mr.  
25 Springs?

WAYNE A. SCOTT, JR. - DIRECT EXAMINATION BY MR. GROVE

1 A: Off and on just a few minutes. It wasn't -- really it  
2 wasn't long conversations. They were short conversations.

3 Q: And you said he -- he called you several times?

4 A: Yes, sir.

5 Q: And how did the conversations end for him to call you  
6 again?

7 A: Me hanging up the phone on him.

8 Q: Okay.

9 MR. GROVE: I beg the Court's indulgence.

10 THE COURT: Mm-hmm.

11 Q: You've heard some testimony already from Michael Bruce  
12 about a conversation with Mr. Springs; is that correct?

13 A: Yes, sir.

14 Q: Did you hear what Michael Bruce said to Mr. Springs while  
15 they were on the phone?

16 A: Yes, sir.

17 Q: At any point in your conversation with Mr. Springs, did  
18 he threaten you?

19 A: Yes, sir.

20 Q: Okay. What did he say?

21 A: Because every time he called, he was threatening to beat  
22 us, beat me and Michael. I don't know what ---

23 MR. OZMENT: Your Honor, I object to hearsay again.

24 THE COURT: All right. I'm going to allow that to --  
25 just to the issue here, I'm going to hear what he has to say.



## WAYNE A. SCOTT, JR. - DIRECT EXAMINATION BY MR. GROVE

1 Objection is overruled.

2 Q: Go ahead.

3 A: He -- he threatened me and Michael about beating us and  
4 stuff. Really it just didn't seem like Steve. I didn't  
5 really know what was wrong with him, you know, but it just  
6 didn't seem like him to be that type of guy.

7 Q: His comments to you were ---

8 A: Yeah, about he was -- he was going -- whenever he seen  
9 us, he was going to beat us.

10 Q: Okay.

11 A: Both.

12 Q: And he made those comments directly to you?

13 A: Yes, sir.

14 Q: And he made those comments to Mr. Bruce?

15 A: Yes, sir.

16 Q: And at some point, you got home?

17 A: Yes, sir.

18 Q: Michael Bruce dropped you off at your house?

19 A: Yes, sir.

20 Q: Did he stay with you?

21 A: For a few minutes. I tried to get in the house and, you  
22 know, we was just carrying on a short conversation while I was  
23 trying to get in the house and realized the house was locked  
24 up. So I went there. I still had my gun on my shoulder, you  
25 know, because it had a strap on it on one shoulder and ---

## WAYNE A. SCOTT, JR. - DIRECT EXAMINATION BY MR. GROVE

1 Q: Let me stop you real quick. You said you were trying to  
2 get in your house?

3 A: Yeah, it was locked.

4 Q: And you weren't able to?

5 A: No.

6 Q: Why not?

7 A: It was -- it was locked and my wife had my keys in the  
8 truck.

9 Q: Why did your wife have the keys?

10 A: Because I'd left them in my truck.

11 Q: And your wife had the truck?

12 A: And my wife had the truck going to the skating rink.

13 Q: So after you realized you could not get in your house,  
14 what did you do?

15 A: I walked out to the office to check her office to see if  
16 it was locked where I could put my gun up and which it was  
17 locked, too. So I just sat down on the -- just sat there on  
18 the porch, just sat -- just sat down.

19 Q: Now, describe this office for me?

20 A: It's a ten by ten office. It has like a six by six  
21 little platform out with one step.

22 Q: So if you're -- if you're sitting on the -- on the little  
23 landing area that you've heard talked about before ---

24 A: I was sitting on the step.

25 Q: If you're sitting there, your feet are on the ground?

## WAYNE A. SCOTT, JR. - DIRECT EXAMINATION BY MR. GROVE

1 A: Yes, sir.

2 Q: You're not -- you're not very high up? It's not on ---

3 A: No, two by six.

4 Q: It's not an elevated platform, it's right there at the

5 ground.

6 A: No.

7 Q: And so you sat there after you realized you couldn't get

8 in the house?

9 A: Yeah, and then Michael said, well, I'll see you later.

10 Q: Okay.

11 A: I said, well, I'm just going to sit here until my wife

12 gets here.

13 Q: And you -- I guess at that point you just waited on

14 Gloria to get home?

15 A: Yeah, I was waiting on her to get home.

16 Q: What happened after that?

17 A: A white van come down the dirt road and I realized who it

18 was and I was like, oh no, you know. I know he ---

19 Q: Let me stop you right there. You say a white van came

20 down the road?

21 A: Yes, sir.

22 Q: And you realized who it was?

23 A: Yes, sir.

24 Q: Who was it?

25 A: Steve Springs.

## WAYNE A. SCOTT, JR. - DIRECT EXAMINATION BY MR. GROVE

1 Q: Okay.

2 A: Then he whipped up in my yard kind of fast. He pulled up  
3 rather close ---

4 Q: Okay.

5 A: --- to me. I'd say anywhere from five to seven feet away  
6 from me. Yeah, between five and eight -- eight feet I'd say  
7 away from me.

8 Q: Okay, but ---

9 A: And I ---

10 Q: --- as far away as you and I are now?

11 A: Right.

12 Q: Okay.

13 A: He had his headlights on and he jumps out the van. He  
14 cuts the van off and jumps out the van and goes to cussing me  
15 and stuff about what I was going to do and what I was going to  
16 tell my wife and all this, and I was like, man, I thought we  
17 was friends, you know. Why are you doing this? Oh, this,  
18 that and the other and all this here, and I -- I was like,  
19 man, the best thing for you to do is -- and we'll talk about  
20 it later, is get back in your van and please leave. Several  
21 times I asked him to please leave and then at the end ---

22 Q: Let me stop you right there. When was the -- when was  
23 the last time you had seen Steve at your house before then?

24 A: Maybe a few months.

25 Q: So was it unusual for him to have been at your house?

WAYNE A. SCOTT, JR. - DIRECT EXAMINATION BY MR. GROVE

1 A: Yes, sir, because he was asked not to come up there.

2 Q: Okay and you -- you asked him to leave?

3 A: Yes, sir.

4 Q: And then what happened?

5 A: Then he got more or less outrageous about it I reckon

6 because I -- I didn't want nothing to do with the situation

7 though he was getting mad with me because I told him I didn't

8 care what happened between them, you know. I didn't want

9 nothing to do with the situation that they was having.

10 Q: When you say I don't care what happened, what -- I don't

11 care what happened between them, who is them?

12 A: It would be him and Crystal or Gloria, any of them.

13 Q: Okay. Essentially, this is their business and not yours?

14 A: Right. I ---

15 Q: Okay.

16 A: It's my stepdaughter I mean. As long as my grandkids was

17 fine, I didn't care what they done.

18 Q: Right.

19 A: I didn't like the idea, but I didn't care what they done.

20 Q: Sure. You're still seat -- sittid down at this point?

21 A: Yes, sir.

22 Q: Okay. After you asked him to leave, what then?

23 A: He kept getting more irate and irate and irate, and he

24 was standing there with his hand on the door and then

25 eventually he said -- I said the best thing for you to do is

## WAYNE A. SCOTT, JR. - DIRECT EXAMINATION BY MR. GROVE

1 leave and he said no. He said better than me telling you, he  
2 says, I'll show you. And I was like, man ---

3 Q: And then what happened?

4 A: And then like, man, you know, go on and just leave me  
5 alone, you know, and he said, no, just because you've got that  
6 gun laying in your lap, you think I'm f'ing scared of you. He  
7 said I'll take it and wrap it around your f'ing neck. And I  
8 said, Steve, you know, we're supposed to be friends. Come on  
9 now, you know, it ain't got to go to this, and then he come  
10 around the door at -- you know, in a -- what would I say in a  
11 threatening way.

12 Q: You felt threatened?

13 A: Yes, sir, highly threatened.

14 Q: What happened then?

15 A: I just picked the gun up, pointed it at him, and pulled  
16 the trigger.

17 Q: How many times did you fire that gun?

18 A: One time.

19 Q: Do you know if it hit him?

20 A: I didn't know for sure whether he was faking and stuff or  
21 whether it really hit him.

22 Q: Okay. How far away do you think he was when you fired  
23 that shot?

24 A: Five feet, six feet, five.

25 Q: Okay.

## WAYNE A. SCOTT, JR. - DIRECT EXAMINATION BY MR. GROVE

- 1 A: I'd say five.
- 2 Q: About as far away as you and I are now?
- 3 A: No, closer.
- 4 Q: Okay.
- 5 A: It was closer than that.
- 6 Q: What -- what did he do after he was shot?
- 7 A: He fell on the ground and he rolled around and fell on
- 8 the ground and I heard him say one thing. That was help me.
- 9 And I was more or less in shock about what just happened and I
- 10 don't know. I reckon it's just a habit, but I took the shell
- 11 out the gun and I had it in my hand and I breeched the gun
- 12 back ---
- 13 Q: Let me stop you right there. This -- this gun, what kind
- 14 of gun was it?
- 15 A: A thirty ought six high-powered rifle.
- 16 Q: Is that a bolt action?
- 17 A: Yes, sir.
- 18 Q: So it's just one -- one shell at a time?
- 19 A: Yes, sir.
- 20 Q: And you have to rack it back to get the shell out?
- 21 A: Correct.
- 22 Q: Okay.
- 23 A: And ---
- 24 Q: And just you said out of habit -- sorry I interrupted
- 25 you. Out of habit, you took the shell out?

WAYNE A. SCOTT, JR. - DIRECT EXAMINATION BY MR. GROVE

1 A: Right. I had it in my hand. I took the gun and got up  
2 and I walked back to the back of the shed. I was like I  
3 didn't know what to do and I was trying to call my wife, but I  
4 was dialing either Michael's or Larry's number not meaning to  
5 because, you know, I was pretty much shook up. I was in  
6 shock, you know. I didn't know.

7 Q: Right.

8 A: I didn't know what -- what to do.

9 Q: Right.

10 A: You know what I mean? And I was really scared and I took  
11 the gun and ended up behind -- behind the office. I said,  
12 well, I've got to get out of here. I've got to go find  
13 somebody to help me figure out what's what. I don't know what  
14 to do, you know.

15 Q: Right.

16 A: I didn't -- I was just that shook up.

17 Q: Let me stop you right there. Eventually, were you able  
18 to get a hold of your wife?

19 A: Yes, sir.

20 Q: Did she eventually come up?

21 A: Yes, sir.

22 Q: And it's your understanding she called 9-1-1?

23 A: Right. Well, when I talked to her, she said stay there,  
24 and I said, no, I'm going to Carl's.

25 Q: When you -- and Carl is a neighbor of yours?



## WAYNE A. SCOTT, JR. - DIRECT EXAMINATION BY MR. GROVE

- 1 A: Yes, sir, a good friend of mine.
- 2 Q: How far away do you think his house is from yours?
- 3 A: A hundred yards, a hundred and fifty yards.
- 4 Q: Is he the next house over?
- 5 A: No, sir. There's one behind me. Mr. Watson's is behind
- 6 me and then on across the dirt road is Carl Munn's.
- 7 Q: So right there behind your house?
- 8 A: Yeah. I mean it's on the -- on the same dirt road.
- 9 Q: And it's in a fairly rural area?
- 10 A: Yes, sir.
- 11 Q: The houses aren't stacked on top of each other?
- 12 A: No, no, no. And I had the gun out. Mr. Watson come over
- 13 -- come over and wanted to know was that me that shot and I
- 14 said yeah, my gun had a bullet in it that just hung up because
- 15 I didn't want him involved, you know. I didn't see no use for
- 16 him being involved and all, and he's ---
- 17 Q: Let me stop you right there.
- 18 A: Okay.
- 19 Q: So your -- your initial contact with him was not to tell
- 20 him exactly what was going on?
- 21 A: No.
- 22 Q: Okay and eventually, did you fill him in on what had
- 23 happened?
- 24 A: Not all of it. I just said I'd shot him. I was just in
- 25 shock and I said I shot him. He said shot who and I said

## WAYNE A. SCOTT, JR. - DIRECT EXAMINATION BY MR. GROVE

1 Steve.

2 Q: Would -- would he have known who Steve was?

3 A: Yeah, I reckon. He seen his van over there, yeah.

4 Q: Right and again, Steve came to your house?

5 A: Yeah.

6 Q: Made threats to you?

7 A: Yes, sir.

8 Q: And you were threatened by him?

9 A: Yes, sir, highly threatened.

10 MR. GROVE: I don't have any further questions at this  
11 time.

12 THE COURT: Mr. McNair -- I mean Mr. Ozment, excuse me.

13 MR. OZMENT: Thank you, Your Honor.

14 CROSS EXAMINATION

15 BY MR. OZMENT:

16 Q: How long have you worked that day, Mr. Scott? How long  
17 had you worked that day?

18 A: About eight hours. Eight hours.

19 Q: About eight hours?

20 A: Between seven and a half and eight hours.

21 Q: What time did you go in?

22 A: It was like eight thirty, quarter to nine, something like  
23 that.

24 Q: Had you been drinking at all that day?

25 A: You mean while I was working? No, sir.

## WAYNE A. SCOTT, JR. -CROSS EXAMINATION BY MR. OZMENT

- 1 Q: What about while you were hunting?
- 2 A: No, sir.
- 3 Q: Okay. On the way home anytime?
- 4 A: Yes, sir. I drank a beer at Michael's.
- 5 Q: How many?
- 6 A: Just one.
- 7 Q: Did you have any beer with you while you were sitting on
- 8 the front porch?
- 9 A: Yes, sir.
- 10 Q: How many did you have then?
- 11 A: I had two. No, excuse me, I had three.
- 12 Q: After -- when did you come up with the idea about getting
- 13 the fans for the houses you were working in?
- 14 A: While I was back there hunting.
- 15 Q: While you were back there hunting?
- 16 A: Yes, sir.
- 17 Q: Tell me about what was your idea?
- 18 A: What's my idea?
- 19 Q: Yeah. What were you going to do with these fans?
- 20 A: I was going to mount them on like boards and use them in
- 21 them houses where we'd have some air to circulate because them
- 22 new houses, there ain't no air conditioning, you know, or
- 23 nothing to keep the air circulating.
- 24 Q: Okay.
- 25 A: Yes, sir.

## WAYNE A. SCOTT, JR. -CROSS EXAMINATION BY MR. OZMENT

1 Q: Did you tell Michael about your idea? Did you ---

2 A: No. I mean ---

3 Q: --- mention something to him about it?

4 A: --- afterwards, yeah. I mentioned something to him  
5 afterwards because he was like, you know, air conditioning? I  
6 said, yeah, I was just going to ask him about, you know, fans  
7 and that's the reason I told him -- I said, I don't know why  
8 he's acting like this. Not -- you know, I don't know why  
9 Steve was acting like that. Steve had never acted like that  
10 before. We was considered as friends, you know.

11 Q: Okay.

12 A: I mean up until the day it happened, we was considered as  
13 friends, you know, and we hadn't never had no conflict or  
14 nothing. We always talked to each other, you know, called  
15 each other, joked, cut fool on the phone, you know.

16 Q: Okay.

17 A: We'd see each other on jobs. We always spoke. Like I  
18 said, I didn't want nothing to do with the situation.

19 Q: So the first time he threatened you was when you were in  
20 -- on the phone -- on the phone driving back; is that right?

21 A: In the yard. In Michael's yard when ---

22 Q: Oh, okay, but on the phone is what I'm asking?

23 A: Oh, yeah.

24 Q: Okay. Did you take that to be a real threat?

25 A: At that time?

## WAYNE A. SCOTT, JR. -CROSS EXAMINATION BY MR. OZMENT

1 Q: Yes, sir.

2 A: Yeah, in a way, but, you know, I didn't -- like I said, I  
3 ain't never heard Steve cuss like that. I thought he was a  
4 good church-going guy, you know, and everything, but then I  
5 got to thinking about that thing and I was like, yeah,  
6 something's wrong here, you know. I didn't know what the  
7 reason was, you know, but when he called me back and started,  
8 you know, cussing back at me again and all, yes, sir, I felt  
9 really threatened.

10 Q: Did you think he was going to come over to your house?

11 A: I didn't think he was ---

12 Q: Okay.

13 A: --- because he knowed he wasn't allowed in my yard. He  
14 was asked -- well, he was asked not to come to my house  
15 several times, you know, since he was dating my stepdaughter.

16 Q: You weren't expecting him that night?

17 A: No.

18 Q: Okay.

19 A: No.

20 Q: How long had you been sitting there between the time  
21 Michael left your house and Steve rolled up?

22 A: Ten -- fifteen minutes maybe, if that.

23 Q: You said Steve drove in kind of fast?

24 A: Yes, sir. You know, like he was angry because usually he  
25 just creeps down the dirt road, you know, because he knows we

## WAYNE A. SCOTT, JR. -CROSS EXAMINATION BY MR. OZMENT

1 got kids and stuff that play around there.

2 Q: Did he get out of the car fast like he was angry?

3 A: Yeah. Yes, sir.

4 Q: Okay.

5 A: He got out like he was angry.

6 Q: Did he leave the door open or did he close it?

7 A: He had the door open.

8 Q: How long did y'all kind of have words back and forth?

9 A: It wasn't very long. I mean really I can't -- I can't  
10 give you an exact time, you know.

11 Q: I'm not ---

12 A: Maybe, you know, three minutes is a long time. I mean,  
13 you know ---.

14 Q: Okay.

15 A: --- if you think about it.

16 Q: Not -- not ten minutes?

17 A: No, it weren't no ten minutes, no.

18 Q: Longer than one minute?

19 A: Yeah, it was longer than one minute. Yes, sir.

20 Q: At what point did you start getting kind of scared?

21 A: Practically when he first pulled up and started at me and  
22 the way he jumped out of the truck. That's been at the point  
23 I was asking him if he would please leave, you know, not  
24 really being loud, not being obnoxious toward him now. You  
25 know, like I said, we was supposed to have been friends. I

WAYNE A. SCOTT, JR. -CROSS EXAMINATION BY MR. OZMENT

1 was just politely asking him to leave and then it got louder  
2 and louder and louder, you know, back and forth and then I was  
3 like, you know, you need to go.

4 Q: Okay.

5 A: Yeah.

6 Q: And he didn't leave?

7 A: No, sir.

8 Q: At what point did he come at you? I mean what -- what --  
9 what triggered that?

10 A: It's when he told me -- well, I reckon when I told him  
11 that -- well, when he told me that he'd wrap my gun around my  
12 neck and I just told him that wasn't no good idea and that's  
13 when he told me I will show you. I ain't telling you no more;  
14 I will show you. And that's when he come around the door.

15 Q: Was your gun already loaded?

16 A: Yes, sir. I got a bad habit of not taking the bullet out  
17 the barrel.

18 Q: How many bullets will that gun hold?

19 A: It will hold five, four in the chamber and one in the  
20 barrel, but I don't think there was like three in it. I ain't  
21 -- I ain't exactly sure. It was either three or four in it.  
22 It wasn't fully loaded, no, sir.

23 Q: Okay. I'm assuming you hadn't killed a deer that day?

24 A: No, sir.

25 Q: When he started coming at you, what did -- what did you

## WAYNE A. SCOTT, JR. -CROSS EXAMINATION BY MR. OZMENT

1 think he was going to do?

2 A: I didn't know. I knowed he was coming to hurt me. I  
3 mean I had the fear that he was coming to hurt me. So I -- I  
4 just, you know -- I couldn't get up and run from the position  
5 I was sitting in.

6 Q: Did he have a weapon of any kind?

7 A: No, I don't think so. I'm not -- actually, it was dark  
8 and I'm not sure if he had one or not.

9 Q: Did you see one?

10 A: No, sir. Like I said, it was dark. All the lights was  
11 off.

12 Q: He didn't act like he had a gun or anything?

13 A: I don't remember. No, he just -- when he come around the  
14 door, he come around the door in a lunge. He didn't walk  
15 around the door. He didn't just walk around. He come around  
16 the door in a lunge -- in a -- in a fast motion.

17 Q: So let me clarify. When y'all are having words, is he  
18 still then behind the door?

19 A: Yeah.

20 Q: Okay. So let's say this is the van and this is the van  
21 door.

22 A: Mm-hmm.

23 Q: When y'all are having words, he's still behind the door?

24 A: Well, right at the edge of the door. Yeah, there you go.

25 Q: So this is the van ---



WAYNE A. SCOTT, JR. -CROSS EXAMINATION BY MR. OZMENT

1 A: If that's the door open right there, he's got his hand on  
2 the side of the door.

3 Q: Okay.

4 A: Right between the door and my fence.

5 Q: And did he kind of slowly come towards you or ---

6 A: No.

7 Q: --- did he all at once ---

8 A: No. He all at once came.

9 Q: From where the door was open?

10 A: Yes, sir.

11 Q: Okay. Does the van have a light on the inside?

12 A: I -- I don't remember. I'm pretty sure it did, but I  
13 can't remember.

14 Q: Okay. So there was some light -- you're not sure, but it  
15 may have been some light?

16 A: I think there was a light in there.

17 Q: Okay.

18 A: I don't -- you know, can't swear to it, but I think there  
19 was. But I ain't sure that it was a light that stays on, you  
20 know.

21 Q: You -- you can't remember, but there may have been?

22 A: Right, right.

23 Q: Okay.

24 A: Yes, sir.

25 Q: How far did he get to you before you pulled the trigger?

## WAYNE A. SCOTT, JR. -CROSS EXAMINATION BY MR. OZMENT

- 1 A: Four foot -- five foot -- four foot.
- 2 Q: So I'm going to walk towards you. You tell me when to
- 3 stop.
- 4 A: Okay. About right there.
- 5 Q: About right here? Okay.
- 6 A: Maybe a little closer.
- 7 Q: Right here?
- 8 A: Yes, sir.
- 9 Q: Somewhere in here?
- 10 A: Yes, sir.
- 11 Q: Okay and when he was that close, you still don't know if
- 12 you saw a weapon on him or not?
- 13 A: Well, being I was looking more at his face than I was at
- 14 any hands or anything else, you know.
- 15 Q: All right.
- 16 A: And actually, he was swinging his hands. I mean not
- 17 fists at me, but, you know, side to side. You know how people
- 18 are when they're angry.
- 19 Q: Well, he was a big guy; right?
- 20 A: They -- yes, sir.
- 21 Q: I mean a big guy running is going to have arm movement?
- 22 A: Yeah. He wasn't running, but you know what I'm saying.
- 23 He was like, you know, moving his -- he was moving his hands.
- 24 Q: Okay.
- 25 A: Yes, sir, and it was dark out there. My porch light

## WAYNE A. SCOTT, JR. -CROSS EXAMINATION BY MR. OZMENT

1 wasn't on or my -- her office light wasn't on at this time.

2 Q: How long have you known about Steve and Crystal?

3 A: Not -- not really very long because I mean I've heard  
4 things, rumors about it. I mean they was just rumors,  
5 hearsay, you know. You know, that's their problem. They're  
6 grown, you know. As long as they don't interfere with my  
7 grandbabies, I -- it didn't bother me none because I even got  
8 to see my grandbabies more often.

9 Q: Well, when you and Sonny -- excuse me. When you and  
10 Steve were arguing, was some of that about ---

11 A: Mm-hmm.

12 Q: --- that little situation with Crystal and your  
13 grandkids?

14 A: Yeah. Well, not really grandkids, no, but about me  
15 telling my wife this and that and he was going to make the  
16 grandkids or something call him daddy or something. I mean,  
17 you know, it was just back and forth all, you know, short ---

18 Q: So y'all were arguing about that stuff?

19 A: More or less.

20 Q: Yeah.

21 A: Yeah. That was what the whole situation was about.

22 Q: Okay. Had y'all argued about this before?

23 A: No, sir. We never had an argument until that night.  
24 Like I said, I considered us as friends. I didn't -- you  
25 know, I didn't even want that to be involved with our

## WAYNE A. SCOTT, JR. -CROSS EXAMINATION BY MR. OZMENT

1 friendship.

2 Q: After you fired the shot, how long until -- George was  
3 the first person you saw after you shot him, right?

4 A: Yes, sir.

5 Q: About how long was it until you saw George?

6 A: Two -- three minutes at the most. You know, like I say,  
7 time -- you say two or three minutes sounds like a short time,  
8 but actually it's not.

9 Q: I understand. I mean I'm sure in that situation time is  
10 hard to judge; isn't it?

11 A: Yes, sir. Yes, sir.

12 Q: I understand. When George -- what -- did you give George  
13 your gun?

14 A: No, sir.

15 Q: At any point?

16 A: No, sir.

17 Q: Where did you put your gun?

18 A: Laid it up behind the building.

19 Q: And that's where you left it?

20 A: Yes, sir.

21 Q: Did George take the gun from there?

22 A: I suppose so. I didn't see him take the gun.

23 Q: Did you talk to George about the gun?

24 A: Sir?

25 Q: Did you talk to George about the gun?

WAYNE A. SCOTT, JR. -CROSS EXAMINATION BY MR. OZMENT

1 A: George mentioned something about the gun and I told  
2 George not to worry about that gun, that the law was going to  
3 get it anyway because I wasn't running from the law. I reckon  
4 he had the impression that he wanted to take the gun. I told  
5 him leave the gun there, that the law was going to get the gun  
6 and it didn't matter what because I was going to tell them  
7 where it was it.

8 Q: Okay.

9 A: Because I had no reason to run, you know.

10 Q: Okay.

11 A: I mean I was upset and in shock and I left the scene. I  
12 admit that, but as far as running from the law, no, sir, I  
13 didn't. But -- no, I didn't -- I didn't ask George to take  
14 the gun, no, sir.

15 Q: Okay. Did you go to your boat at any point?

16 A: / No, sir.

17 Q: So you -- you were around the house. You talked to  
18 George. Is the next place you went over to Carl's?

19 A: Yes, sir.

20 Q: Did you go back around to the front of the office where  
21 you'd shot him and he was still laying? Did you go back ---

22 A: No, sir.

23 Q: --- over there at all?

24 A: No, sir.

25 Q: Did you go check on Steve or anything like that?

WAYNE A. SCOTT, JR. -CROSS EXAMINATION BY MR. OZMENT

1 A: No, sir. I wasn't going back around there. Like I said,  
2 I was more or less in shock. I was upset, you know, about it  
3 happening and all. No.

4 Q: Did you think about calling the law? Calling an  
5 ambulance?

6 A: Yes, sir, but matter of fact, I asked -- asked George if  
7 he could call them. I was so shook up at the time. Like I  
8 said, I was trying to call my wife and, matter of fact, I was  
9 dialing numbers that wasn't even hers and I don't even  
10 remember how many times I done that before I did get in  
11 contact with her and I told her I was going to Carl's and to  
12 meet me up at Carl's. She said she'd be there in just a short  
13 time and when she got there, I come out the house and got in  
14 the truck and we went back to my house and I walked -- from  
15 where we pulled up beside the office and I got out. Matter of  
16 fact, I didn't even look that way at -- at Steve. I just  
17 walked right on in the house. I mean I was still like I  
18 couldn't believe it happened, you know.

19 Q: Did you -- when you were over at Carl's, did George come  
20 over?

21 A: I -- yeah.

22 Q: Okay.

23 A: Yeah. Like I said, he come over and brought my gun.

24 Q: Okay. Was that -- was he there before your wife or after  
25 your wife or do you remember?

WAYNE A. SCOTT, JR. -CROSS EXAMINATION BY MR. OZMENT

- 1 A: I don't know. I think after. I ain't sure.
- 2 Q: How long once you got back to your house before the law  
3 get there?
- 4 A: It was a very short time.
- 5 Q: Do you remember talking to the law about this?
- 6 A: Yes, sir.
- 7 Q: Did you tell them what happened?
- 8 A: Yes, sir.
- 9 Q: Did you tell them the truth?
- 10 A: Yes, sir.
- 11 Q: Where were you when you talked to the law about it and  
12 told them what happened?
- 13 A: Standing almost in front of Steve's van, and they asked  
14 me where I was sitting and what happened, and I told them the  
15 man tried to attack me. That's what come to the -- that's  
16 what happened.
- 17 Q: You said this is a thirty ought six?
- 18 A: Yes, sir.
- 19 Q: High powered rifle?
- 20 A: Yes, sir.
- 21 Q: Remington?
- 22 A: Yes, sir.
- 23 Q: Do you remember what kind of ammunition it was?
- 24 A: 150 grain Core-Lokt.
- 25 Q: Where did you get this gun?

## WAYNE A. SCOTT, JR. -CROSS EXAMINATION BY MR. OZMENT

1 A: Sir?

2 Q: Where did you get the gun?

3 A: Walmart several years ago.

4 Q: How many?

5 A: I don't know. I probably had the gun probably ten --

6 right at ten years probably.

7 Q: Did you own other firearms? Do you own other firearms?

8 A: Yeah.

9 Q: About how many?

10 A: I think three or four more.

11 Q: Are they all rifles? Shotguns?

12 A: No, sir. One of them is a shotgun and the other one is a

13 rifle.

14 Q: Okay.

15 A: And I own a bunch of pellet guns.

16 Q: Okay.

17 A: Pellet guns and BB guns for my grandson.

18 Q: Mr. Scott, do you know if you can lawfully own a firearm?

19 A: Yeah. I mean I hadn't never signed a gun law.

20 Q: Are you a convicted felon?

21 A: Yeah, but I ain't never signed a gun law.

22 Q: How are you a convicted felon?

23 A: I got caught for manufacturing marijuana.

24 Q: When was that?

25 A: In 2000 -- 2000, 2001 or '02. I ain't exactly sure.



## WAYNE A. SCOTT, JR. -CROSS EXAMINATION BY MR. OZMENT

1 It's been so long ago.

2 Q: I understand. Do you remember what your sentence was?

3 A: Probation. It was paid off within twenty-four hours so I  
4 mean I don't ---

5 Q: Okay.

6 A: It was paid off the next day or the day before -- day  
7 after. So it was a ---

8 Q: Do you ---

9 A: --- short ---

10 Q: Do you remember what the maximum penalty was for that  
11 when you ---

12 A: No, sir.

13 Q: Okay. Did you plead guilty or you went to trial?

14 A: I just pleaded guilty. I pleaded guilty to it.

15 Q: Was that up here?

16 A: Yes, sir. Here in Florence County, yes, sir.

17 Q: Do you remember signing a sentencing sheet before you  
18 pled guilty? Signing a piece of paper that had your name on  
19 it?

20 A: I don't remember. I don't remember.

21 Q: If I told you you signed one, would you recognize your  
22 signature on it?

23 A: Yeah.

24 MR. OZMENT: May I approach, Your Honor?

25 THE COURT: Yes, sir.

## WAYNE A. SCOTT, JR. -CROSS EXAMINATION BY MR. OZMENT

1 Q: Mr. Scott, I'm handing you your sentencing sheet. Is  
2 that your signature there?

3 A: Yes, sir.

4 Q: And you would agree with me that says manufacturing MJ  
5 right there?

6 A: Mm-hmm.

7 Q: All right.

8 A: Does it say about the gun law on it?

9 Q: Well, I'm just -- right -- I'm just asking you if this is  
10 ---

11 A: Yeah.

12 Q: This is the sentencing sheet and this is what you pled  
13 guilty to; right?

14 A: Yes, sir.

15 Q: Okay.

16 MR. OZMENT: No further questions at this time, Your  
17 Honor.

18 THE COURT: Redirect?

19 MR. GROVE: Briefly, Judge.

20 REDIRECT EXAMINATION

21 BY MR. GROVE:

22 Q: Sonny, when that van is parked in front of you, Mr.  
23 Ozment was asking about where Steve was standing.

24 A: Mm-hmm.

25 Q: Right? And you said basically if this is the van, it's

WAYNE A. SCOTT, JR. -REDIRECT EXAMINATION BY MR. GROVE

1 pointed right at you and if -- and if the door is open, he's  
2 standing right here in front of the door?

3 A: Right. Yes, sir. At the edge of the door, you know,  
4 where the rail runs across with his hand on the door.

5 Q: How much of him could you see? Some? Most?

6 A: Well, no, not really at first, not until he come around  
7 the door. I mean he was standing there and just had his hand  
8 on the door, you know.

9 Q: Right, but he had the door between?

10 A: But he was doing all the talking. Yes, sir. If I ain't  
11 mistaken, the window was rolled down.

12 Q: He had the door between the two of you?

13 A: Uh-huh. I think the window was rolled down. I can't  
14 swear to it.

15 Q: And Mr. Ozment earlier was testifying -- you were  
16 answering questions about his arms moving ---

17 A: Right. Yes, sir.

18 Q: --- as he was coming at you?

19 A: He had it coming at me.

20 Q: And he's a big fellow?

21 A: Yeah.

22 Q: How big do you think Steve is?

23 A: He's probably 240 to 260.

24 Q: Is he taller than you?

25 A: Yes, sir.

## WAYNE A. SCOTT, JR. -REDIRECT EXAMINATION BY MR. GROVE

1 Q: Is he bigger around than you?

2 A: Yes, sir.

3 Q: How tall are you?

4 A: Five -- five ten, if that. Five eight.

5 Q: How much do you think you weigh?

6 A: At that time, I weighed 131 pounds when I got locked up.

7 Q: You fired this shot when Steve was walking at you?

8 A: Coming at me, yes.

9 Q: Or coming at you?

10 A: He was coming at me. He wasn't walking though.

11 Q: How -- how did you hold the gun?

12 A: It was laying in my lap and I just picked it up. It was  
13 still laying in my lap. The gun wasn't picked up and aimed,  
14 no.

15 Q: You didn't -- you didn't pick it up and put it on your  
16 shoulder?

17 A: No. No, sir.

18 Q: You didn't ---

19 A: I just turned the gun toward him and pulled the trigger,  
20 yes, sir, to stop him.

21 MR. GROVE: I don't have any further questions. Thank  
22 you.

23 THE COURT: Mr. Ozment?

24 MR. OZMENT: No recross, Your Honor.

25 THE COURT: All right. Thank you, sir. You may step

1 down.

2 (Whereupon, the witness leaves the stand at 2:31 p.m.)

3 MR. GROVE: Your Honor, that would conclude the defense's  
4 presentation of facts.

5 THE COURT: All right. All right, counsel, it's my view  
6 that I would hear from you at this point. I think it would be  
7 appropriate to hear from, Mr. Grove, with regard to why you  
8 think the Act applies in this case and I'll give Mr. Ozment a  
9 chance to reply and then, if necessary, we can take testimony  
10 from the -- from the State, but let me hear why you think that  
11 the Stand Your Ground statute applies.

12 MR. GROVE: Thank you, Your Honor, may it please the  
13 Court. You've heard testimony from three witnesses: a  
14 gentleman who was with the witness in the moments leading up  
15 to this incident -- or the defendant leading up to this  
16 incident, the defendant's wife who was with him in the moments  
17 after this incident, and obviously the defendant himself.

18 16-11-410, the Protection of Persons and Property Act,  
19 provides for immunity from prosecution for those people who  
20 can show to the Court that they were in their home, in their  
21 car, at their business, and they're afforded a -- a  
22 presumption of being in reasonable fear of their life if they  
23 are inside any of those places and a break-in occurs.

24 But the Protection of Persons and Property Act doesn't  
25 confine itself to those -- those incidents. It also provides

1 for any person who is not engaged in an unlawful activity, and  
2 now I am looking at 16-11-440(c) specifically.

3 THE COURT: Are you relying on (a) or (c)?

4 MR. GROVE: I beg the Court's indulgence. I -- Your  
5 Honor, he is not inside his residence, he is not inside a  
6 vehicle, or in his place of business. I'm not relying on (a)  
7 to the extent that it requires that a presumption be afforded  
8 to a person who is inside one of those places while a break-in  
9 is occurring.

10 THE COURT: It also requires that -- yeah, that -- that  
11 break-in must be -- he must be using the process of unlawfully  
12 and forcefully entering.

13 MR. GROVE: Correct and that is -- that is not the  
14 position of the defense at all. Section (c) says a person who  
15 is not engaged in an unlawful activity and who is attacked in  
16 another place where ---

17 THE COURT: Stop right there. Who is attacked? Was he  
18 physically attacked?

19 MR. GROVE: If Your Honor will look to the end of section  
20 (c), to prevent injury -- to prevent death or great bodily  
21 injury to himself or another person or to prevent the  
22 commission of a violent crime as defined by 16-1-60. Our  
23 position is that this defense was done in an effort to prevent  
24 a violent crime from occurring.

25 THE COURT: But doesn't -- don't you have to meet the

1 requirements of the first part of that sentence? A person who  
2 is not engaged in an unlawful activity and who is attacked in  
3 another place where he has a right to be, and then it goes on  
4 to say under the circumstances what he has the right to do,  
5 but doesn't it require an attack?

6 MR. GROVE: Your Honor, I -- I -- I don't believe that it  
7 does. I don't believe that you have to wait until you are the  
8 victim of an attack to defend yourself. I don't believe that  
9 you must be assaulted and to any particular degree before you  
10 can defend yourself. If there is a reasonable expectation  
11 that a violent crime is about to occur, this statute by my  
12 interpretation affords protection to any reasonable force that  
13 is extended.

14 THE COURT: All right. All right, I understand your  
15 position. Let me hear from you, Mr. Ozment. He's not relying  
16 on Section (a) about the entering the dwelling because -- and  
17 he's not relying on that is all. He's relying on subsection  
18 (c) of 16-11 ---

19 MR. OZMENT: Yes, Your Honor.

20 THE COURT: 16-11-410(c), a person who is not engaged in  
21 an unlawful activity, but who is attacked in another place  
22 where he has a right to be, including but not limited to his  
23 place of business, has no duty to retreat and has the right to  
24 stand his ground and meet force with force including deadly  
25 force if he reasonably believes it is necessary to prevent

1 death or great bodily injury to himself or another person or  
2 to prevent the commission of a violent crime. So I'll be glad  
3 to hear from you.

4 MR. OZMENT: Yes, Your Honor, and I'm just going to take  
5 it as the sentence is read. The first thing I come across is  
6 an unlawful activity. It's the State's position in this that  
7 Mr. Scott was in violation of 18 United States Code Section  
8 921 and 922, specifically subsection (g), and I'll pass that  
9 up to the Court and I've -- Mr. Grove, I think I pulled it out  
10 of this. I don't know if he -- I've highlighted -- this is a  
11 long federal statute. I've highlighted the parts that matter.

12 And under the law in this case, Mr. Scott in the federal  
13 government's eyes is a convicted felon. That being he is  
14 convicted of a crime in state court that carried more than two  
15 years -- actually more than one year, but there's an exception  
16 in there about two years in state court. That's neither here  
17 nor there. He was convicted of a crime that's considered a  
18 felony under state law and carried a maximum of up to five  
19 years.

20 Moving on to Section 922, subsection (g), it is unlawful  
21 for him to possess a firearm or ammunition. He was in  
22 possession by his own admission of both a firearm and  
23 ammunition. So the State first would argue he was not engaged  
24 in lawful activity when this whole thing occurred.

25 Moving on to who is attacked in another place, I think



1 Your Honor was hinting with Mr. Grove, but the State's  
2 position -- Mr. Scott said he came at him. He said he didn't  
3 see any weapons. He said he didn't -- well, he said he  
4 couldn't tell, but he certainly didn't affirmatively see any  
5 weapons. He said that Mr. Springs was standing back from him  
6 and was coming towards him, but he said he wasn't running. He  
7 just said he was moving quickly. He said he was flinging his  
8 arms, but certainly the right to meet force with force, no  
9 force had been exerted at this point and certainly deadly  
10 force was then exerted by Mr. Scott. So that would be the  
11 State's position on the application of subsection (c).

12 THE COURT: All right. Reply, Mr. Grove?

13 MR. GROVE: Yes, Your Honor, if I may approach?

14 THE COURT: Yes, sir.

15 MR. GROVE: I'm handing to Your Honor State v. Burris.  
16 That is a case that is not entirely directly on point. It  
17 deals with the assertion of accident as a defense and I'll  
18 direct Your Honor's attention to page 3 of that opinion,  
19 heading 9. I'm quoting here.

20 Read together, McCaskill and Goodson stand for the  
21 proposition that a person can be acting lawfully even if he is  
22 in unlawful possession of a weapon, if he is entitled to arm  
23 himself in self-defense at the time of the shooting.

24 Essentially, Mr. Ozment's argument is because Mr. Scott  
25 has been convicted of a crime that carries more than a year,

1 he's in violation of a federal statute, thus making it  
2 unlawful for him to have ---

3 THE COURT: Well, doesn't this case stand for if he --  
4 correct me if I'm wrong, but doesn't -- and I'll -- I'll read  
5 it in a minute. But doesn't Burris stand for the fact that a  
6 person can be acting lawfully, i.e. self-defense, even if he  
7 is in unlawful possession of a weapon, and that's not --  
8 that's different from a violation of a statute.

9 MR. GROVE: Yes, Your Honor, but -- but in this case, a  
10 sixteen-year-old was in possession of a firearm.

11 THE COURT: Okay.

12 MR. GROVE: And there is a law in South Carolina that  
13 prohibits the possession of a pistol by a person under the age  
14 of twenty-one. The State's position in that case was the  
15 defendant was not entitled to a charge on accident and the  
16 Court agreed, thus later being overturned, that despite the  
17 fact that the sixteen-year-old was breaking the law by being  
18 in possession of a firearm, that was not the unlawful activity  
19 that the legislature or the Court has in mind when determining  
20 whether or not a particular charge is appropriate.

21 THE COURT: Now, of course, that case predates the Stand  
22 Your Ground law.

23 MR. GROVE: It does, Your Honor, but my argument would be  
24 that the logic is still the same. Mr. Ozment's position is  
25 that the unlawful activity that Mr. Scott was engaging in was

1 the possession of a firearm, and in this case it says that --  
2 that's not the unlawful activity we're talking about. That's  
3 the -- that's the opinion in Burris that unlawful activity  
4 would be the commission of some other crime.

5 Recently, the Supreme Court heard a case, Isaac I believe  
6 it is, on Stand Your Ground where a defendant broke into a  
7 home and then committed an assault against the homeowner  
8 himself and then tried to assert the Stand Your Ground law.  
9 That would be an unlawful activity that you'd be engaged in to  
10 which you could not assert the Castle Doctrine.

11 Mr. Ozment's position, I'm going to akin it to a person  
12 being in a vehicle and being attacked by another individual.  
13 They wouldn't be allowed to assert immunity under this statute  
14 if they were driving under suspension.

15 THE COURT: I understand what you're saying. Okay. Tell  
16 me -- tell me -- wait a minute. Before I call back on you,  
17 Mr. Ozment, let's go back to the second part of it about being  
18 attacked. Does the statute under Section -- subparagraph (b)  
19 require him to be under attack?

20 MR. GROVE: Under subsection (c), it does, Your Honor.  
21 I'll draw your attention to 16-11-420(e) of the General  
22 Assembly. This is in their intent for the purposes of the  
23 statute. It finds no person or victim of crime should be  
24 required to surrender his personal safety, nor should a person  
25 or a victim be required to needlessly retreat in the face of

1 intrusion or attack.

2 I think that that is obviously the intent of the  
3 legislature here. You don't have to wait until you're mid-  
4 assault. You don't have to wait until you have already been  
5 assaulted to a particular degree. If there is a threat that  
6 is ---

7 THE COURT: But isn't it -- isn't the whole thing with  
8 the Stand Your Ground law -- and you correct me if I'm wrong,  
9 but isn't the whole intent -- wasn't the whole intent of the  
10 General Assembly to prevent people from being attacked in  
11 their homes or in their businesses or in their vehicles? It  
12 doesn't have anything to do with preventing them from getting  
13 attacked out on the street or anywhere else and you got to be  
14 -- you got to be attacked within their home and business.

15 Section (d) says the General Assembly -- the Assembly  
16 finds that persons residing in or visiting this state have a  
17 right to remain unmolested and safe within their homes,  
18 businesses, and vehicles.

19 MR. GROVE: I -- I'm not in a position to argue with Your  
20 Honor on that point. However, the testimony here has been Mr.  
21 Scott is within feet of the door of his house and he's locked  
22 out. He -- he doesn't have the opportunity to be broken in  
23 on. He -- he -- he has nowhere else to retreat. He's  
24 literally on his front doorstep. I don't know where else he  
25 can go to avoid the impending attack of Mr. Springs and I do

1 not think that the legislature intended for him to wait until  
2 he is already the victim of an attack before he begins  
3 defending himself.

4 THE COURT: But isn't that what the statute very clearly  
5 says?

6 MR. GROVE: I -- Your Honor, I'll have to disagree with  
7 you respectfully on that point. I do not think that that is  
8 its intent and I do not think that that is specifically what  
9 it says. I do think that it allows for ---

10 THE COURT: It doesn't say assaulted. If the -- if the  
11 General Assembly had merely meant assault and had used the  
12 word assaulted instead of attacked. An assault can occur by  
13 the threat, by somebody coming at you, and if the General  
14 Assembly had meant it to be -- the statute to apply in an  
15 assault situation, it could have very easily said a person who  
16 is not engaged in unlawful activity and who is assaulted in  
17 another place where he has a right to be.

18 An assault does not require a battery obviously. An  
19 assault is simply the threat. But the General Assembly in  
20 their wisdom used the word attack. Doesn't attack require --  
21 imply an actual physical attack?

22 MR. GROVE: No, Your Honor, I don't think that it does.  
23 No more so than if a gun was pointed at a homeowner that they  
24 should wait for the trigger to be pulled before ---

25 THE COURT: Yeah, but that's not an attack. That's an

1 assault.

2 MR. GROVE: You're right. If there's ---

3 THE COURT: If you point a gun -- if I point a gun at  
4 you, even if I don't pull the trigger, that's an assault.  
5 That's not an attack.

6 MR. GROVE: I agree and -- and with a -- with a very  
7 strict interpretation of the term attack, an assault would not  
8 be an attack and you would have to wait for the trigger to be  
9 pulled before you could defend yourself because you're only  
10 being assaulted; you're not being attacked because there is no  
11 accompanying battery.

12 THE COURT: But the General Assembly wrote the statute.  
13 I didn't write it.

14 MR. GROVE: I cannot imagine. I cannot imagine that that  
15 was their intent, Your Honor, because at the end -- at the end  
16 of subsection (c), it allows for a person to prevent the  
17 commission of a violent crime. I believe that that  
18 encompasses any sort of an assault which does not have an  
19 accompanying battery, nor does it require that a person wait  
20 for that accompanying battery to arrive.

21 THE COURT: All right. All right, Mr. Ozment, let me  
22 hear from you with regard to those two points, especially  
23 about the unlawful activity in the Burris case.

24 MR. OZMENT: Your Honor, I'm going to pass up to you and  
25 I've already given Mr. Grove a copy of State v. Slater. This

1 is after the Burris case. The Court goes into some detail on  
2 the Burris case. I would turn -- the law I'm really going to  
3 argue is on the second and third page. I've highlighted it.

4 What this case says is that Burris does not mean that  
5 it's -- every -- every time you're possessing a gun unlawfully  
6 that self-defense still applies and we're not arguing self-  
7 defense here. This is an immunity hearing. However, what it  
8 says is if the firearm which is possessed unlawfully, as it is  
9 here, is the proximate cause of the death, that it is an  
10 unlawful activity.

11 So it's not like a DUS like Mr. Grove was saying, and I'd  
12 point Your Honor to page 3, which further explains, however,  
13 that the unlawful possession of a firearm can under some  
14 circumstances constitute an unlawful activity so as to  
15 preclude an accident defense if the weapon is the proximate  
16 cause of the killing.

17 It then goes on to talk about the Slater case in the next  
18 paragraph. The things to look at proximate cause are that the  
19 defendant in that case carried a cocked weapon in open view  
20 into an already violent attack in which he had no prior  
21 involvement. Here we have a loaded weapon in open view and  
22 certainly if there had not been a gun there, Mr. Scott  
23 testified he saw no other weapons there, I don't think we'd  
24 have a dead man here today if Mr. Scott hadn't had that gun.  
25 I would argue his possession of that gun is the proximate

1 cause of the death in this case.

2 Moving on to Mr. Grove's second point, I think he is  
3 trying to argue (c), but trying to bleed back into (a) saying  
4 that the house was locked so he couldn't be in the house so he  
5 couldn't enter the house. I think that's bleeding into (a).

6 I also think they're kind of bleeding into self-defense  
7 when he started talking about, well, he saw an assault coming  
8 and he fired first. Well, I guess you can't see it, but he  
9 was assaulted so he fired first and not requiring the attack.  
10 I think that would be great in a self-defense argument. We're  
11 here today for an immunity hearing.

12 THE COURT: Right.

13 MR. OZMENT: And in that, if we read in subsection (c),  
14 if he reasonably believes it is necessary to prevent death or  
15 great bodily injury. He's testified that Mr. Springs was  
16 coming at him. He saw no weapon. He was just a big man with  
17 his arms flying. Mr. Scott was standing there with a gun. I  
18 cannot believe that he felt like he was about to die or  
19 receive great bodily injury from what he testified was as far  
20 as he knew an unarmed man, as he was holding a loaded rifle  
21 pointed at him.

22 So I would argue that kind of three points, the first  
23 being unlawful activity; next, that he was not attacked; and  
24 lastly, that even if you somehow say he was attacked, he was  
25 not in -- he, by his own testimony, was not in fear of death



1 or great bodily injury. He was merely in fear that he was  
2 about to be attacked by a man who had no weapons.

3 THE COURT: All right, sir.

4 MR. GROVE: I'm prepared to respond, if Your Honor will  
5 allow me.

6 THE COURT: Generally, we -- we're at the end of the line  
7 after two times around, but I'll give you one more -- one more  
8 shot.

9 MR. GROVE: Well, being as Mr. Ozment presented to you  
10 State v. Slater, I would draw Your Honor's attention to the  
11 facts of that particular case where Mr. Slater saw something  
12 going on in a public parking lot and walked over to where that  
13 public -- where the robbery was occurring with his loaded  
14 weapon and approached a violent situation. That's ---

15 THE COURT: But he doesn't -- he's not -- what he's  
16 arguing is that the fact that the case modifies the case that  
17 you cited about being in possession of an unlawful weapon.  
18 That's the point, not where it happened or how it happened or  
19 anything else. It's still -- it's still the possession of an  
20 unlawful weapon.

21 MR. GROVE: On page 2, Your Honor, second paragraph of  
22 the right-hand ---

23 THE COURT: Which case?

24 MR. GROVE: --- column. In Slater.

25 THE COURT: Okay.

1 MR. GROVE: In the instant case, Slater fails to meet the  
2 first requirement of self-defense charge, specifically Slater  
3 was not without fault in bringing on the difficulty. Slater  
4 approached the difficulty and the Court has said in Slater  
5 you're not allowed to claim self-defense, you're not allowed  
6 to be in unlawful possession of a firearm if you go into the  
7 hornet's nest and then complain from being stung.

8 THE COURT: But doesn't what that stand for is that even  
9 in this case with your man in unlawful possession of a  
10 firearm, in a trial he can claim self-defense, but for  
11 purposes of this immunity statute, he can't do that?

12 MR. GROVE: I disagree, Your Honor. I think that the  
13 Burris case explains to us what the legislature meant and what  
14 the Courts' opinion is of an unlawful possession of a firearm  
15 and it is not simply an unlawful possession of a firearm.  
16 First of all, it's a federal law that Mr. Ozment is relying  
17 on, not a state law. So he's ---

18 THE COURT: Well, that's exactly what I was going to say.  
19 What difference does that make?

20 MR. GROVE: I think it's a distinction that I'm prepared  
21 to make now, Your Honor, instead.

22 THE COURT: You're saying just because it violates  
23 federal law doesn't make it violate -- doesn't mean he's not  
24 violating the law?

25 MR. GROVE: No, but I do think that that's an important

1 thing for Your Honor to consider is that he's in no violation  
2 of state law. That ---

3 THE COURT: Where does he say that it's got to be a  
4 violation of state law?

5 MR. GROVE: It -- it doesn't, Your Honor.

6 THE COURT: Okay.

7 MR. GROVE: It's merely a distinction that I'm trying to  
8 make.

9 THE COURT: What if it was a city ordinance?

10 MR. GROVE: Fortunately, we're not in that position. We  
11 don't have to make that decision.

12 THE COURT: Well, I mean what's the difference between an  
13 ordinance and -- and federal law. If it's a violation of law,  
14 it's a violation of law. It doesn't matter who -- what  
15 legislative branch enacted the law.

16 MR. GROVE: I agree, Your Honor, but I do think that it  
17 does matter what the law itself is. We wouldn't have Burris  
18 without that. It does matter what the -- what the violation  
19 of the law is, and Burris has said mere unlawful possession of  
20 a firearm is not it. Slater distinguished itself by saying if  
21 you bring the trouble on yourself, mere unlawful possession of  
22 a firearm might be a distinction. That's not ---

23 THE COURT: Well, this is a nice esoteric argument, but  
24 I'm still back to my question about the common meaning of the  
25 word attack. You know, the common meaning of the word attack

1 means a physical attack and there is no attack in this case.  
2 The statute clearly says that -- who is attacked in another  
3 place he has a right to be, and you know, the -- the Pittman  
4 case I think it is -- let me see if it's not Pittman. I think  
5 I've got it right here.

6 State v. Pittman is the primary and cardinal rule of  
7 statutory construction is to ascertain and effectuate the  
8 intent of the legislature. And that's State v. Pittman, 373  
9 S.C. 527, 647 S.E.2d 144. And there are also plenty of cases  
10 that say that the language -- when the language is clear, I  
11 have to enforce the language -- the clear language of the  
12 statute.

13 Well, it seems like to me that in this case, if you're  
14 relying on (c), let's forget about the unlawful activity for  
15 just a minute. This is just kind of my thinking and I want to  
16 review these cases. But it says who is attacked in another  
17 place where he has a right to be, and the evidence is clear  
18 and you would agree with this, wouldn't you, Mr. Grove, that  
19 there is no attack?

20 MR. GROVE: Again, Your Honor, we're going to have to  
21 disagree on that because I do think that there is an attack.  
22 I think that attack accompanies -- encompasses assault. I  
23 think attack provides for any and all potential attacks,  
24 especially when they relate to the possibility of a violent  
25 crime. You heard testimony that Mr. Springs is a much larger

1 man than Mr. Scott. I cannot -- again, I cannot imagine that  
2 the legislature would rather Mr. Scott wait until an assault  
3 is halfway through before he begins to -- before he is  
4 entitled to immunity ---

5 THE COURT: Then all they've got to use is the word  
6 assault instead of attack. If it's an -- assault is pulling a  
7 weapon, coming at somebody with the present ability to inflict  
8 harm, any of those things fall within the definition of an  
9 assault. It doesn't -- it doesn't require you to get hit. It  
10 just requires somebody to draw their fist back.

11 MR. GROVE: Certainly.

12 THE COURT: That's an assault.

13 MR. GROVE: Certainly. I agree with Your Honor that that  
14 is an assault and, again, my position is that attack  
15 encompasses the possibility of an assault. It also  
16 encompasses the possibility of a battery. Again, we're  
17 talking about a distinction here with ---

18 THE COURT: But you don't have any authority for that?

19 MR. GROVE: Your Honor, this is a law that's new enough  
20 to where there is almost no authority on it whatsoever.

21 THE COURT: Well, there -- there's plenty of law on  
22 attack and assault and battery. You know, there -- there's  
23 plenty of -- I would imagine that there is law on attack and  
24 assault and assault and battery both, but you're right.  
25 There's not much law on the Stand Your Ground because the act

1 was only passed in 2011 and there are only a couple of cases,  
2 Isaac and Duncan and, you know, those are about the only two  
3 cases that I think that have gone up to the Court of Appeals  
4 or Supreme Court interpreting this and, of course, Isaac  
5 changed the -- the procedure.

6 Well, Duncan set forth the procedure, which is what we've  
7 done today, and Isaac changed the procedure a little bit on  
8 appeal, but -- but as far as I know, those are the only two  
9 cases that apply specifically to this statute. So you know of  
10 any others that apply specifically to this statute?

11 MR. GROVE: I'm not aware, not in the State of South  
12 Carolina.

13 THE COURT: That's what I mean, yeah. Do you know of any  
14 others, Mr. Ozment, other than Isaac and Duncan?

15 MR. OZMENT: I do have one District Court case that was  
16 down in Charleston, Your Honor, but obviously that would be  
17 persuasive as it is federal.

18 THE COURT: Okay. Was it -- was it an interpretation of  
19 the South Carolina statute?

20 MR. OZMENT: It was, Your Honor. I can pass it up to  
21 you.

22 THE COURT: Let me look at it then. It might ---

23 MR. OZMENT: It, however ---

24 THE COURT: --- be persuasive authority anyhow.

25 MR. OZMENT: It was -- it's a habeas proceeding and it is

1 dealing with the interpretation of the (a) section of the  
2 statute.

3 THE COURT: Okay.

4 MR. OZMENT: So it doesn't necessarily have to do with  
5 what we're arguing right now anyway.

6 THE COURT: He's referring to Federal v. Stevenson, Mr.

7 ---

8 MR. GROVE: Yes, Your Honor.

9 THE COURT: Okay.

10 MR. GROVE: Not a -- not a controlling case.

11 THE COURT: Right. All right, counsel, I need to review  
12 these cases. I do appreciate what you've -- what you've  
13 handed up. I'm not prepared to rule on it just yet, but I  
14 think we've narrowed the issue down that you're relying on  
15 section (c) and it becomes a question of under section (c)  
16 whether, one, the violation where he's in unlawful possession  
17 of the law, that precludes him from taking advantage of the  
18 immunity granted by the -- by the Act, and also whether or not  
19 he was under attack, and whether he was in fear of great  
20 bodily injury.

21 I think that I've got to apply section (c) to the facts  
22 as they are here in view of the case law that has been handed  
23 up. Now, if there's anything else anybody would like to  
24 offer, I'd be glad to hear from you.

25 MR. GROVE: Nothing that hasn't already been presented,

1 Judge.

2 THE COURT: All right. Mr. Ozment?

3 MR. OZMENT: Your Honor, would you like to make that  
4 ruling or would you like the State to go ahead and put up  
5 evidence at this time? It's obviously my preference for Your  
6 Honor to rule on whether we have a prima facie case before the  
7 State is required ---

8 THE COURT: You're right and I -- and I think that is the  
9 appropriate thing to do. Well, let me look over the cases a  
10 few minutes and see if I'm in a position to make a ruling at  
11 this time or whether I feel like that I need to -- to take it  
12 under advisement. Give me -- give me about fifteen minutes.  
13 Okay.

14 MR. OZMENT: Thank you, Your Honor.

15 THE COURT: Thank you.

16 (Whereupon, there is a break in the proceedings from 2:57  
17 p.m. until 3:30 p.m.)

18 THE COURT: All right. In the matter of the State versus  
19 Wayne A. Scott, Jr., and the motion that has been made by the  
20 defense under Section 16-11-410 of the Code of Laws of South  
21 Carolina, commonly referred to the Stand Your Ground law, and  
22 the cases that have interpreted that law specifically, and  
23 most importantly State v. Duncan, 392 S.C. 404, 709 S.E.2d  
24 662, a 2011 case. The facts, of course, are -- in this matter  
25 are in the record and I do not need to recite the facts that



1 have been presented to the Court at this time.

2 The South Carolina General Assembly codified what is  
3 commonly known as the Castle Doctrine by passing this act in  
4 2006. In that, the General Assembly's legislative intent was  
5 recited as follows:

6 It is the intent of the General Assembly to codify the  
7 common law Castle Doctrine, which recognizes a person's home  
8 is his castle, and to extend to the doctrine to include an  
9 occupied vehicle and a person's place of business.

10 The General -- secondly, (b), the General Assembly finds  
11 that it is proper for law-abiding citizens to protect  
12 themselves, their families, and others from intruders and  
13 attackers without fear of prosecution of civil action for  
14 acting in defense of themselves -- in prosecution or civil  
15 action for acting in defense of themselves and others.

16 Subparagraph (c) of the purpose states the General  
17 Assembly finds that Section 20 Article I of the South Carolina  
18 Constitution guarantees the right of people to bear arms and  
19 the right shall not be infringed.

20 Subparagraph (d) of the purpose states the Assembly finds  
21 that persons residing in or visiting this state have a right  
22 to expect unmolested and safe within -- and I place the  
23 emphasis on within -- their homes, businesses, and vehicles  
24 because that's what the -- the language of the statute clearly  
25 says.

1 And finally, in the purpose clause, the Act reflects the  
2 General Assembly finds that no person or victim of a crime  
3 should be required to surrender his personal safety to a  
4 criminal or should a person or victim be required to  
5 needlessly retreat in the face of intrusion or attack.

6 And then it -- that was in Section 16-11-420, and then,  
7 of course, Section 16-11-440 is the Act itself.

8 Scott has already through his attorney already indicated  
9 that he is not relying on subsection (a) granting him a  
10 presumption of reasonable fear of imminent peril or death  
11 entitling him to use deadly force because there's no evidence  
12 that there was anyone in the process of unlawfully or  
13 forcefully entering a dwelling or a residence. And so  
14 subparagraph (a) of the statute does not apply.

15 Rather, according to Scott's own argument, he is relying  
16 on section -- subsection (c), which states as follows: a  
17 person who is not engaged in unlawful activity or who is  
18 attacked in another place where he has a right to be,  
19 including but not limited to his place of business, has no  
20 duty to retreat and has the right to stand his ground and meet  
21 force with force, including deadly force, if he reasonably  
22 believes it is necessary to prevent death or great bodily  
23 injury to himself or another person or to prevent the  
24 commission of a violent crime as defined in Section 16-1-60.

25 That being the case and relying on that statute, there

1 are three things that I think that the person asserting the  
2 right to the immunity must prove by the greater weight or  
3 preponderance of the evidence. First, that a -- he's not a  
4 person who is engaged in an unlawful activity; second, who is  
5 attacked in another place where he has a right to be; and  
6 third, reasonably believes it necessary to prevent death or  
7 bodily injury to himself or another.

8 The State contends that he was engaged in an unlawful  
9 activity, i.e. the possession of a weapon because he was a  
10 convicted felon, and relies upon the federal law which  
11 prohibits a convicted felon from being in possession of any  
12 kind of a firearm. The defendant contends unconvincingly that  
13 that is federal law and not what the statute meant to apply or  
14 not meant that that statute should not apply. I disagree with  
15 that. I think if it's an unlawful activity, it's an unlawful  
16 activity, whether it's a violation of a state statute or a  
17 federal law.

18 But it is not necessary for this Court to reach a  
19 decision on whether the unlawful activity in this case, that  
20 is the possession of the violent -- of the weapon, precludes  
21 the defendant from asserting the immunity under the Stand Your  
22 Ground law. I've reviewed Slater and Burris, and I'm making  
23 no finding with regard as to whether the unlawful activity,  
24 i.e. the possession of the weapon, precludes him from raising  
25 the unlawful -- or raising the immunity granted by the

1 unlawful -- by the Stand Your Ground Act or any other defenses  
2 that he might have in this case.

3 In my view, the defendant does not meet the second prong  
4 of -- of subparagraph (c), that he be attacked. Had the  
5 legislature meant a threat of attack or an assault,  
6 accompanied or unaccompanied by a battery, it very clearly  
7 could have said so.

8 It is the duty of this Court to give to the acts passed  
9 by the General Assembly their plain and unequivocal meaning  
10 and to me attacked means a physical contact attack. As I  
11 said, the legislature could have used the term assault. It  
12 could have used the term assault and battery. It could have  
13 used the term a threat of assault, but it did not, or threat  
14 of attack. It did not. It used the word who is attacked.  
15 And in my view, the defendant has not met that prong of the  
16 requirement of subparagraph (c).

17 Furthermore, Scott has not proven by the greater weight  
18 or a preponderance of the evidence that he could reasonably  
19 believe that he was in fear of death or great bodily injury.  
20 The testimony is clearly -- the only testimony in the record  
21 is that the victim in this case was unarmed, that he came --  
22 he was behind the door of a vehicle originally. He came no  
23 closer than four or five feet to an armed man who was sitting  
24 there with a weapon in his lap at least. In my view, the  
25 testimony of reasonable fear is simply not credible.

1       For those reasons, the Court denies the motion under the  
2 Stand Your Ground Act and finds that the defendant is not  
3 entitled to the immunity granted by that Act.

4       MR. GROVE: Thank you, Judge.

5       THE COURT: All right. Any questions?

6       MR. OZMENT: No, Your Honor. We appreciate it.

7       THE COURT: All right. I'm not going to do a formal  
8 order. Counsel, if y'all need anything further, this lady has  
9 it right here.

10       MR. GROVE: Thank you, Judge.

11       THE COURT: All right. Anything further?

12       MR. OZMENT: No, Your Honor, and I think as far as this  
13 term of court goes for you, we are finished and Judge Brown is  
14 going to handle everything tomorrow. So we've enjoyed it and  
15 thank you very much.

16       THE COURT: All right. Before we adjourn, I am going to  
17 recess at this time, but before I do that, Mr. Ozment, I'm  
18 going to ask all of the victim's family to remain. Mr. Grove,  
19 you and the members of the family of the defendant may leave  
20 and I will not release the others until everybody is on the  
21 elevator.

22       (Whereupon, the proceedings end at 3:38 p.m.)

23

24       --- END REQUESTED TRANSCRIPT ---

25

1 STATE OF SOUTH CAROLINA )  
2 ) CERTIFICATE  
3 COUNTY OF FLORENCE )  
4

5 I, the undersigned, Krystal J. Smith, Official Court  
6 Reporter for the Twelfth Judicial Circuit of the State of  
7 South Carolina, do hereby certify that the foregoing is a  
8 true, accurate, and complete Transcript of Record of all the  
9 proceedings had and evidence introduced in the hearing of the  
10 above captioned case, relative to appeal, in the Court of  
11 General Sessions for Florence County, South Carolina, on the  
12 19th day of September, 2013.

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

15  
16 Krystal J. Smith

17 Court Reporter

18  
19 Florence, South Carolina

20 October 2, 2013  
21  
22  
23  
24  
25

|                         |   |                           |
|-------------------------|---|---------------------------|
| STATE OF SOUTH CAROLINA | ) |                           |
|                         | ) | COURT OF GENERAL SESSIONS |
| COUNTY OF FLORENCE      | ) | 2013-GS-21-0391           |
|                         | ) |                           |
|                         | ) |                           |
|                         | ) |                           |
| State Of South Carolina | ) | )                         |
|                         | ) |                           |
| vs.                     | ) | TRANSCRIPT OF RECORD      |
|                         | ) |                           |
| Wayne Albeon Scott      | ) | )                         |
| <u>DEFENDANT</u>        | ) | October 21-24, 2013       |
|                         |   | Florence, South Carolina  |

B E F O R E:

THE HONORABLE GEORGE C. JAMES, JUDGE; and a jury.

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

MATTHEW OZMENT, ASSISTANT SOLICITOR  
Attorney for the Plaintiff

WILL GROVE, ASSISTANT PUBLIC DEFENDER  
Attorney for the Defendant

KESHIA REED  
Official Court Reporter

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| <u>E X H I B I T S</u> |                    |                               |             |     |
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| <u>NO.</u>             | <u>DESCRIPTION</u> | <u>ID.</u>                    | <u>EVD.</u> |     |
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| 25 |                        |                    |            |             |

1 MR. OZMENT: We have to remove one witness from  
2 the courtroom, Your Honor.

3 THE COURT: Okay.

4 MR. OZMENT: Both of them are now here, so we're  
5 ready to go.

6 THE COURT: Okay. Which one would you like to  
7 present first?

8 MR. OZMENT: We'll take the first one -- the  
9 first statement that was taken, which is Deputy Gifford.

10 THE COURT: All right. Okay, Deputy Gifford,  
11 you can come on up and be sworn.

12 THE CLERK: If you will, sir, place your left  
13 hand on the Bible, raise your right hand. Do you swear to  
14 tell the truth, the whole truth, and nothing but the truth  
15 so help you God?

16 THE WITNESS: I do.

17 THE CLERK: Please be seated and state your full  
18 name for the record.

19 THE WITNESS: Deputy Michel McFadden.

20 WHEREUPON,

21 Michel McFadden,  
22 after first having been duly sworn, testified as follows:

23 DIRECT EXAMINATION IN-CAMERA

24 BY MR. OZMENT:

25 Q How are you today, Deputy Gifford?

1 A I'm good.

2 Q What do you do for a living?

3 A I work for the Florence County Sheriff's Office in  
4 the patrol division.

5 Q How long have you been at that line of work?

6 A Three and a half years.

7 Q All right. Did you have that line of work back in  
8 September of last year?

9 A Yes, sir.

10 Q Specifically on September 24th 2012, did you respond  
11 to an incident on Sharon Road?

12 A I did.

13 Q Did you respond in your capacity as a patrol deputy?

14 A I did.

15 Q Tell me what happened when you -- what did you  
16 observe when you arrived on scene?

17 A Once I arrived on scene, I saw Mr. Scott handcuff  
18 sitting on his front porch. I saw a white cargo van  
19 sitting in the driveway with Mr. Springs crouched over in  
20 between the door and the door frame.

21 Q All right. I noticed you said Mr. Scott was already  
22 handcuffed. Was there already other deputies on the scene  
23 at that point?

24 A Investigator Rhodes had made it on the scene first  
25 and had handcuffed him already.



1 Q All right. Were you the second then to arrive?

2 A Yes, sir.

3 Q Okay. Did you have occasion to speak with Mr. Scott  
4 on that evening?

5 A I did. I initially read him his rights and then  
6 started asking him questions about what had happened.

7 Q All right. Let me back up briefly. When you said  
8 you read him his rights, what do you mean by rights?

9 A I read him his Miranda warnings.

10 Q And when you read them, what did you read them off  
11 of?

12 A I keep a card on my person.

13 Q All right. Is that the card issued to you in your  
14 capacity as a deputy sheriff?

15 A Yes, sir, we get several copies and always keep one  
16 in my pocket.

17 Q All right. And do you have it with you today?

18 A I do.

19 Q Would you mind reading off what you read out to  
20 Mr. Scott that night?

21 A It says you are in the custody of Florence County  
22 Sheriff's Office. My duty is to advise you of the  
23 following rights. You have the right to remain silent.  
24 Anything you say may be used against you in court. You  
25 have a right to have a lawyer and consult with him before

1 while and answering any questions. If you cannot afford a  
2 lawyer, one would be provided to you without cost. And  
3 then it ask do you understand your rights and are you  
4 willing to talk to me at this time.

5 Q Did he seem to understand those rights?

6 A Yes, sir, he verbally told me he did.

7 Q All right. Did he tell you that he wanted his lawyer  
8 or told you he wanted to be silent or to use any of those  
9 rights?

10 A No, he said he would talk with me.

11 Q Okay. While you were going over his rights, then  
12 when you subsequently talked to him, did you threaten him  
13 at all?

14 A No.

15 Q Did you promise him anything to talk to you?

16 A No.

17 Q Any sort of deal or leniency anything like that?

18 A No.

19 Q Did you have your service weapon drawn or taser  
20 drawn?

21 A No.

22 Q A dog out or anything like that?

23 A No.

24 Q Okay. What was his demeanor at that point?

25 A He was pretty quite sitting on the front porch.

1 Q Okay. Did he seem under a lot of stress anything  
2 like that?

3 A No.

4 MR. GROVE: Objection, Your Honor, that's  
5 speculation.

6 THE COURT: Overruled.

7 BY MR. OZMENT:

8 Q Did he seem like he was stressed or anything like  
9 that?

10 A No.

11 Q Okay. Did you detect in your interaction with him  
12 that he might have been drinking that night?

13 A Yes, sir, I had smelled it. It was coming from his  
14 breathe, so I asked him about it. He had said he had had  
15 a few.

16 Q Okay. Was he slurring his words?

17 A Slightly.

18 Q Okay. But did he seem to still understand everything  
19 you were asking him and interacting with you as a person  
20 who knew what they were doing?

21 A Yes, sir, he wasn't falling down drunk.

22 Q Okay. When you would ask him a question, did his  
23 answer seem appropriate?

24 A Yes.

25 Q All right. Moving into what he actually told you, I

1 guess how did you start the conversation with him as to  
2 what happened that night?

3 A I just asked him a generic question like I usually do  
4 on the scene. I ask him what happened to cause us to come  
5 out and that usually gets people to pretty much give me a  
6 whole story just from one question.

7 Q All right. And was that the case here?

8 A Yes, sir.

9 Q What did he tell you?

10 A He basically told me that the -- Mr. Springs arrived  
11 at his location uninvited, unannounced, where a verbal  
12 altercation ensued between the two. At that time,  
13 Mr. Springs was still behind the driver door. As the  
14 verbal altercation grew, Mr. Springs stepped out from  
15 behind the door and approached Mr. Scott. And he said he  
16 felt threatened because he saw something in his hand even  
17 though he was unable to make out what was in the subject  
18 Mr. Springs' hand. He knew he had something. He said he  
19 felt threatened, so he grabbed his riffle and shot at the  
20 victim.

21 Q Did he tell you where his riffle was before he shot  
22 at the victim?

23 A Initially, it was leaning up, I think, against the  
24 trailer or the porch, but it wasn't in his hand. And  
25 then, I guess, as Mr. Springs exited from around the open

1 driver door, that's when he grabbed the riffle.

2 Q All right. Did he state that he fired the riffle?

3 A He did.

4 Q All right. What did he say happened after he fired  
5 the riffle?

6 A He got scared and so he hid the shell casing from the  
7 cartridge that he fired. And then I believe he said he  
8 placed the gun back inside, but the shell casing was  
9 thrown into a -- basically a fire pit to where it couldn't  
10 be recovered. And then he went to a friend's house and  
11 told his friend what happened and then I think eventually  
12 called his wife and told his wife what happened. And then  
13 his wife is the one that called us.

14 Q You stated that he said the victim had something in  
15 his hand, but he couldn't tell where it was. Did he tell  
16 you how he was holding that item or where he was holding  
17 that item?

18 A He said he was holding the item below his waist,  
19 below the victim's waist or Mr. Springs' waist.

20 Q Okay. At any time during this conversation, did he  
21 go back to his Miranda rights? Did he invoked any of  
22 those?

23 A No.

24 Q At any point, did he seem hesitant like he didn't  
25 want to talk to you?

1 A No.

2 Q I think we finished with he went over to someone  
3 else's house, then his wife called the police. Did you  
4 talk to him at all after that about anything else?

5 A Talk to who?

6 Q Talk to Mr. Scott at all?

7 A No, sir.

8 MR. OZMENT: No further questions at this time,  
9 Your Honor.

10 THE COURT: Mr. Grove.

11 MR. GROVE: Thank you, Your Honor.

12 CROSS-EXAMINATION IN-CAMERA

13 BY MR. GROVE:

14 Q Good afternoon, Deputy?

15 A Good afternoon.

16 Q You testified earlier Investigator Rhodes was on  
17 scene already?

18 A Yes, sir.

19 Q And I think you said this you were the second to  
20 arrive?

21 A Correct.

22 Q Or if you weren't the second, you were one of the  
23 first few?

24 A I was the first patrol deputy there, but, yes, an  
25 investigator was already on scene.

1 Q Okay. And as far as Mr. Scott's demeanor, you said  
2 he seem -- he was quiet. When you asked questions of him,  
3 did he give you short answers, long answers?

4 A Depended on the question, some of them were yes or  
5 no, some of them were open-ended questions.

6 Q What kind of yes or no questions did you ask him?

7 A Where is the bullet casing, thought would be  
8 open-ended question. I asked him if he had been drinking.  
9 He would say, yes.

10 Q And the -- first of all, what was his response to  
11 where is the bullet casing?

12 A He described that he threw it into basically a fire  
13 pit.

14 Q Was the fire bit burning?

15 A Not at that time.

16 Q Okay. Did you go to the fire pit?

17 A We did.

18 Q Did you find it?

19 A We did not.

20 Q Did you ask him where the gun was?

21 A Several times. Because it had changed locations  
22 three different times, if that's what you're asking.

23 Q How do you mean?

24 A It was leaning up against him when the whole thing  
25 started. It was in his hand during the incident. And

1     then when we arrived, it was inside in a bedroom.

2     Q     I asked a poorly worded question.

3     A     That's fine.

4     Q     When you arrived on scene knowing that there had been  
5     a firearm discharged, one of your first questions was  
6     where is the gun?

7     A     Correct.

8     Q     What did he tell you about the location of the gun  
9     at that time?

10    A     It was inside the house.

11    Q     Did someone go and retrieve it?

12    A     I believe somebody did eventually.

13    Q     Was it where he said it was?

14    A     I don't know because I didn't go inside.

15    Q     Was it loaded?

16    A     I don't know I didn't go inside.

17    Q     Did he tell you if -- did he make a comment as to  
18    whether it was loaded or unloaded?

19    A     No.

20    Q     Where did he tell you inside it was?

21    A     I don't believe he was specific.

22    Q     Okay. You said smelled of alcohol and that he told  
23    you he had been drinking?

24    A     Yes, sir.

25    Q     How much?



1 A He told me he had one beer while he was in the woods  
2 hunting. And then he said he had three to four more beers  
3 after he shot the riffle.

4 Q Okay. You said that his -- I believe what Mr. Ozment  
5 asked you his speech was slurred. You said slightly?

6 A Yes, sir.

7 Q No doubt in your mind that he was coherent?

8 A Correct.

9 Q That he was sober enough to speak with you?

10 A Correct.

11 Q That he had his wits about him?

12 A Correct.

13 Q That he knew what he was doing?

14 A Yes, sir.

15 Q That he answered you appropriately?

16 A Yes.

17 Q That he -- while you say he smelled of alcohol, would  
18 you say he was intoxicated?

19 A Depends on to what degree you would consider him  
20 intoxicated.

21 Q You said that he was not falling down drunk?

22 A Correct. He was coherent enough to maintain a  
23 conversation.

24 Q Sure. You said you asked generic questions at the  
25 beginning to sort of allow him to tell the story to you;

1 is that correct?

2 A Correct.

3 Q You say that he in his comments to you told you that,  
4 Steve Springs, the deceased, came uninvited and  
5 unannounced?

6 A Correct.

7 Q They told you that Steve Springs came specifically  
8 against instructions not to come?

9 A He did not tell me that.

10 Q All right. That Steve pulled up in the driveway.  
11 Sorry. He told you Steve pulled up into the driveway in a  
12 white van?

13 A Yes.

14 Q He told you that Steve opened the door?

15 A Yes.

16 Q He told you that Steve stood behind the door and they  
17 argued?

18 A Correct.

19 Q Did he tell you what the substance of their argument  
20 was?

21 A I believe it had to do with Steve Springs dating what  
22 would be Mr. Scott's stepdaughter.

23 Q Did he tell you what they said back and forth?

24 A I don't recall that he did.

25 Q Okay. But they had -- they exchanged words while

1 Steve was standing behind the van door?

2 A Correct.

3 Q Steve came around from behind the van door and  
4 approached him?

5 A That's what I was told..

6 Q Okay. Did Mr. Scott tell you at what point the  
7 riffle went from leaned up against the steps to into his  
8 lap?

9 A I believe he told me that as Mr. Springs stepped out  
10 from behind the door, that's when he grabbed the riffle.

11 Q And then they had more words, did he tell you that?

12 A Correct, yes.

13 Q And then he tells you that Mr. Springs came at him in  
14 some fashion, approached him?

15 A Yes.

16 Q And then he shot him?

17 A Yes.

18 Q One time?

19 A Yes.

20 Q Did he indicate to you that Steve had been  
21 threatened, that this was not a friendly conversation they  
22 were having?

23 A He did not state that Steve threatened him  
24 specifically. He stated he felt threatened.

25 Q Then afterwards regarding the disposal of a shell

1 casing said he was scared and didn't know what to do?

2 A Correct.

3 Q And regarding Mr. Springs having something in his  
4 hand, you said he wasn't sure what it was, but he saw  
5 something in his hand?

6 A Correct.

7 Q Had he been read his Miranda rights before you got  
8 there?

9 A I would not know that.

10 Q You personally read him from that same card?

11 A Yes, sir.

12 Q Is that the same card you had then or have you gotten  
13 a replacement card?

14 A The same one.

15 MR. GROVE: I don't have anything further.

16 Thank you.

17 THE COURT: Redirect?

18 MR. OZMENT: I don't have any redirect, Your  
19 Honor.

20 THE COURT: Mr. Gifford, you can step down.

21 Thank you.

22 (WHEREUPON, the witness leaves the witness  
23 stand.)

24 THE COURT: Any other witnesses on this  
25 particular statement?

1 MR. OZMENT: Not on this statement, Your Honor.

2 THE COURT: Does the defendant -- would you like  
3 to offer any evidence on this particular statement?

4 MR. GROVE: No, Your Honor.

5 THE COURT: Okay. All right. Next one.

6 MR. OZMENT: Your Honor, the State calls  
7 Investigator William Hester to the stand.

8 THE COURT: Raise your right hand please. Your  
9 name?

10 THE WITNESS: William Hester.

11 THE COURT: Do you swear to tell the truth, the  
12 whole truth, and nothing but the truth so help you God?

13 THE WITNESS: I do.

14 THE COURT: You can have a seat. H-E-S-T-E-R?

15 THE WITNESS: Yes, sir.

16 THE COURT: Okay.

17 WHEREUPON,

18 William Hester,

19 after first having been duly sworn, testified as follows:

20 DIRECT EXAMINATION IN-CAMERA

21 BY MR. OZMENT:

22 Q How are you today, Investigator Hester?

23 A I'm good.

24 Q Good. What do you do for a living?

25 A I work for Florence County Sheriff's Office as a

1 criminal investigator.

2 Q How long have you been with the sheriff's office?

3 A Eight years.

4 Q All right. Back on September 26, 2012, were you  
5 working as an investigator at that time?

6 A I was.

7 Q All right. Do you have occasion to respond to a call  
8 out on Sharon Road here in Florence County?

9 A I did.

10 Q What was the nature of that call?

11 A It was reported to me that it was a shooting.

12 Q All right. When you arrived on scene, what did you  
13 find?

14 A When I arrived on scene, EMS was still there. The  
15 deputies were still there. And I observed the white van  
16 in the -- parked in the driveway and I saw Mr. Scott  
17 sitting on the front porch with his hands behind his back  
18 in cuffs.

19 Q All right. Did you approach Mr. Scott?

20 A I did.

21 Q Did you have some interaction with him?

22 A Yes, sir.

23 Q Did he end up making a statement to you that night?

24 A He did.

25 Q When you arrived, were you aware if he had been

1 Mirandized already or not?

2 A As I approached, Mr. Scott, Deputy Gifford advised me  
3 that he did Mirandize him prior to my arrival.

4 Q Were you aware as to whether or not he'd already  
5 given a statement that night to anyone?

6 A Deputy Gifford did tell me that he gave him a brief  
7 statement about the run down of the events that took  
8 place.

9 Q All right. Did you then also take a statement from  
10 Mr. Scott?

11 A I did. Prior to -- I think Deputy Gifford was  
12 standing beside me and I asked Mr. Scott in front of Mr.  
13 Gifford if he understood everything that the deputy read  
14 to him and he confirmed he did.

15 Q All right. And did you specifically bring up his  
16 Miranda rights?

17 A I did.

18 Q Okay. And did you go over them?

19 A No, sir, I did not go over them. I asked him if  
20 Deputy Gifford did indeed read them, he said he did. And  
21 he did understand when we were speaking with him.

22 Q Okay. Did you threaten him in any way at any time?

23 A No, sir.

24 Q Did you promise him anything at any time from making  
25 a statement?

- 1 A No, I did not.
- 2 Q Any sort of incentive, any sort of plea deal,  
3 leniency, bond anything like that?
- 4 A No.
- 5 Q Okay. Make any threats?
- 6 A No, sir.
- 7 Q At any time have your service weapon drawn?
- 8 A No, sir.
- 9 Q At any point pull your taser out anything like that?
- 10 A No, sir.
- 11 Q Have a K-9 out?
- 12 A No.
- 13 Q In speaking with Mr. Scott, did he seem to understand  
14 the questions you were asking him?
- 15 A He did.
- 16 Q Did he respond to them in an appropriate way?
- 17 A He did.
- 18 Q Did you observe if he appeared to be intoxicated in  
19 any way?
- 20 A He was able to stand and walk on his own. He was  
21 able to stand in one place for a period of time while we  
22 spoke off to the side where the van was. He appeared to  
23 be coherent to be able to speak with me, yes, sir.
- 24 Q Okay. At any point during the conversation with him,  
25 did he stop you or hesitate or say, you know, I like a



1 lawyer anything like that?

2 A No, he did not on scene.

3 Q Okay. How did you start your conversation with Mr.  
4 Scott after we talked about -- you referred to his Miranda  
5 rights, what did you ask next?

6 A After Deputy Gifford walked away, I asked him again  
7 what happened. What was the result of Mr. Springs being  
8 shot.

9 Q Okay. And what did he tell you?

10 A I think he got a little more in depth with me because  
11 I asked him, you know, to try to tell everything that took  
12 place in the days before, hours before whatnot. He said  
13 that he was riding home with a friend of his that he works  
14 with that they had been hunting that night and I don't  
15 remember the exact time. He had received a phone call  
16 from Mr. Springs and the phone call started to become  
17 heated. There was an argument cussing back and forth. He  
18 advised me that he hung up on him several times, but  
19 Mr. Springs continuously called back. He stated one of  
20 the -- ending calls was that Mr. Springs was coming to his  
21 residence. I asked him why he was coming to his  
22 residence. He said that he told me that he was going to  
23 come and take care of some business and that was what he  
24 told me about the phone call. He stated that he was  
25 sitting out on the front porch, which is a little small

1     stoop that sits in front of his wife's office. The -- he  
2     did not have keys to get into his residence because his  
3     wife took the keys when she went to go somewhere. He  
4     stated that -- I asked him if the porch light was off  
5     because it was an extremely bright porch light on while we  
6     were having our conversation. And he stated, no, the  
7     porch light was off because she had turned all the lights  
8     off and it was -- and I believe it was around 8:30 or  
9     maybe nine o'clock and it was really dark out there.  
10    There weren't any streets lights on. He stated that  
11    Mr. Springs came down the road on Sharon Drive, pulled  
12    into his driveway, shut the vehicle off and immediately  
13    got out of his vehicle standing in the apex of his door  
14    began yelling and arguing with him. He stated that he  
15    told Steve he needed to leave, that this was not a good  
16    time or a place to be having this argument. He stated  
17    that Mr. Springs stepped to the outside of the door. As  
18    he did, he told Mr. Springs don't take another step or I'm  
19    going to shoot you. And he stated what when Mr. Springs  
20    stepped one foot to the door, he fired the round which he  
21    stated and showed me the way he had the riffle layed in  
22    his lap across his leg.

23    Q     Okay. So now, I guess, explain to me how he told you  
24    he had the riffle?

25    A     He was sitting in a seated position. He said

1 initially the riffle was laid across his lap. He stated  
2 as he saw Mr. Springs he pulled the riffle just level with  
3 his leg and didn't bring it up but just laid it in his  
4 lap pointing in the direction where Mr. Springs was.

5 Q Okay. Did he state that Mr. Springs had any sort of  
6 weapon or something that can be used as a weapon?

7 A He stated he thought he saw something in his hand. I  
8 asked him which hand he couldn't specifically tell me  
9 which hand it was. But he said he thought he saw  
10 something in his hand and that's what made him feel  
11 threatened.

12 Q Okay. Was he -- withdraw that. What do you say  
13 happened once he lifted the gun and pulled the trigger?

14 A He stated that he got scared and went around the  
15 backside of the mobile home and went toward -- went to  
16 Carl's house, which is a neighbor two houses down.

17 Q Okay. Did he tell you what he did with the shell  
18 casing?

19 A He said he ejected the shell casing and threw it into  
20 a fire pit. The way that the house was set up and where  
21 the fire pit was. There was actually two different fire  
22 pits with a burn barrel there. We looked he specifically  
23 showed us kind of said, okay, it's the one on the ground,  
24 but we went over there and we could not find it.

25 Q Once he got over to Carl's house, what did he say

1     happened?

2     A     He said he called his wife told her what took place  
3     and she was already in route to the house told her where  
4     he was. He was sitting down drinking a beer at Carl's  
5     house.

6     Q     Okay. Did he give you any statement after that?

7     A     No, sir, not to the specifics of what took place.

8     Q     Okay. At any point during that statement, did he  
9     refer back to his Miranda rights asked to stop speaking  
10    anything like?

11    A     No, sir.

12    Q     Did he ask for an attorney?

13    A     No, sir.

14    Q     After his statement did you give him any kind of  
15    promise or incentive anything like that?

16    A     No, sir.

17    Q     All right.

18                 MR. OZMENT: No further questions at this time,  
19    Your Honor.

20                 THE COURT: Mr. Grove.

21                 MR. GROVE: Thank you, Your Honor.

22                         CROSS-EXAMINATION IN-CAMERA

23    BY MR. GROVE:

24    Q     How many officers do you think were on scene when you  
25    arrived, Investigator?

1 A There was three officers and a supervisor when I  
2 arrived plus EMS.

3 Q And as the evening progressed, I'm sure more arrived?

4 A There was. There was a captain over investigations,  
5 a captain who is our P.I.O. captain and myself and another  
6 investigator.

7 Q Not unusual for a lot of people to respond to a call  
8 like this?

9 A Not unusual at all.

10 Q You said I guess right before you began speaking with  
11 Mr. Scott that you didn't re-Mirandize him, but that you  
12 did refer to Deputy Gifford's Miranda?

13 A That's correct.

14 Q And so you didn't go through each and every element  
15 of it with him again?

16 A No, sir.

17 Q You just said a few moments ago you made a statement,  
18 you were Mirandized before is that still...

19 A That's correct.

20 Q How long between talking with Deputy Gifford and  
21 talking with you were Mr. Scott statements do you think?

22 A There was no more than five minutes. I was on scene  
23 pretty quick shortly after the deputies got there.

24 Q Was Mr. Scott the first person you spoke with as far  
25 as investigations?

1 A Yeah, he was the first one I spoke with after  
2 speaking with Deputy Gifford who had all the information.

3 Q You spoke with several other people that night,  
4 right?

5 A I did.

6 Q You spoke with his wife Gloria?

7 A Uh-huh.

8 Q A fellow name Carl?

9 A Right.

10 Q George, Crystal?

11 A Correct.

12 Q You spoke with all of them at some point, but you  
13 spoke with him first?

14 A That's correct.

15 Q And you didn't threaten him? You didn't promise him  
16 any deals? I guess, at this point was he charged with  
17 anything?

18 A At that point, no, he was not throughout the  
19 investigation that's when he was charged.

20 Q And he seem to understand what you were talking  
21 about?

22 A Yes, sir.

23 Q And he appeared to be coherent?

24 A That's correct.

25 Q You said in a statement that he told you he was got a

1 ride home with a friend. Did he identify a friend?

2 A He did.

3 Q When Mr. Springs got on the scene, Mr. Scott tells  
4 you that they had some sort of an argument; is that  
5 correct?

6 A On the scene?

7 Q Yes, sir.

8 A Yes, sir.

9 Q And that -- lead up to that argument was several  
10 phone calls?

11 A That's correct.

12 Q And did Mr. Scott tell you that those phone calls  
13 were from Mr. Springs to Mr. Scott?

14 A He did.

15 Q And did Mr. Scott tell you that he hung up on Mr.  
16 Springs more than once?

17 A He did.

18 Q That he tried to end these conversations?

19 A He did.

20 Q And I believe that you testified that he was specific  
21 with Mr. Springs and that he should not come over?

22 A That's correct.

23 Q The lights were on by time you got there; is that  
24 correct?

25 A That's correct.

1 Q He indicated to you that they were not on at the  
2 time?

3 A Correct.

4 Q He also indicated to you that he had been locked out;  
5 is that right?

6 A Correct.

7 Q And that his wife had his keys?

8 A Yes, sir.

9 Q So between -- is it fair to say that between your  
10 arrival or law enforcements arrival his wife, Gloria, she  
11 arrived on scene, right?

12 A She did.

13 Q And she had the keys?

14 A That's correct.

15 Q And she was able to take the gun and put it inside,  
16 right?

17 A Yes, sir, she was the one that placed it inside.

18 Q And she was able to turn the lights on?

19 A Correct.

20 Q And you said there's a bright porch light, right?

21 A There is.

22 Q But there aren't any street lights or anything?

23 A There is one in front of his house, but he has a  
24 tree obstructing that, so you could not see -- you  
25 couldn't see that street light because of a tree



1 obstructing it.

2 Q And have you got a guess or a ballpark as to how far  
3 away that street light might be from the porch that we're  
4 talking about or the stoop, I guess.

5 A 50 feet.

6 Q Okay. Is this a dirt road?

7 A No, sir, it's a paved road. There is a dirt road in  
8 front of it, but it's a paved road where they live.

9 Q Okay. When Mr. Springs pulled into the driveway,  
10 where was he van positioned when you got there?

11 A His van was positioned directly in front of the  
12 office which it sits connected but sits off to the right  
13 side of the mobile home.

14 Q And there's a driveway that you just go straight to  
15 the office; is that correct?

16 A Straight to the office correct.

17 Q And Mr. Scott told you that he was sitting on the  
18 stoop right in front of that?

19 A That's correct.

20 Q So essentially this van is basically directly in  
21 front of you; is that correct?

22 A That's correct.

23 Q Had the gun already been retrieved by the time you  
24 got there?

25 A I don't think so. I believe that when crime scene

1 arrived, she and Gloria went inside together and retrieved  
2 the weapon. I believe that's how it was.

3 Q Okay.

4 A I never went inside the residence to see exactly  
5 where the riffle was.

6 Q But it was essentially immediately turned over?

7 A It was.

8 Q Is that correct?

9 A That's correct.

10 Q There was not an issue retrieving the gun?

11 A No, there was not.

12 Q There was an issue with the shell casing, right?

13 A That's correct.

14 Q He told you where that was, but you couldn't find it?

15 A That's correct.

16 Q Did he walk you over to where he said it had been?

17 A No, sir. We asked him -- we describe where the burn  
18 pile was on the ground. He said, yeah, that's where I  
19 threw it.

20 Q But he didn't disguise the fact that he had done  
21 something with it and that it was in that general  
22 vicinity?

23 A Correct.

24 Q Are you surprised that you weren't able to find it?

25 A No.

1 Q Is it overgrown a little bit over there?

2 A Yeah, it was very overgrown and I believe there was a  
3 lot of different kinds of shell casings in this pile.

4 Q Mr. Scott told you when Mr. Springs came around the  
5 door of the van, he had something in his hand or he  
6 thought he saw something in his hand?

7 A Yeah, he thought he saw something in his hand.

8 Q Wasn't specific?

9 A Was not specific.

10 Q And that following discharge in firearm he told you  
11 he shot one time?

12 A Right.

13 Q That he then ejected the shell casing, correct?

14 A Correct.

15 Q Then he went to Carl's, right?

16 A That's correct.

17 Q Then he called Gloria on his way to Carl's when he  
18 was at Carl's?

19 A I believe he stated he called when he got to Carl's  
20 and when she arrived she called 9-1-1.

21 Q You think Carl's is 50 yards away maybe?

22 A It's more than 50 yards. I mean, it's a good ways.  
23 It's on a different road. It's probably if I had to put  
24 it in yards 300 to 400 yards away.

25 Q I believe you testified earlier he was two doors

1 down?

2 A Yeah, the way the mobile homes are set up there's one  
3 behind him. And there's one on another road that  
4 connections off of that. You could barely see his house  
5 from the back side of the house.

6 Q It is not far?

7 A No, three or 400 yards I would say.

8 Q It's not in a different town?

9 A No.

10 Q It's not on the other side of town?

11 A No.

12 Q He told you that he told Gloria where he was?

13 A That's correct.

14 Q He told you that Gloria came and picked him up?

15 A Correct.

16 Q They went back to the house?

17 A That's right.

18 MR. GROVE: Beg the Court's indulgence.

19 THE COURT: All right.

20 (WHEREUPON, a pause in the proceedings.)

21 BY MR. GROVE:

22 Q Did Mr. Scott indicate to you what exactly was said  
23 between him and Mr. Springs?

24 A I believe the original conversation was about his  
25 wife causing problems between Steve and his personal life.

1 Q And this was a problem Steve had?

2 A That was a problem that Steve had that he was trying  
3 to solve the problem through Wayne.

4 Q And when Steve got to the house after several  
5 unreturned or unanswered or abruptly ended phone calls,  
6 the argument continued?

7 A I don't know the specifics on the argument just  
8 through the investigation I know there was a brief  
9 argument prior to being shot.

10 Q That occurred on scene?

11 A On scene, yes, sir.

12 Q And Mr. Scott informed you that on multiple occasions  
13 he told Mr. Springs to leave him alone, to not come over,  
14 to leave when he was on scene?

15 A Yes, sir.

16 MR. GROVE: Thank you. I don't think I have  
17 anything further, Your Honor.

18 THE COURT: Redirect?

19 MR. OZMENT: None, Your Honor.

20 THE COURT: Step down.

21 (WHEREUPON, the witness leaves the witness  
22 stand.)

23 THE COURT: Any other witnesses on this  
24 particular statement?

25 MR. OZMENT: No, Your Honor.

1 THE COURT: Any from the defendant?

2 MR. GROVE: No, Your Honor.

3 THE COURT: What's the State's position?

4 MR. OZMENT: Your Honor, the State's position is  
5 that he was not under arrest for anything yet, but he was  
6 also properly Mirandized out of an abundance of  
7 precaution. There was no sort of threat. There was no  
8 sort of intimidation. There was no sort of incentive  
9 anything to make this statement not freely and voluntarily  
10 given and should be a truthful statement as far as he was  
11 given an opportunity to explain himself of answered  
12 questions appropriately. Obviously, an issue with  
13 intoxication, but those officers who spoke to him back to  
14 back said that they found that he was coherent. He could  
15 walk around, he could stand. He was answering questions  
16 appropriately as they asked him. And these statements  
17 should be admissible.

18 THE COURT: All right, Mr. Grove.

19 And by the way, he didn't sign anything. These  
20 are verbal statements that evidently the officers took  
21 notes or made notes from the conversation?

22 MR. OZMENT: That's correct, Your Honor. They  
23 weren't recorded or memorialize on paper.

24 THE COURT: All right. What's your position on  
25 either one of the statements you want to discuss first.

1 suits me?

2 MR. GROVE: Your Honor, Deputy Gifford he was  
3 the first to testify, obviously, and the first to take a  
4 statement more less from Mr. Scott. I don't believe I  
5 have any objections to the statement he made.

6 THE COURT: To Deputy Gifford?

7 MR. GROVE: Correct. In hearing his testimony  
8 today, I'll leave that in your discretion by all means,  
9 but he said that he Mirandized him. He said that he  
10 seemed to know what was going on. He said that he was the  
11 first on scene. He may have been cuffed at the time, but  
12 I don't believe he testified that he was under arrest for  
13 anything at the moment. Investigator Hester did not  
14 re-Mirandize him. He didn't do a new line of questioning  
15 with him. I ask Your Honor to consider that in reference  
16 to the second statement that you heard testimony on, but  
17 I'm satisfied on the other grounds. It doesn't appear  
18 that either of them believe him to be intoxicated. It  
19 doesn't appear that either of them made any threats or  
20 offered any promises or were physical with him in any way  
21 that might otherwise draw out an improper statement.  
22 Again, you heard Investigator Hester testify that he  
23 re-Mirandize him. I believe he said it was may be five  
24 minutes between one statement and the other. I'll leave  
25 that in your discretion however, Your Honor.

1 THE COURT: Anything else?

2 MR. GROVE: No, sir.

3 THE COURT: Anything from the State?

4 MR. OZMENT: No, sir.

5 THE COURT: With regard to the two statements,  
6 the findings I'll make are by the greater weight of the  
7 evidence which the case law requires me to entertain that  
8 standard. With regard to Deputy Gifford, you have no  
9 objection to that statement coming, but I do find that all  
10 the appropriate Miranda warnings were given. And those  
11 were summarized happily by the witness. Also, I find that  
12 Mr. Scott did knowingly and voluntarily give up his right  
13 to he remain silent and he gave the statement to Deputy  
14 Gifford freely and voluntarily without hope of reward, no  
15 promises, no threats, no duress and all in all it was a  
16 voluntary product of his free and unconstrained will. I  
17 make the same findings as to the statement given to  
18 Investigator Hester. The fact that he was not  
19 re-Mirandized doesn't bear any weight in this particular  
20 case because one line of questioning was engaged in  
21 immediately after the first. He may not have been under  
22 arrest, but he was in custody. He was not free to go, so  
23 I think the Miranda warning was necessary and in all  
24 instances the constitutional safeguards have been complied  
25 with and both statements will come in if the State seeks



1 are counting on you to pay very close attention, that's  
2 the only way that you can fulfill your oath, that's the  
3 only way that you can give them what you sworn to do and  
4 that's to give them both a fair trial.

5 All right. Now, if during the course of the  
6 morning anyone on the jury needs to take a break, try to  
7 catch my attention. I'm pretty bad about looking over  
8 there. I don't do it very often, but if you do want to  
9 take a break, just raise your finger up in the air and  
10 I'll see you and we'll do that. We'll probably break in  
11 about an hour or so. And as I mentioned yesterday, we're  
12 going to stop before lunch today for the day, so just let  
13 me know if you need some assistance.

14 All right. Any objection of those remarks from  
15 the State?

16 MR. OZMENT: No, Your Honor.

17 THE COURT: From the defendant?

18 MR. GROVE: No, Your Honor.

19 THE COURT: Mr. Ozment.

20 MR. OZMENT: Thank you, Your Honor. If it may  
21 please the Court. Good morning. In almost every murder,  
22 you have three parts. You have planning. You have the  
23 act and you have the cover up. This is no different. The  
24 planning can be -- and the judge will tell you this at the  
25 very end of the case, the planning can be just a few

1 seconds, can be the second decide, I'm going to kill him.  
2 In this case, you're going to hear in the evidence that  
3 there was a little more than that went into this. You're  
4 going to hear evidence that two weeks before this happened  
5 Mr. Scott told a co-worker that he was thinking about  
6 killing Steve Springs. You're also going to hear the  
7 facts of the day that he actually killed him. I'll let  
8 you draw your own conclusion from that.

9 Then we have the act. On September 26, 2012,  
10 Steve Springs and Mr. Scott had been on the phone arguing  
11 a little bit. Steve Springs drove to Wayne Scott's house,  
12 got out of the car. At that point everyone agrees  
13 something happened. A neighbor hears a gunshot.

14 So we come with a cover up. Neighbor comes out  
15 of his house. Neighbor will testify from this witness  
16 stand that he saw Mr. Scott kind of running around.  
17 Mr. Scott said first said, oh, my gun went off. It was  
18 jammed. And then he said, well, actually I just killed  
19 him. Neighbor said what are you talking about you just  
20 killed him, who did you kill. He said I just killed  
21 Steve. You will then hear Mr. Scott told a neighbor  
22 something to the effect if you don't want same to happen  
23 to you, I want you to take this gun and get rid of it. I  
24 want you to help me move this body. The neighbor said  
25 woo, woo, I'm no part of this. But out of fear, he did

1 take the gun and he put it in the woods. You will then  
2 hear Mr. Scott went over to the neighbor's house --  
3 another neighbor's house and had a couple of beers. You  
4 will also hear that the neighbor saw Mr. Scott take a  
5 screwdriver out of his boat, whip it off and walked back  
6 around to where the dead man lay. A few minutes later you  
7 will hear that the sheriff deputies arrived. What do they  
8 find next to the dead man a red screwdriver matches the  
9 exact description of the screwdriver that the neighbor saw  
10 Mr. Scott take out of his boat and walk over to where the  
11 body was.

12 So we have the planning, we have the cover up,  
13 obviously, the meat of any of this is going to be the act.  
14 You're going to hear what Mr. Scott says told law  
15 enforcement that night happened. It will be up for you to  
16 weigh if that makes sense whether this was in  
17 self-defense, whether it was an accident or whether it was  
18 a cold-blooded, planned out and covered up murder. That's  
19 what the State intends to prove. It was planned. It was  
20 acted and finally, it was covered up. I appreciate your  
21 attention. Thank you.

22 THE COURT: All right, Mr. Grove.

23 MR. GROVE: Thank you, Your Honor. May it  
24 please the Court.

25 THE COURT: Yes, sir.

1           MR. GROVE: When I was 17, I was a junior in  
2 high school and it was springtime. I had just inherited a  
3 three-times-hand-me-down Jeep Cherokee from my dad, then  
4 my oldest sister, then my middle sister. And finally,  
5 finally it made its way all the way down to me and I loved  
6 it to death and I use to wash it in the driveway seems  
7 like every weekend. And up to that point, I was depending  
8 on other people for rides to school. I rode the bus to  
9 school. I catch a ride with a friend from time to time.  
10 And I got that car and anybody who's ever gotten a car for  
11 the very first time can remember that feeling of freedom  
12 and you loved being out there driving. I loved that car  
13 to death.

14           I lived in apart of the county that was fairly  
15 rural. We didn't have a high school in my town. We had a  
16 high school that was about eight or ten miles away. It  
17 was a consolidated school from that corner of the county.  
18 So I had to drive ten to 15 minutes to school every  
19 morning. There were two ways to get there 557 and 49.  
20 Forty-nine when you got to the outskirts of town, you hang  
21 a left and go down there several miles. And then you hang  
22 a right and go down there several miles and you end up at  
23 the school. 557 you got straight out of town and you kind  
24 of wind and weave and you go up and down and bob around  
25 and finally you end up right there at the school.

1     Forty-nine takes a long little longer, but it is a little  
2     straighter. It's a more direct route -- well, straight  
3     out of the way but straight roads and fairly flat.  
4     Obviously, the more direct route had a little bit of a  
5     winding turn to it and a little bit of angulation.

6             My parents always use to tell me take 49. You  
7     go to school at least once a day sometimes twice if I had  
8     some sort of practice that goes with after school, I come  
9     home and then that evening I go back. Take 49 it's  
10    straighter, it's safer, that's the way you ought to go.  
11    And it seems like hindsight now that I think about it even  
12    when they were driving and we weren't going to the -- in  
13    the direction of the school, but we happen to be going  
14    down 49, they would comment on how much safer it was and  
15    how much straighter it was and how isn't this a much  
16    better way to go.

17            Well, one time it was an afternoon early  
18    evening, I guess, it was still daylight outside. I was  
19    running late and I had to get to school. I come up to the  
20    stop sign, stoplight where you either make a left or you  
21    go straight. Well, the left-hand turn, the light had  
22    turned red. I was gone have to sit, I was gone have to  
23    wait and I didn't have the patience for that. The  
24    straight road there was a green light. I said, well, I  
25    know I'm not suppose do this, but here we go, so I take

1 off down 557 going straight. And now that I think about  
2 it, I don't have all the details clear with me. I don't  
3 remember how fast I was going. I was probably speeding a  
4 little bit because I was in a hurry. And I probably being  
5 17 years old being a relative new driver wasn't paying as  
6 much attention as I should. But I came over a hill and  
7 traffic had come to a dead stop on the up sloop of that  
8 hill and I didn't have enough time to stop and slammed on  
9 the breaks and I ran into the fellow that was at the back  
10 of the line. I'm embarrassed, I'm humiliated everybody  
11 was okay. My parents got called and, of course, they get  
12 called out there and they drive out there and I had to  
13 tell them I gone the way I had been told not to go and  
14 something bad had happened and they were upset with me.  
15 They were glad that everything was okay, but it was a  
16 lesson that I had to learn that they didn't tell me stay  
17 away from that road because they wanted me to go down that  
18 road. They told me stay away from that road because they  
19 genuinely wanted me to stay away from that road. They  
20 told me go the other way it's safer even if it's going to  
21 take you a little bit longer, even if it's not exactly  
22 what you want to do, that's the good idea.

23 Ladies and gentlemen, what you're going to hear  
24 the day of the incident, my client, Wayne Scott, everybody  
25 calls him Sunny. Sunny said Steve stay away, leave me

1 alone. I don't want any part of this, go home. Steve  
2 didn't go home. Steve hung up the phone. Steve came  
3 over to Sunny's house confronted him at Sunny's house.  
4 Sunny sitting right there on a stoop, said Steve get back  
5 in your van, go home, leave me alone. He didn't go home.  
6 He came at him. Sunny Scott shot him, that's absolutely  
7 true, ladies and gentlemen and he had absolute right to.  
8 He didn't tell Steve leave me alone, go away, stay away.  
9 I don't want any part of this because he wanted he wanted  
10 him to come over and start a fight. He told him to stay  
11 away leave me alone. I don't want any part of this  
12 because he wanted him to stay away and leave me alone and  
13 he didn't want any part of this.

14 Sunny didn't have anywhere else to go. He's  
15 locked out of his house sitting right there on the front  
16 stoop. He been hunting earlier that day. He got a riffle  
17 leaned up next to it. Steve came at him, did the only  
18 thing he thought he could.

19 You're going to hear a lot of testimony from the  
20 stand. You're going to hear from officers. You're going  
21 to hear from people who said or saw or heard something.  
22 And the judge is absolutely right I want you to stay with  
23 us. I want you to give us your attention to each and  
24 every witness from start to finish. The ones at the  
25 beginning. The ones at the end and everyone in between.

1 Because every one of them is going to be important, ladies  
2 and gentlemen.. Every one of them is going to have  
3 something valuable to contribute to this case be it  
4 through critical evidence, be it through a bias or be it  
5 through a defense. So give us your attention, listen  
6 carefully and keep in mind, when you're told don't touch  
7 the hot stove, when you're told don't play with matches  
8 you could get burned, when you're told don't speed or go  
9 the other way you could get into a wreck, people aren't  
10 telling you that because they want you to do it and have  
11 something bad happen. That's being told because they're  
12 trying to avoid trouble. That's what happened here. At  
13 the conclusion of this case, I'm sure that you will see  
14 that Sunny Scott is not guilty of murder and because he's  
15 not guilty of a murder, he's not guilty of possession of a  
16 weapon during the commission of a violent crime. Thank  
17 you.

18 THE COURT: Thank you, Mr. Grove.

19 All right. State can call its first witness.

20 MR. OZMENT: Thank you, Your Honor. The State  
21 would call Rollings Rhodes to the stand.

22 THE CLERK: Raise your right hand. You swear to  
23 tell the truth, the whole truth and nothing but the truth  
24 so help you God?

25 THE WITNESS: I do.



1 THE CLERK: Please be seated, state your full  
2 name for the record.

3 THE WITNESS: Michael Rollins Rhodes.  
4 WHEREUPON,

5 Michael Rollins Rhodes,  
6 after first having been duly sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY MR. OZMENT:

9 Q How are you today, Investigator Rhodes?

10 A I'm well, thank you.

11 Q Good. What do you do for a living?

12 A I am a narcotics investigator, I'm assign to the  
13 FBI's violent crime task force.

14 Q You're actually employed through the ---

15 A Sheriff's office.

16 Q All right. How long have you worked for the  
17 sheriff's office?

18 A Eleven years.

19 Q Okay. What role did you have at the sheriff's office  
20 back in September of 2012?

21 A Narcotics investigator.

22 Q All right. Now, a narcotics investigator would that  
23 mean you investigate drugs not murder for instance?

24 A Right, right.

25 Q On September 24th of last year, did you have occasion

1 to go to Sharon Road?

2 A I did?

3 Q What was that about?

4 A For a shooting is what it initially came out as.

5 Q All right. When you got to the scene, what did you  
6 find?

7 A When I parked kind of in front of the residence and I  
8 was -- I was actually parked behind a white van, walked  
9 beside the van and saw a male subject laying kind of in  
10 the door way of his -- on the driver's side -- he was  
11 laying on the ground, but the door was open. He was kind  
12 of a little behind the door, kind of not really under the  
13 vehicle but right there. And then Mr. Scott was sitting  
14 on a -- it's not really a porch. It's kind of a -- you  
15 can say a porch, small porch in front of the van.

16 Q All right. And the porch was attached to something?

17 A Yeah, it was like a -- I don't know if it was a shop  
18 or a work shed or something like that.

19 Q Okay. Was there any law enforcement EMS anything on  
20 the scene when you arrived?

21 A Not initially, no.

22 Q All right. So you were the first person to get  
23 there?

24 A Right.

25 Q Why were you the first person to get there?

1     A     I was actually assisting Coward Police Department  
2     with another case and happen to be in Florence when the  
3     call came out and was a lot closer to other responding  
4     unit.

5     Q     All right. So that's how you ended up first?

6     A     Right.

7     Q     All right. When you were there was the subject --  
8     you said it was kind of not under the van but on the edge  
9     of the van. Did he appear responsive in any way?

10    A     No, he wasn't.

11    Q     All right. Did you observe any signs of life with  
12    him?

13    A     Uh-uh, no.

14    Q     All right. What about Mr. Scott, what was his  
15    demeanor?

16    A     He was, like I said, sitting on the little stoop or  
17    porch. I mean, he was calm. He wasn't upset or anything  
18    like that.

19    Q     All right. What did you do when you approached him?

20    A     I asked him who did the shooting and he said I did.  
21    I then placed him in handcuffs.

22    Q     All right. How long from that time until other  
23    deputy responded?

24    A     I mean, they were fairly close behind me. It wasn't  
25    a long time.

1 Q Less than five minutes?

2 A I would say so, yeah.

3 Q After you put him into handcuffs -- why did you put  
4 him into handcuffs?

5 A Because he said he shoot the guy and I wanted to  
6 detain him. I didn't know what his state of mind was or  
7 what the situation was.

8 Q All right. After that, did you have any more  
9 involvement in this case?

10 A I didn't.

11 MR. OZMENT: No further questions, Your Honor.

12 THE COURT: Cross-examination.

13 MR. GROVE: Thank you, Your Honor.

14 CROSS-EXAMINATION

15 BY MR. GROVE:

16 Q Good morning, Mr. Rollins.

17 A Good morning.

18 Q Steve lying in the door way? Steve is the deceased?

19 A Right.

20 Q He's lying in the door way of his van?

21 A Right.

22 Q Anything else around the scene that you saw?

23 A Not that I saw, no.

24 Q Did you see a gun?

25 A I don't recall not right then, not around the crime

1 scene itself, no.

2 Q Did you collect any evidence of your own?

3 A No.

4 Q Did you interview any witnesses?

5 A No.

6 Q You were the first one on the scene?

7 A Right.

8 Q And they were -- backup, I guess, the investigators  
9 were shortly behind you?

10 A Right.

11 MR. GROVE: No further questions.

12 THE COURT: Redirect?

13 MR. OZMENT: No redirect, Your Honor.

14 THE COURT: Thank you, sir. You can step down.

15 (WHEREUPON, the witness leaves the witness  
16 stand.)

17 MR. OZMENT: We'd ask that Investigator Rhodes  
18 be released from his subpoena?

19 THE COURT: Any objection?

20 MR. GROVE: No objection, Your Honor. Thank  
21 you.

22 THE COURT: All right, next witness.

23 MR. OZMENT: Your Honor, State calls Deputy Mike  
24 Giffords to the stand.

25 THE COURT: Mr. Ozment, could you come move that

1 microphone back towards the center part of that shelf?

2 MR. OZMENT: Yes, Your Honor.

3 THE CLERK: If you will, sir, go to the witness  
4 stand, place your left hand on the Bible and raise your  
5 right hand. Do you swear to tell the truth, the whole  
6 truth, and nothing but the truth so help you God?

7 THE WITNESS: I do.

8 THE CLERK: Please be seated and state your full  
9 name for the record.

10 THE WITNESS: Deputy Michael Gifford.

11 WHEREUPON,

12 Michael Gifford,

13 after first having been duly sworn, testified as follows:

14 DIRECT EXAMINATION

15 BY MR. OZMENT:

16 Q How are you today, Deputy Gifford?

17 A Good.

18 Q What do you do for a living?

19 A I work with the Florence County Sheriff's Office on  
20 the patrol division.

21 Q How long have you been with the sheriff's office?

22 A Three and a half years.

23 Q Okay. Were you working on patrol back on  
24 September 24th 2012?

25 A I was.

1 Q Did you have occasion on that day to go to  
2 Sharon Road?

3 A I did.

4 Q What county is that in?

5 A Florence County.

6 Q All right. About what time did you respond out to  
7 Sharon Road?

8 A It was late in the evening somewhere between eight  
9 and ten o'clock.

10 Q Okay. When you got to that location, what did you  
11 find?

12 A I saw Mr. Scott on the front porch handcuffed. There  
13 was a white in color cargo van parked in his driveway and  
14 Mr. Springs was in the apex of the door.

15 Q All right. When you got there, did Mr. Springs have  
16 any sign of life that you could tell?

17 A No, sir.

18 Q When you first got there, what did you do?

19 A I approached Mr. Scott. I gave him his Miranda  
20 warnings and then took a brief statement from him.

21 Q All right. And when you say Miranda warnings tell me  
22 what you mean by that?

23 A We're issued a card and I keep it on us and I just  
24 advise him of his Miranda warnings.

25 Q If you don't mind read that card and tell me what

1     those rights are?

2     A     You're in the custody of Florence County Sheriff's  
3     Office. It's my duty to advise you of the following  
4     rights. You have the right to remain silent. Anything  
5     you say maybe used against you in court. You have a right  
6     to have a lawyer consult with him before and while  
7     answering any questions. If you cannot afford a lawyer,  
8     one will be provided to you without cost. And then I  
9     asked him if he understood, he said he did. I asked him  
10    if he be willing to talk to me and he said he would.

11    Q     All right. And the individual that you were talking  
12    to, do you see him in the courtroom?

13    A     Yes, sir, it's the defendant.

14    Q     All right. And where is he sitting?

15    A     Currently?

16    Q     Yeah.

17    A     Right there at the defendant's table Mr. Scott.

18    Q     Not the gentlemen in the suit?

19    A     No, sir.

20    Q     Okay. So what -- how did you start your -- after  
21    Miranda warnings, how did you start your conversation with  
22    Mr. Scott?

23    A     Just generically asked him what happened, that  
24    usually gets people to give a brief synopsis of why we're  
25    there. So it wasn't a very specific question just how I



1 always start.

2 Q What was his response to that question?

3 A He explain to me that Mr. Springs arrived at his  
4 house uninvited, unannounced, pulled up in a driveway  
5 where a verbal altercation ensued between the two over the  
6 course of a few minutes. And at some point, Mr. Springs  
7 approached him with something in his hand. He did tell me  
8 he didn't know what was in Mr. Springs' hand, but he had  
9 something in his hand.

10 Q He was specific that he had -- Mr. Springs had  
11 something in his hand?

12 A He was specific that he had something in his hand.  
13 He was also specific that at that time he didn't know what  
14 was in his hand.

15 Q All right. Did he tell you where he was holding it  
16 or how he was holding this item?

17 A He said he was holding it below his waist.

18 Q All right. Did he tell you how long Mr. Springs was  
19 there at this point while they were verbally arguing?

20 A We did not discuss that.

21 Q Okay. So he says that he saw Mr. Springs had  
22 something in his hand and it was below his waist. What  
23 did he say happened next?

24 A He said Mr. Springs approached him. He said he told  
25 Mr. Springs to not come towards him. And at some point

1     when Mr. Springs was walking towards him, he picked up a  
2     rifle which was leaned up next to him and fired off one  
3     shot which hit Mr. Springs.

4     Q     All right. And so ---

5     A     In front of the van door.

6     Q     And when so when he was talking to you when he said,  
7     you know, don't approach me or don't take another step, he  
8     said that Mr. Springs was already approaching him?

9     A     Correct.

10    Q     Okay. And then he shot after he approached further?

11    A     Correct.

12    Q     Okay. Did he describe that approach? Did he give  
13    you any idea of how fast it was anything like that?

14    A     No, we didn't get into those specifics.

15    Q     Okay. Did he describe to you how he was -- why he  
16    had a rifle with him?

17    A     He had been deer hunting earlier in the evening.

18    Q     Okay. Did he tell you where the rifle was when  
19    Mr. Springs arrived?

20    A     He was said it was leaned up next to him.

21    Q     Okay. At what point, did it go from leaned up next  
22    to him to, I guess, pointing at him? Did he tell you how  
23    that worked?

24    A     He told me he grabbed it at some point when  
25    Mr. Springs was walking towards him.

1 Q Okay. Did he tell you how he fired it?

2 A He said he did not put the gun on his shoulder and  
3 aim. He sort of fired from the hip or from his lap area,  
4 so he didn't personally show me. He just said he fired it  
5 from his lap area without aiming.

6 Q Did he state he pulled the trigger?

7 A He did.

8 Q All right. What did he say happened after he pulled  
9 the trigger?

10 A He said that Mr. Springs stumbled back towards the  
11 other side of the van door, which we called the apex which  
12 is back towards around the -- where he would go to get  
13 into the driver seat. He threw the cartridge casing into  
14 a burn pile or a fire pit type area and put the gun  
15 inside.

16 Q All right. Did he ever mention to you having  
17 interaction with a man name George Watson?

18 A I believe that was his neighbor.

19 Q But did Mr. Scott tell you in that conversation that  
20 he had at any point in this -- during this had any  
21 interaction with Mr. Watson?

22 A No.

23 Q What did -- after he through the shell casing in the  
24 burn pile, what did he say he did next?

25 A Put the gun inside. I believe he called his wife ---

1 Q All right.

2 A --- or went -- he went to a friend's house where he  
3 called his wife from a friend's house.

4 Q All right. Did he get in a car and drive or did he  
5 walk to a friend's house?

6 A We didn't get into that specifics. It's behind his  
7 house, so I don't think he had to drive.

8 Q So you know where the friend's house is?

9 A No, it was -- no, I don't.

10 Q Okay. So he had returned before you got there?

11 A Correct.

12 Q Okay. Going back to before the shot, did he tell you  
13 that Mr. Springs threatened him?

14 A Not verbally.

15 Q You mean ---

16 A Mr. Scott did not say that he was verbally  
17 threatened. He informed me that he felt threatened  
18 because there Mr. Springs was walking towards him.

19 Q All right. But he didn't tell you that Mr. Springs  
20 made any verbal threat?

21 A Correct.

22 Q Okay. When you were talking to Mr. Scott that  
23 night, did you have any inclination that he might have  
24 been drinking some?

25 A A little bit. He admitted he had been drinking and

1     you could smell a little bit of alcohol on his breathe.

2     Q     Did he seem to have his whits about him then?

3     A     He did.

4     Q     Did you have any trouble talking to him?

5     A     No.

6     Q     Was he making -- answering your questions  
7     appropriately as you asked them?

8     A     He was.

9     Q     Okay. After you spoke to Mr. Scott and you heard his  
10    story, did you look on the ground for any signs of this  
11    struggle like Mr. Scott had talked about?

12    A     I did.

13    Q     What did you observe on the ground?

14    A     I mean, there was no torn turf, no drag marks, no  
15    scuff marks. There was a couple -- I don't want to call  
16    them weapons. I think there was a pocket knife laying  
17    there and a screwdriver. There were tools laying there.  
18    I don't have a specific recollection what they were, but  
19    there was no signs of a struggle.

20    Q     All right. There was no signs of someone that run or  
21    been dragged or fallen in that area?

22    A     Correct.

23    Q     Okay. Did you do anything to secure the scene that  
24    day?

25    A     Put up crime scene tape.

1 Q And why did you put up crime scene tape?

2 A It gives us a way of where to focus. It keeps people  
3 out of the crime scene to prevent contamination.

4 Q All right. And when you say crime scene tape, you  
5 mean like the stuff I've seen on TV the yellow tape?

6 A Yes.

7 Q Okay. Now, once you get that tape up, how do you  
8 keep -- how do you regulate who goes in and out of a crime  
9 scene at that point?

10 A Two ways. We have other deputies on scene outside  
11 the crime tape who prevent people that don't need to be  
12 inside from coming inside, but we also maintain what we  
13 call a crime scene log, which annotates everybody that  
14 comes in the crime scene tape.

15 Q So it's like, you know, getting on a -- it's like  
16 taking roll on the way. You just write down every one's  
17 name when they come into a crime scene?

18 A We write down their name, their agency, their reason  
19 for coming in and then they sign it.

20 Q All right. Did you take a crime scene log in this  
21 case?

22 A Yes, sir.

23 MR. OZMENT: Your Honor, may I approach?

24 THE COURT: Yes, sir.

25

1 BY MR. OZMENT:

2 Q Deputy Gifford, I'm going to hand you what's been  
3 marked as State's Exhibit 1. Can you identify that for  
4 me?

5 A That is the sheet we use for our crime scene entry  
6 log.

7 Q All right. And is this the crime scene log from this  
8 particular case?

9 A It is.

10 Q Do you see your name on it?

11 A I do.

12 Q All right. And is that the log that you kept?

13 A Yes, sir.

14 MR. OZMENT: Your Honor, at this point the State  
15 would move State's Exhibit 1 into evidence.

16 THE COURT: Any objection?

17 MR. GROVE: No, Your Honor.

18 THE COURT: All right. One is in.

19 (WHEREUPON, State's Exhibit No. 1 was admitted  
20 into evidence.)

21 MR. OZMENT: No further questions at this time,  
22 Your Honor.

23 THE COURT: Okay. Cross-examination.

24 MR. GROVE: Thank you, Your Honor.

25 CROSS-EXAMINATION

1 BY MR. GROVE:  
2 Q Good morning, deputy.  
3 A Good morning.  
4 Q So you were the second officer on scene, is that  
5 right accurate?  
6 A Yes, sir.  
7 Q And you spoke with Sunny after you got on scene  
8 Mr. Scott?  
9 A Yes, sir.  
10 Q Did you Mirandize him?  
11 A I did.  
12 Q All right. And then you recorded a statement of his?  
13 A Yes, sir, not audio, not by videotape just with  
14 notes.  
15 Q Do you have a device that could record a statement?  
16 A I do.  
17 Q But you choose not to do that?  
18 A Well, my car was outside the crime scene and he was  
19 inside, so I didn't want to take him out.  
20 Q Sure. Did you have him write a statement?  
21 A I did not.  
22 Q But you could have?  
23 A He was in cuffs, so he wasn't able to write.  
24 Q You could have taken him out of cuffs though,  
25 couldn't you?



1 A Not at that juncture.

2 Q Not to write a statement during the course of an  
3 investigation?

4 A Well, my area of investigations just to get a generic  
5 scenario of what happened to determine if somebody needs  
6 to be further investigated, so that's not something I  
7 would typically do.

8 Q Did you write down everything he said word for word?

9 A No.

10 Q So you're paraphrasing?

11 A Some things, yes.

12 Q You say that Sunny smelled a little bit like alcohol,  
13 but didn't seem to be drunk?

14 A Correct.

15 Q And I think that he told you that he had had a couple  
16 of beers afterwards, after the shooting occurred, correct?

17 A He told me he had one before the shooting and three  
18 to four afterwards.

19 Q Right. So most of the alcohol he's telling you he  
20 consumed was after the fact?

21 A Correct.

22 Q Earlier Mr. Ozment was asking you questions about  
23 what else you saw around the scene and he's asking you  
24 about whether or not you saw signs of a struggle. What  
25 was the ground like?

1 A There was some gravel. There was some concrete.  
2 There was some grass and dirt.

3 Q Woodchips?

4 A If he had bushes possibly, but I don't recall any  
5 woodchips being where we were walking.

6 Q You done any training on how to identify signs of a  
7 struggle in gravel or concrete or woodchips?

8 A Not through the academy.

9 Q Okay. So really you don't know whether or not there  
10 had been a struggle is what you're telling me?

11 A I didn't see signs of a struggle.

12 Q What would a sign of a struggle have been?

13 A Drag marks, shoe footprints where it looks like they  
14 had turned. Those would be two instances.

15 Q Did you take any pictures of the scene?

16 A I did not. We had crime scene for that.

17 Q Did you walk around the scene?

18 A Yes, sir.

19 Q You made footprints on the scene?

20 A Yes.

21 Q So if there are pictures, we'll see footprints of  
22 yours there?

23 A Possibly if I stepped in dirt.

24 Q Is it possible to step somewhere and not make a  
25 footprint?

1 A On concrete.

2 Q Mr. Ozment was also asking you questions about other  
3 things you saw at the scene and you said you saw a  
4 screwdriver and a knife, but you wouldn't call those  
5 weapons. You wouldn't call a knife a weapon?

6 A Not if you using it to cut an apple, it's not a  
7 weapon.

8 Q Any apples on the scene?

9 A No.

10 Q Was there anything that looked like it needed  
11 tightening any screws loose on the scene?

12 A I didn't check for that.

13 Q The lights on the van were they on or off?

14 A I don't recall.

15 Q But the door was open?

16 A The door was open and the van was not running.

17 Q Keys in the ignition?

18 A Did not check for that.

19 Q This knife where was it?

20 A I don't recall specifically. I didn't take any  
21 pictures of it. I just remember seeing two to three, four  
22 items laying next to the door which I -- if I remember  
23 correctly was a screwdriver and a knife.

24 Q Okay. Did you have an opportunity to inventory the  
25 van or was that somebody else's job?

1 A That was crime scene in this particular instance.

2 Q Right. As you testified to earlier, your job was to  
3 essentially secure the scene and get initial ideas as to  
4 what happened, right?

5 A Yes, sir.

6 Q Okay. Is it to say the gist of Mr. Scott's statement  
7 to you is he been hunting. He came home. Steve Springs  
8 approached him. He felt threatened and he shot him?

9 A Yes.

10 Q There's obviously details in there, but that's the  
11 meat and potatoes of it would you say that?

12 A Yes.

13 Q And you say when you got on scene that Investigator  
14 Rhodes had already been there?

15 A Yes.

16 Q Do you know for how long?

17 A I don't.

18 Q And you don't remember exactly what time this was,  
19 but it was in the evening?

20 A It was evening.

21 Q Right. I'm not going to hold you to a specific time,  
22 but it was after dinner. It was dark outside?

23 A Correct.

24 Q And you didn't get into specifics with Sunny about  
25 how long Steve had been on the scene before the shooting

1 occurred?

2 A I did not.

3 Q And you didn't get into specifics with him did you  
4 about how Steve was coming at him, right?

5 A I did not.

6 Q He remarked that Steve was coming at me and I shot  
7 him, correct?

8 A Correct.

9 Q Have you got a copy of your report with you?

10 A I do.

11 MR. GROVE: Beg the Court's indulgence.

12 (WHEREUPON, a pause in the proceedings.)

13 BY MR. GROVE:

14 Q You say that when you're testifying on direct  
15 answering Mr. Ozment's questions that Steve Springs  
16 stumbled back after he was shot?

17 A Yes, sir.

18 Q That that was a remark Mr. Scott made to you. Did he  
19 describe a stumble?

20 A No.

21 Q Did he say if it kept his feet?

22 A No.

23 Q Did he fall or crawl?

24 A We didn't get into those specifics.

25 Q Okay.

1     A     The only specifics we talked about is that Mr. Scott  
2     said he shot Mr. Springs while he was in the front of the  
3     open driver door, but when I was on scene, Mr. Springs was  
4     behind the driver door leaned up against the van.

5     Q     How long have you been a deputy?

6     A     Three and a half years.

7     Q     And how long did you spend at the academy?

8     A     Nine weeks.

9     Q     And that was before you -- they put you out on your  
10    own as they say?

11    A     Correct.

12    Q     And did you have any law enforcement training before  
13    you went to the academy?

14    A     I was the security officer at McLeod for a year and a  
15    half.

16    Q     But you hadn't had any formal training as far as  
17    investigations are concerned?

18    A     Correct.

19    Q     You learned a lot at the academy?

20    A     Correct?

21    Q     They probably taught you firearm usage, right?

22    A     Correct.

23    Q     Did they teach you how to drive a car?

24    A     Yes.

25    Q     There was special training about all that stuff,

1 MR. OZMENT: Yes, Your Honor.

2 THE CLERK: Place your left hand on the Bible  
3 and raise your right. Do you swear to tell the truth, the  
4 whole truth, and nothing but the truth so help you God?

5 THE WITNESS: I do.

6 THE CLERK: Please be seated and state your full  
7 name for the record.

8 THE WITNESS: Sara Johnson.

9 WHEREUPON,

10 Sara Johnson,  
11 after first having been duly sworn, testified as follows:

12 DIRECT EXAMINATION

13 BY MR. OZMENT:

14 Q How are you today, Ms. Johnson?

15 A I'm well. Thank you.

16 Q What do you do for a living?

17 A I am a patrol deputy with the Richland County  
18 Sheriff's Department.

19 Q And before you were with Richland County, where were  
20 you?

21 A Florence County Sheriff's Department.

22 Q What did you do for the Florence County Sheriff's  
23 Department?

24 A Crime scene investigation.

25 Q All right. What sort of things does a crime scene

1 A Roughly about 20 minutes I would imagine.

2 Q Okay. After you examined Mr. Springs, what did you  
3 do next?

4 A I collected the evidence that was outside the  
5 residence and that we already marked. And then we went to  
6 -- Deputy Gifford and I went to the burn pile to look for  
7 the shell casing.

8 Q All right. When you say you collected evidence that  
9 was outside the residence, what evidence were you -- and  
10 you say you already marked it. I guess, explain to me  
11 what you found and what you marked?

12 A A silver lock-back hinge knife, and a red and black  
13 screwdriver and a pair of -- I guess their covers for the  
14 scope for a riffle.

15 Q Okay. And when you say you marked them, how did you  
16 mark these things?

17 A With the little yellow tint markers that we could  
18 identify them in the photographs.

19 Q All right. And then did you take photographs of  
20 those markers so you could of -- so in the photographs, I  
21 would see a layout where everything is?

22 A Correct.

23 MR. OZMENT: Your Honor, may I approach?

24 THE COURT: Yes, sir.

25



1 BY MR. OZMENT:

2 Q Okay. So I'm showing you State's Exhibit 5 that is a  
3 photograph of a screwdriver it appears. Is this yellow  
4 thing the tint marker you were talking about?

5 A Yes.

6 Q All right. And State's Exhibit 6 I see another tint  
7 marker there?

8 A Correct.

9 Q And so then in say State's Exhibit 4 I see the tint  
10 markers on the ground. Do those mark where those items  
11 were?

12 A Yes.

13 Q All right. Now, obviously it's in the pictures or  
14 two of those tint markers screwdriver and silver knife; is  
15 that correct?

16 A Right.

17 Q Were those collected at the scene that night?

18 A Correct.

19 Q And what did you do with those?

20 A I placed them in evidence bags and transported them  
21 to the evidence room when the scene was completely done.

22 Q All right. And what is the evidence room do?

23 A It's securely holds all of our evidence for the case  
24 behind locked doors, so that there's a chain of custody.

25 Q All right. And then on the knife and the

1 screwdriver, did you eventually do any further  
2 investigation of those two items?

3 A Correct. I swabbed them for possible touch DNA.

4 Q What is -- what do you mean when you say swab them  
5 for possible touch DNA?

6 A I used a cotton swab and you put water on it and you  
7 swab them for -- to get DNA for somebody who possibly  
8 touched that particular item. And then you send it for  
9 analysis.

10 Q All right. And you did that to the screwdriver and  
11 the knife?

12 A Correct.

13 MR. OZMENT: Your Honor, may I approach?

14 THE COURT: Yes, sir.

15 BY MR. OZMENT:

16 Q All right. Deputy Johnson, I'm going to hand you  
17 what's been marked as State's Exhibit 14 and 15. Those  
18 bags are sealed but would you mind unsealing them looking  
19 in it and telling me if you recognize those items?

20 A Number 14, yes, this is a screwdriver.

21 Q Is that the screwdriver you found at the scene that  
22 night?

23 A That's correct.

24 MR. OZMENT: Your Honor, at this time the State  
25 would move exhibit 14 into evidence.

1 THE COURT: Any objection?

2 MR. GROVE: No, Your Honor. Thank you.

3 THE COURT: Fourteen is in.

4 (WHEREUPON, State's Exhibit No. 14 was admitted  
5 into evidence.)

6 A Number 15 is the lock-back knife.

7 Q Is that lock-back knife that you found at the scene  
8 that night?

9 A That's correct.

10 MR. OZMENT: Your Honor, at this time the State  
11 would move exhibit 15 into evidence.

12 MR. GROVE: No objection, Judge. Thank you.

13 THE COURT: All right, that's in too.

14 (WHEREUPON, State's Exhibit No. 15 was admitted  
15 into evidence.)

16 BY MR. OZMENT:

17 Q So those are the two items you swabbed for touch DNA?

18 A That's correct.

19 Q And to your knowledge, they got sent off for analysis  
20 the swabs did?

21 A That I do not know. Well, I was informed they had  
22 not yet.

23 Q All right. But you swabbed -- what did you do with  
24 the swabs after you swabbed them?

25 A I placed them in the evidence room with the rest of

1 the evidence.

2 Q All right. Going back to where we were, you said you  
3 then went and searched a burn pile; is that correct?

4 A That's correct.

5 Q Describe to me what this burn pile was?

6 A It was an area off in the side of the yard where look  
7 like they had several fires like maybe bond fires or yard  
8 fires, so that was their burn pile.

9 Q Okay. What were you looking for in the burn pile?

10 A We were looking for the shell casing from the riffle.

11 Q How long did you search the burn pile?

12 A I would say probably about 15 minutes or so with  
13 flashlights, it was rather dark.

14 Q How many people were searching with you?

15 A Two others.

16 Q Okay. And, I guess, how big was this burn pile?

17 A Probably about roughly 10 feet around.

18 Q Okay. And in the 15 minutes the three of you  
19 searched through this burn pile. Were you able to find  
20 the shell casing?

21 A No.

22 Q Okay. After you searched the burn pile, what did you  
23 do next?

24 A I entered the residence through the porch to try to  
25 locate the riffle.

1 A This vehicle right here.

2 Q All right. And I see an arrow on that what does that  
3 arrow indicate?

4 A That indicates the front of the van is pointing  
5 towards the house.

6 Q All right. Now, I see those some measurements on  
7 there. I guess, how far is the van from the house?

8 A From the porch?

9 Q I guess, tell me what you measure it from?

10 A We measure it from this step right here at the porch.

11 Q So the step on the porch?

12 A Uh-huh.

13 Q And how far was it from that step to the van?

14 A 14 feet ten inches to the front bumper.

15 Q To front bumper?

16 A Uh-huh.

17 Q And then I see another right here looks like 17  
18 something. What is this measurement to?

19 A That's the measurement to the door where the decedent  
20 was.

21 Q All right. So would the decedent be on this drawing?

22 A He'll be right here.

23 Q All right. So, I guess, this angle that is the door?

24 A Correct.

25 Q He be inside it?

1 A Correct.

2 Q And so is that -- make sure I'm reading it right.

3 That's 17 foot even from the porch to the door.

4 A Correct.

5 Q Now, I see some numbers here. Can you tell me what  
6 those numbers are?

7 A Those are the tint markers marked items one, two and  
8 three. Those for the scope covers. Number two was the  
9 lock-back knife and number one was the screwdriver.

10 Q All right. What's this other vehicle over here?

11 A That was just a vehicle that was in the yard.

12 Q Okay. You didn't have anything particular to  
13 investigate involving in that vehicle?

14 A Correct.

15 Q Okay. And all these measurements are accurate use of  
16 tape measure, ruler or something?

17 A A tape measurement.

18 Q Okay. All right. Thank you. You can retake the  
19 witness stand. Did you do anything else at the scene that  
20 might collect evidence for this case or anything?

21 A Not that I recall.

22 Q Okay. We talked about the white van on the drawing,  
23 did you do anything to investigate that white van?

24 A After we had towed it to our impound lot, yes.

25 Q Okay. Explain to me when you say towed it to the

1 THE COURT: Mr. Quick, you can step down.

2 (WHEREUPON, the witness leaves the witness  
3 stand.)

4 MR. OZMENT: I ask that Mr. Quick be relieved of  
5 his subpoena?

6 MR. GROVE: No objection, Judge.

7 THE COURT: All right. You can leave if you  
8 like, Mr. Quick, or you can stay.

9 (WHEREUPON, the witness leaves the witness  
10 stand.)

11 THE COURT: Okay, next witness.

12 MR. OZMENT: Your Honor, the State would call  
13 Investigator Hester to the stand.

14 THE CLERK: Do you swear to tell the truth, the  
15 whole truth, and nothing but the truth so help you God?

16 THE WITNESS: I do.

17 THE CLERK: Please be seated and state your name  
18 for the record.

19 THE WITNESS: Investigator William Hester.

20 WHEREUPON,

21 William Hester,

22 after first having been duly sworn, testified as follows:

23 DIRECT EXAMINATION

24 BY MR. OZMENT:

25 Q How are you today, Investigator Hester?

1 A I'm good.

2 Q What do you do for a living?

3 A I am currently employed with Florence County  
4 Sheriff's Office as a criminal investigator.

5 Q How long have you been in law enforcement?

6 A In law enforcement, a little over 14 years.

7 Q And how many of those years have you been a criminal  
8 investigator?

9 A Approximately eight.

10 Q All right. Did you have occasion back on  
11 September 24th of 2012 to respond to an incident on Sharon  
12 Road?

13 A I did.

14 Q What was the nature of that call?

15 A I was called by central dispatch initially and it was  
16 a deceased person on scene on Sharon Road.

17 Q Why did they call you?

18 A I was the on-call investigator at that time.

19 Q So if you're on-call and it comes up, you would have  
20 been the one to handle it?

21 A Yes, sir.

22 Q Okay. And what county is that location in?

23 A Sharon Road is located in Florence County.

24 Q All right. When you first got on the scene, what did  
25 you observe?



1 A I observed the crime scene that was secured by yellow  
2 tape. It was secured from the front of the driveway to a,  
3 I believe, a pole along the edge of the border of the  
4 mobile home lot and it went all the way to the edge of the  
5 mobile home, so it secured a full box inside of the crime  
6 scene. I then observed a white van that was parked  
7 directly in front of what we know is an office for the  
8 defendant's wife. To the left of the van if I was  
9 standing behind it, I observed a white male crouched down  
10 in a seated position in between the apex of the door of  
11 the van and the van.

12 Q All right. Have -- he was still crouched kind of in  
13 the -- leaned up against the door?

14 A That's correct.

15 MR. OZMENT: May I approach, Your Honor?

16 THE COURT: Yes, sir.

17 BY MR. OZMENT:

18 Q Had they put up the tent markers yet when you arrived  
19 on the scene?

20 A I arrived before crime scene did.

21 Q So in State's Exhibit 2 is that reflect how it looked  
22 when you got there?

23 A That is correct.

24 Q Okay. Did you examine the deceased person?

25 A Not at that time. The first thing that I did was

1 before I entered I spoke with EMS or spoke with the deputy  
2 first, but EMS was standing there with them. I asked EMS  
3 if they had run a strip on the victim and how they do it  
4 due to his position on how did they run the strip on him.

5 Q Okay. And so EMS was already on scene when you got  
6 there?

7 A Yes, sir.

8 Q Did they indicate he was deceased to you?

9 A Yes, sir, they stated that they looked at the back of  
10 a shirt and place the pads on the back of his -- on his  
11 back to run the strip and they did show that he was  
12 deceased.

13 Q Okay. After speaking to EMS, what did you do next?

14 A I spoke with Deputy Gifford who was standing outside  
15 the crime scene tape. I signed the crime scene log and he  
16 gave me a brief run down of what he was told initially by  
17 the defendant.

18 Q All right. Could you tell how long he had been on  
19 scene or did he let you know?

20 A He had not been on scene very long. I was already  
21 out. Dispatch called me. I was on scene probably five  
22 minutes after he showed up and EMS showed up and  
23 everybody.

24 Q Okay. And he had already spoken to the defendant at  
25 that point?

1 A He did.

2 Q Okay. What did you do after you briefly spoke to  
3 Deputy Gifford?

4 A We both walked back in the crime scene. He pointed  
5 out items that he had seen when he initially walked in.  
6 And we both walked up and spoke with the defendant.

7 Q Okay. What did you first say to the defendant?

8 A The first thing I asked was I looked at Deputy  
9 Gifford and Deputy Gifford had already told me he read his  
10 Miranda warnings. And when he told me that, I looked at  
11 the defendant and I said, did he read you your Miranda  
12 warnings? He said he did. I said and did you understand  
13 everything and do you want to talk with me? He said,  
14 yeah, I understood and, yeah, I'll talk to with you.

15 Q Okay. At that point, did the defendant give you  
16 essentially a statement?

17 A Yes, sir. He told me that he had had some verbal  
18 altercations with the deceased earlier in the day said  
19 that they were out hunting when ---

20 Q Let me interrupt you. When you say they, you mean  
21 who?

22 A The defendant and a coworker of his.

23 Q Not Steve Springs?

24 A Not Steve Springs, no. It was a coworker Michael  
25 Bruce. Said after they got down and got done hunting,

1 they got into the vehicle and began driving back towards  
2 Florence. I believe it was out, kind of far out about 15  
3 to 20 minute drive. He stated that he started getting  
4 phone calls from Mr. Springs talking about some issues  
5 with his personal life, family life and continued to, you  
6 know, according to the defendant cussing, screaming at the  
7 defendant. And the defendant told me that he had just  
8 hung up the phone on multiple occasions every time that he  
9 would call back or just not answer the phone.

10 Q Okay. And this part of the defendant's story, did  
11 you eventually get to look at Mr. Springs phone or the  
12 defendant's phone?

13 A I looked at both.

14 Q Okay. Did it appear that there were phone calls  
15 between the two in this time period?

16 A There was.

17 Q Okay. Obviously, you couldn't tell what those phone  
18 calls were about looking at the phones?

19 A Correct.

20 Q Going back to what the defendant told you said there  
21 were these phone calls, what did he tell you next?

22 A He told me that after the arguing back and forth he  
23 arrived at home. He realized that he did not have his  
24 keys on him because his wife had taken her children to  
25 Skate Land, but she was on the way back. So he just

1 decided to sit on front porch and drink a beer and wait  
2 for her to arrive at home.

3 Q All right. Did he tell you whether or not the lights  
4 were on at the house?

5 A Yes, sir. When I arrived the lights were on, of  
6 course. But I asked him was the lights on could you see  
7 everything. He told me that she had turned all the lights  
8 off. There were no lights on in the driveway and it was  
9 extremely dark in the driveway when all the lights were  
10 turned off.

11 Q Okay. So when he was sitting waiting for her to come  
12 home, did he tell you where he was sitting?

13 A He was sitting in a position that I was speaking with  
14 him, which is on the front of a small office that was  
15 built on to the mobile home, the end of the mobile home.  
16 There's a -- I would say if I had to estimate it was a  
17 eight by eight small porch that was maybe a foot tall off  
18 the ground.

19 Q All right.

20 MR. OZMENT: May I approach, Your Honor?

21 THE COURT: Yes, sir.

22 BY MR. OZMENT:

23 Q Okay. Investigator Hester, I'm going to show you  
24 State's Exhibit 3 is that show the small porch you're  
25 talking about?

1 A Yes, it does.

2 Q And so in this photograph I see fitting Halloween I  
3 see a jack-o'-lantern, a plastic jack-o'-lantern?

4 A Correct.

5 Q Is the stuff you're talking about the one that's  
6 right next to that plastic jack-o'-lantern?

7 A Right next to it, yes.

8 MR. OZMENT: Your Honor, I ask to publish  
9 State's Exhibit 3 to the jury.

10 THE COURT: Okay.

11 BY MR. OZMENT:

12 Q And you said you were still standing on the same step  
13 when you were talking to him?

14 A No, he was still seated.

15 Q Oh, excuse me -- seated I'm sorry.

16 A Yes, sir.

17 Q And he told you that was the same place he was seated  
18 when this altercation took place?

19 A Yes, sir.

20 Q Okay. So he was seated on the step lights were out.  
21 What happened next did he tell you?

22 A He stated that he saw a white van coming down Sharon  
23 Road recognized it to be Steve's Van. And he stated that  
24 Steve pulled in directly into the driveway. The driveway  
25 actually leads to the small stoop sits outside. He said

1 he pulled up and turned the headlights off, shut the van  
2 off and opened up the door. He said at that time -- he  
3 said Steve, you know, you just need to leave. He stated  
4 that Steve stepped out from around the door where the door  
5 would be open just to the edge of the open door. He said  
6 Steve if you take one more step, you know, I'm going to  
7 shoot you. And at that time he stated that I saw him take  
8 a step, so I fired the gun.

9 Q Okay. And let's go through that says he pulled up.  
10 Did he say whether or not he turned the lights of the van  
11 or left the van cranked? Did he tell you that?

12 A No, he stated that he shut the van off and turned the  
13 lights off.

14 Q Okay. And then he said he opened the door?

15 A Correct.

16 Q And did Mr. Springs get out of the van or where was  
17 he standing when they initially exchanged words?

18 A He was standing initially in the apex of the door,  
19 which would be behind a window looking through the window  
20 at the defendant.

21 Q Okay. Did Mr. Scott say he saw anything in  
22 Mr. Springs' hands?

23 A Yes, sir, he said he saw a screwdriver in his left  
24 hand.

25 Q All right. Did he use the word screwdriver?

1 A Yes, sir, he did.

2 Q Okay. So did he say where he was holding the  
3 screwdriver or how he was holding the screwdriver?

4 A He stated that he was holding it down by his side.

5 Q Okay. And so now he's standing holding a screwdriver  
6 at what point did he give him the warning not to come any  
7 closer?

8 A As he stepped outside the apex of the door.

9 Q Okay. And then what did he say happened next?

10 A He said there was some argument going back and forth.  
11 He did not give me exact details of what they were saying  
12 back and forth. He said he was saying for him to leave  
13 and don't come any closer or I'm going to shoot you. He  
14 stated that when he saw them take a step, that's when he  
15 had the riffle laying in his lap, not on his shoulder but  
16 in his lap pointed in the direction of Steve and he said  
17 pulled the trigger.

18 Q So holding it down John Wayne style?

19 A Correct.

20 Q Did he say what happened after he pulled the trigger?

21 A He stated that Mr. Springs fell to the ground, kind  
22 of went down into a kneeling position and behind the door,  
23 kind of took a step to the right just kind of kneel down  
24 or crouched down. He stated that after that he heard  
25 Steve ask or say help me. He said it scared him and he



1 got up and went around the backside of the mobile home.

2 Q All right. Did he tell you how much Mr. Springs had  
3 advanced on him when he pulled the trigger?

4 A He told me one step.

5 Q Okay. And based on where the van was if he'd taken  
6 one step from the van and I realize we can't be at the  
7 crime scene with the van there. How close would that have  
8 been to the defendant?

9 A I believe right at 17. Probably been maybe at the  
10 corner of that table.

11 Q Okay. But he didn't -- I mean, he didn't say he got  
12 all they way to him before he pulled the trigger he said  
13 one step?

14 A It was one step.

15 Q Okay. And you said that the defendant told you that  
16 Mr. Springs actually talk to him right after?

17 A He stated to me that he heard Mr. Springs say help  
18 me.

19 Q Okay. The defendant say he helped him in any way?

20 A No, he said he got scared and left.

21 Q All right. Did he tell you what he did with the gun?

22 A He told me he put the gun back inside the residence  
23 after ejecting the shell casing that was in the gun.

24 Q Did he tell you what happened with the shell casing?

25 A He stated when he went to Carl's house, he dropped it

1 in the burn pile that was behind his residence.

2 Q Okay. And we've already heard this kind of plowing  
3 the same field, but did you all search that burn pile?

4 A Yes, crime scene did search -- crime scene and  
5 deputies did search.

6 Q Okay. Did you ever -- was the shell casing ever  
7 recovered?

8 A No, sir.

9 Q Okay. After he threw the shell casing in the burn  
10 pile, did he tell you what happened next?

11 A He stated that he went to Carl's house, Carl Munn's  
12 house and sat down and dranked a few beers and called his  
13 wife.

14 Q Okay. Do you know how far away Carl's house is?

15 A I say about 300 yards roughly.

16 Q Okay. So you are familiar with where Carl's house  
17 actually is?

18 A Yes, sir.

19 Q 300 yards like where the crow flies or by the road?

20 A As the crow flies. It's a -- the mobile homes are  
21 really spaced out, but there's one mobile home in between  
22 him and Carl's, but there's a path that leads straight to.

23 Q Okay. Did he indicate how long he stayed at Carl's  
24 house?

25 A I don't believe it was very long. He stated that he

1     called Gloria and -- being his wife and she stated that  
2     she was on Freedom Boulevard I believe at the time. And  
3     if she was on Freedom Boulevard, his road is directly off  
4     of Freedom, so it would be less than five to ten minutes.

5     Q     Okay. Did Mr. Scott tell you he called 9-1-1 at one  
6     point?

7     A     No, he did not.

8     Q     Okay. Are you aware of who called 9-1-1?

9     A     Yes.

10    Q     Who did?

11    A     Gloria Scott.

12    Q     Okay. That's his wife?

13    A     Correct.

14    Q     Did he -- was that essentially his whole statement he  
15    told you that night?

16    A     That was his statement, yes, sir.

17    Q     Okay. After you spoke to Mr. Scott, what was the  
18    next step in your investigation?

19    A     At that time, we had bagged his hands when he was  
20    handcuffs due to -- we wanted to get a gunshot residue  
21    test off of him. We removed him from the crime scene. We  
22    walked him directly to the corner of the mobile home  
23    underneath the crime scene tape and to the backseat of a  
24    deputies car. So crime scene could photograph without him  
25    in the photographs and photograph the landscape and to be

1     able to do the gunshot residue test on him.

2     Q     Okay. But he already admitted he's the who shot the  
3     gun?

4     A     That's correct, but standard protocol is that we do a  
5     gunshot residue test on anybody.

6     Q     Okay. And after you removed him, had the gunshot  
7     residue test performed, what did you do next?

8     A     I went and roughly about that time crime scene units  
9     were showing up. We walked through the scene together  
10    looking for items, looking for any type of evidence that  
11    they needed to collect, they needed to photograph. And if  
12    there was anything out of place that should be there or  
13    shouldn't be there. When we walk through the crime scene,  
14    we started at the rear of the van, walked up to the left  
15    of the van where Mr. Springs was and started looking  
16    around in the area of where his body was. Initially, I  
17    saw a red or black screwdriver with red on it. It was  
18    five, six or seven feet away from where the victim was,  
19    but it was up against -- it was about a foot away from  
20    where a chain linked fence was. At that time, we found a  
21    open blade -- open-blade lock knife that was where his  
22    hand was dropped. It was about a foot away from where his  
23    hand was.

24    Q     Okay. Did you move those items at all at that point?

25    A     No, sir.

1 Q Okay. Are those the ones that are now in evidence  
2 that we heard scene collected?

3 A That's correct.

4 Q And after you did that sweep of that part of the  
5 scene, what did you do next?

6 A After that, I spoke with many witnesses that were  
7 standing around the outside of the crime scene. I  
8 initially spoke with Gloria who called 9-1-1. She was my  
9 first person that I spoke with.

10 Q And don't tell me what she said, but did she provide  
11 you some information that was useful in your  
12 investigation?

13 A Yes, sir, she did.

14 Q Okay. And after you spoke to her and you said that  
15 she's the who called 9-1-1?

16 A That's correct.

17 Q After you spoke to her, who were the other witnesses  
18 you spoke to there at the scene?

19 A I spoke with Crystal Hanna. I then spoke with ---

20 Q And tell me, I guess, if you don't mind, who is  
21 Mrs. Hanna? What is their relationship?

22 A That's the defendant's stepdaughter.

23 Q Okay.

24 A Then I spoke with Carl Munn who is the person that  
25 the defendant first or the house he went to. Then I spoke

1 with George Watson, who is the neighbor that lives  
2 directly behind.

3 Q Did you speak with Mr. Watson there at the scene?

4 A I spoke with him at the scene briefly and then I  
5 spoke with him again, him again away from the scene.

6 Q Was that at his request or your request?

7 A That was at his request.

8 Q Okay. Do you mind telling him where you end up  
9 speaking to him?

10 A At the Waffle House parking lot on Pamplico Highway.

11 Q And when did you have that conversation?

12 A It was 45 minutes -- it's hard to say. It was about  
13 45 minutes to an hour.

14 Q That night though?

15 A That night, yes, sir.

16 Q Okay. And when you spoke to Mr. Watson at the scene,  
17 did he appear scared to you?

18 MR. GROVE: Objection, Your Honor, speculation.

19 THE COURT: Well, it's leading too so... You  
20 can rephrase it, but your speculation objection is  
21 overruled.

22 BY MR. OZMENT:

23 Q What was Mr. Watson's demeanor that evening when you  
24 spoke to him originally at the scene?

25 A I never met Mr. Watson, so it was hard to tell his

1     demeanor. His voice was very shaky when he was speaking  
2     with me.

3     Q     All right. Was he willing to speak to you at the  
4     scene?

5     A     He was very hesitant to speak to me at the scene.

6     Q     Okay. So you said Crystal Hanna, George Watson, Carl  
7     Munn, Mr. Scott's wife. Who else did you speak to that  
8     evening?

9     A     You said Crystal Hanna, George Watson, Carl Munn,  
10    Gloria Scott and that I believe that's it.

11    Q     Okay. After you spoke to these individuals in your  
12    ensuing investigation, did you come across more witnesses  
13    that you decided you needed to talk to?

14    A     I did.

15    Q     Who were those individuals?

16    A     Michael Bruce and Larry Bruce.

17    Q     Let's start with Michael Bruce -- well, let's start  
18    with Larry Bruce. What is Larry Bruce's relationship to  
19    Mr. Scott?

20    A     He was his former boss.

21    Q     Okay.

22    A     And Michael Bruce was Larry Bruce's son and they were  
23    co-workers.

24    Q     So Michael Bruce worked for his dad with Mr. Scott?

25    A     That's correct.

1 Q Okay. Had Mr. Scott told you the name Michael Bruce  
2 already at any point when you were talking to him?

3 A He did. He said that's who he was hunting with.

4 Q Okay. Did Mr. Bruce and Mr. Bruce were they able to  
5 give any you any useful information for the case?

6 A They were.

7 Q Okay.

8 MR. OZMENT: Okay. Beg the Court's indulgence a  
9 minute.

10 (WHEREUPON, a pause in the proceedings.)

11 BY MR. OZMENT:

12 Q After you interviewed all these witnesses, been to  
13 the scene, obviously gone through the crime scene and gone  
14 through the scene, did you do any further investigation in  
15 this case?

16 A Yes, sir, directly after they were done with the  
17 gunshot residue test, we transported after I was done at  
18 the scene and spoke with other witnesses, we transported  
19 the defendant to our jail. My office is inside of the  
20 jail. At that time, I had them take him to the booking  
21 area so I could go through the defendant's phone.

22 Q Okay. And that was what we referred to earlier that  
23 you had gone through his phone?

24 A That's correct.

25 Q Okay. At what point did you decide to -- well, I



1     guess first excuse me -- did you get a warrant for the  
2     case we're here on today?

3     A     Yes, I did.

4     Q     What warrants did you get?

5     A     I got a murder warrant and use of a weapon during a  
6     violent crime.

7     Q     Okay. And I guess explain to me the significance  
8     what is the warrant? What purpose do they have in our  
9     system?

10    A     You have to have a probable cause in front of a  
11    magistrate. You give the magistrate all the facts of the  
12    case that you have up to that point. She determines if  
13    there's enough probable cause to issue an arrest warrant.

14    Q     And that's then how you could arrest someone?

15    A     That's correct.

16    Q     Okay. And you did that in this case?

17    A     Yes, sir.

18    Q     And we talked a lot about Wayne Scott or Sunny Scott.  
19    Do you see him sitting in the courtroom?

20    A     I do.

21    Q     Where is he?

22    A     Sitting at the defendant's table with Mr. Grove.

23           MR. OZMENT: No further questions at this time.

24           THE COURT: Mr. Grove.

25           MR. GROVE: Thank you, Your Honor.

1       there. Place your left hand on the Bible and raise right  
2       hand. Do you swear to tell the truth, the whole truth and  
3       nothing but the truth so help you God?

4               THE WITNESS: I do.

5               THE CLERK: Please be seated and state your full  
6       name for the record.

7               THE WITNESS: Catherine Leisy.

8       WHEREUPON,

9                               Catherine Leisy,  
10       after first having been duly sworn, testified as follows:

11                               DIRECT EXAMINATION

12       BY MR. OZMENT:

13       Q     How are you today?

14       A     Doing well, thank you.

15       Q     Good. What do you do for a living?

16       A     I work for the South Carolina Law Enforcement  
17       Division more commonly known as SLED. I'm a forensic  
18       scientist assign to the DNA and serology unit.

19       Q     All right. And so what do you do on a common daily  
20       basis with SLED?

21       A     My responsibilities include processing forensic  
22       cases, generating reports based on the results and  
23       conclusions drawn, testifying to those reports as  
24       necessary, also responsible for quality control within the  
25       laboratory as well as training of newly hired analyst.

1 Q All right. What kind of training did you have to go  
2 through to get your position?

3 A I have a bachelor of science degree in genetic  
4 engineering from Cedar Crest College in Allentown,  
5 Pennsylvania. I have received in-house training at SLED  
6 in all the different types of test and analysis that I'm  
7 required to perform. I'm also required to perform  
8 continuing education annually, which includes seminars or  
9 training sessions on specific and new topics in DNA  
10 forensic identification testing.

11 Q Okay. Do you have any sort of certifications for  
12 your position?

13 A I am certified by SLED to a DNA analyst and we are  
14 accredited by the American Society of Crime Laboratory  
15 Directors Laboratory Accreditation Board.

16 Q All right. How long have you been in your position  
17 as a forensic scientist at SLED?

18 A I've been with SLED for seven years.

19 MR. OZMENT: Your Honor, at this time the State  
20 would ask that Ms. Leisy be certified as an expert in DNA  
21 testing and DNA science.

22 THE COURT: All right. Any questions or  
23 objections, Mr. Grove?

24 MR. GROVE: Briefly, Your Honor.

25 EXAMINATION

1 BY MR. GROVE:

2 Q Ms. Leisy, how many times have you testified in  
3 criminal court?

4 A Approximately 50 occasions.

5 Q Have you ever testified in civil court for any  
6 reason?

7 A No, I have not.

8 Q So all of your testimony has been for a criminal  
9 case?

10 A That's correct.

11 Q You gotten several degrees and you worked with SLED  
12 for a while and you done all this training that you talked  
13 about, that you're uniquely qualified for this I suppose,  
14 right?

15 A That's for the Court to decide.

16 MR. GROVE: Your Honor, I got no objection.

17 THE COURT: All right. Ladies and gentlemen,  
18 the witness is qualified as an expert in the area of DNA  
19 testing and DNA science. I want to call your attention to  
20 the fact that under our rules typically a witness who  
21 testifies cannot render opinions. Those types of  
22 witnesses that are commonly called lay witnesses can only  
23 testify to things that they saw or heard or smelled or  
24 touched things of that nature. There is an exception in  
25 our rules of evidence for people who are qualified as

1 experts in a particular field. And if the Court  
2 determines that they are qualified by reason of education,  
3 training or experience, those witnesses can give opinions.  
4 And they can give the reasons for those opinions. That  
5 does not mean however that you are bond by the opinion  
6 that comes from an expert because it comes from an expert.  
7 I will instruct you more thoroughly at the end of the  
8 case, but the gist of it right now is that you give an  
9 expert's testimony the weight that you believe it  
10 deserves.

11 All right. Mr. Ozment, the witness is qualified  
12 in those two areas.

13 MR. OZMENT: Thank you, Your Honor.

14 BY MR. OZMENT:

15 Q Ms. Leisy, earlier this month, did you conduct a test  
16 on the SLED lab number L1312259 the person -- subject  
17 being Wayne Albeon Scott, Jr.?

18 A Yes, I did.

19 Q Okay. And tell me what's your process when you do a  
20 DNA test?

21 A When the items of evidence are submitted to a  
22 laboratory, first step is to and develop a DNA profile  
23 from that item. Once a profile is developed, we can  
24 compare it to the DNA profile of a known individual who  
25 standard has been submitted for comparison. And we try to

1 determine basically whether or not that individual  
2 contributed the DNA that's found on that particular item  
3 that day.

4 Q All right. So in this case, let's start with you  
5 said a standard for that individual. How did you get that  
6 standard?

7 A I received what are referred to as buccal swabs,  
8 which are simply sterile cotton swabs that look just like  
9 a Q-tip, that's rubbed against the inside of an  
10 individuals cheek to collect their cells. I can then  
11 develop a DNA profile from those cells to use as that  
12 persons known standard and try to determine whether or not  
13 they could have contributed DNA to an item of evidence.

14 Q How did you receive those swabs in this case?

15 A These swabs came to me in a heat-sealed plastic  
16 pouch. When a submitting agency brings the items in, they  
17 are logged into our computer system and signed a unique  
18 case and item number. They are then placed within the  
19 heat-sealed pouch. The seal receives the initials of the  
20 individuals submitting the evidence as well as the date  
21 that it's being submitted. So that when the pouch comes  
22 to me as long as that pouch is still in tact, I know that  
23 the evidence hasn't been tampered with in any way. And I  
24 received the heat-sealed pouch from our evidence control  
25 department.

1 Q Does it appear to have been tampered with in any way?

2 A It did not.

3 Q So you had your standard off the buccal swabs. What  
4 did you have to compare it to?

5 A I received two sets of swabs. The first item found  
6 is SLED two, which were swabs from a red and black  
7 screwdriver as well as SLED item three swabs from a knife.

8 Q All right. And so you didn't have the actual  
9 screwdriver knife, you just had swabs from them?

10 A That's correct.

11 Q Okay. So what did you do once you have these three  
12 sets of swabs?

13 A I attempted to develop DNA profiles from the  
14 evidentiary swabs that were submitted from the swabs from  
15 the red and black screwdriver. There was no DNA profile  
16 developed and the from swabs from the silver knife, the  
17 partial DNA profile developed is insufficient for liable  
18 interpretation.

19 Q So let's start with the screwdriver, you said no  
20 profile was developed, what does that mean I guess in  
21 layperson's term?

22 A Basically, it just means that there was not enough  
23 DNA present on the item or the swabs taken from the item  
24 for me to be able to develop any type of profile.

25 Q All right. So in comparing it to Mr. Scott's swabs,

1     what would your conclusion be?

2     A     There's no way to compare it as I wasn't able to  
3     develop a profile.

4     Q     Okay. And then as far as the swabs from the silver  
5     knife, I think you said that a little differently.  
6     Explain exactly what you got off of that?

7     A     I developed what we call a partial profile just means  
8     that there was such a limited amount of DNA present, I was  
9     only able to determine information from two of the eight  
10    locations that I tested. It's not enough information for  
11    me to do a formal comparison between the partial and any  
12    known individual.

13    Q     Okay. And so I guess compared to the screwdriver  
14    where you didn't get enough DNA to say anything on this  
15    one. You did get a little bit. Would that be a fair way  
16    to say it?

17    A     It would. It's just a very weak partial profile.  
18    There's not enough for me to determine a full profile.

19    Q     All right. So what would that tell you when  
20    comparing it to Mr. Scott's DNA?

21    A     Again, it's not enough information for me to make a  
22    formal comparison. I can't determine whether or not he  
23    may have been a contributor.

24    Q     Okay. And so, I guess, and just to summarize all of  
25    it and then I will sit down. When you compared these



1 swabs to these two items, can you give us anything for or  
2 against or any sort of information as to whether or not he  
3 ever touched these two items or around them?

4 A Based on the information I have, I can't make a  
5 determination about who may or may not have touched the  
6 items.

7 MR. OZMENT: No further questions at this time,  
8 Your Honor.

9 THE COURT: Mr. Grove.

10 MR. GROVE: Briefly, Your Honor. Thank you.

11 CROSS-EXAMINATION

12 BY MR. GROVE:

13 Q You tested three different items; is that correct?

14 A Yes, it is.

15 Q One of them being, I guess, what you would call a  
16 known. You knew that there was DNA from a Wayne A. Scott,  
17 Jr., on one of the samples?

18 A Correct, that's how it was identified as it was  
19 submitted to me.

20 Q And you're comparing the other two unknowns to the  
21 known?

22 A That's correct.

23 Q I like to show you something.

24 MR. GROVE: May I approach the witness, Your  
25 Honor?

1 hand on the Bible and raise your right hand. Do you swear  
2 to tell the truth, the whole truth, and nothing but the  
3 truth so help you God?

4 THE WITNESS: Yes, ma'am.

5 THE CLERK: Please be seated in the witness  
6 chair and state your name for the record.

7 THE WITNESS: Hubert Walter Black.

8 WHEREUPON,

9 Hubert Walter Black,  
10 after first having been duly sworn, testified as follows:

11 DIRECT EXAMINATION

12 BY MR. OZMENT:

13 Q Good morning, Mr. Black. How are you doing today?

14 A Pretty good.

15 Q Good. Where do you live?

16 A Poor Farm Road, Florence.

17 Q All right. What do you do for a living?

18 A Hardwood floors.

19 Q Okay. Do you know Wayne Sunny Scott?

20 A Yes, sir.

21 Q How long have you known Mr. Scott?

22 A He started to work with my father, I believe about  
23 the '80's, early '80's Hubert Black and Sons Paint and  
24 Wall and Floors.

25 Q All right. And have you known him ever since that

1 time?

2 A Yes, sir.

3 Q Kept up?

4 A Yes, sir.

5 Q What kind of work do you do?

6 A Hardwood floors.

7 Q Is Mr. Scott ever involved in that?

8 A Yes, sir.

9 Q How does -- what does he do for you?

10 A When I don't have anybody to work with me, I get him  
11 to work with me.

12 Q All right. What kind of work?

13 A Sand floors and finish and varnish floors.

14 Q Hardwoods?

15 A Install hardwood floors, yes, sir.

16 Q Back in September of 2012 was Mr. Scott working for  
17 you at all during that period?

18 A Yes, sir.

19 Q Where were you all working at that time?

20 A We working in Hartsville at Russel Cox daughter's  
21 house.

22 Q Okay. And what were you doing at that house?

23 A Installing floors and finishes.

24 Q Okay. How many days did Mr. Scott work with you at  
25 that the locations?

1 A A couple weeks.

2 Q All right. When you were working with him for those  
3 couple days, did he ever mention to you the name Steve  
4 Springs?

5 A He never mention the name Steve.

6 Q All right. Did he ever mention an incident going on  
7 with his stepdaughter?

8 A Yes, sir.

9 Q Tell me what he told you about that?

10 A He been had aggravating him and they been calling and  
11 all.

12 Q Let me -- when you say they, who are you referring  
13 to?

14 A Sunny and that boy's arguing back forth on the phone.

15 Q Okay. And when was this that they were arguing?

16 A During the weeks that he was working with me.

17 Q Okay. So it was an ongoing type thing you mean?

18 A Yes, sir.

19 Q All right. Was there at any point -- and did you  
20 know who he was talking to?

21 A I didn't even know him.

22 Q All right. Right now do you have any idea who Steve  
23 Springs is?

24 A No, sir, I have no idea who he is.

25 Q Okay. And did you ever hear Sunny say any threats

1      towards Mr. Springs?

2      A      Yes, sir.

3      Q      Tell me -- I guess kind of start at the beginning  
4      tell me when you first heard that?

5      A      Sunny he got in a woman's liquor cabinet one day and  
6      we knocked off and I was on the way home. And we smoked a  
7      joint.

8      Q      Let me interrupt you for a minute. Were you all  
9      riding together?

10     A      Yes, his daddy and Carl Munn was in the truck too.

11     Q      Okay.

12     A      And Sunny said he was going to go on a killing spree.

13     Q      All right. Did he tell you who he was going to kill?

14     A      He said he was going to kill Larry Bruce. He said he  
15     was going to kill that boy on the phone and he was going  
16     to kill my half brother.

17     Q      Okay. Did you take him serious when he said this?

18     A      No, sir.

19     Q      Why didn't you take him serious?

20     A      Because -- Sunny's a good fellow when he's not  
21     drinking, but when he's drinking, he -- I never think he  
22     would do it not really. I never thought he would do  
23     nothing like that.

24     Q      All right. And let me -- did you ask him anything  
25     about when he said obviously you knew who our half brother

1 was, knew who Mr. Bruce was. The third guy did you ask  
2 him why he said he was going to kill him?

3 A Because he was making phone threats and he was  
4 putting his grand youngins (sic) through that stuff. He  
5 wasn't going to put his grand youngins (sic) through that  
6 stuff.

7 Q Okay. Do you remember the exact phrase Mr. Scott  
8 used when he was talking about the guy you didn't know?

9 A His exact words.

10 Q Do you remember?

11 A It was profanity.

12 Q Maybe kind of abbreviate the profanity for us, but  
13 we'll still know what you're saying?

14 A Sunny said he fool him over to his house and he'd  
15 kill him.

16 Q All right. Did you see -- and how -- do you remember  
17 what time of the month this was when he told you that?

18 A It was right before hunting season. I sold him a 410  
19 shotgun to his grandson and brought some corn to my house  
20 and put out on the farm for him to come hunting with me.

21 Q So around the beginning hunting season?

22 A Yes, sir.

23 Q After Mr. Scott told you that in the car on the way  
24 home that day, did you see him any more?

25 A I loan him my floor machine. He done a job for Tony

1 Hollis Construction. I loan him my floor machine and when  
2 I went around there, he was still talking about it with  
3 Bobby Buffkins and his boy.

4 Q All right. And when you say you loaned him your  
5 floor machine I guess what ---

6 A Floor sander something you sand floors with.

7 Q Okay. And when you say you went around there why  
8 were you going around there?

9 A To pick my equipment up.

10 Q Okay. Do you remember what he was saying at that  
11 time?

12 A He was still talking about that boy aggravating him  
13 and all on the phone.

14 Q Okay. Did he make any more threats at that point?

15 A Not that at that time he didn't, no, sir.

16 Q Did you talk to Mr. Scott any more about this after  
17 that?

18 A No, the next thing I heard that he had shot that boy.

19 Q Okay.

20 MR. OZMENT: No further questions, Your Honor.

21 THE COURT: Mr. Grove.

22 MR. GROVE: Thank you, Your Honor.

23 CROSS-EXAMINATION

24 BY MR. GROVE:

25 Q Mr. Black, you testified just a minute ago that you

1 and Sunny been over in Hartsville; correct?

2 A Yes, sir.

3 Q And you all had something to drink, right?

4 A I didn't have nothing to drink, I don't drink.

5 Q You all smoked a joint?

6 A Yes, sir.

7 Q You did do that?

8 A Yes, sir.

9 Q And he was working for you at the time?

10 A Yes, sir.

11 Q And he said this is in September of last year.

12 Whereabout in September?

13 A It was before hunting season before the 15th.

14 Q That's right I forgot that you had said that. And

15 you said that Sunny rattled off several names saying he

16 was going to kill all these people?

17 A I said that he called three names. He didn't call

18 that fellow's name. He just said his daughter's

19 boyfriend.

20 Q Right. But he starts talking about how I'm going to

21 kill this person, I'm going kill that person, I'm going to

22 kill this person, right?

23 A Yes, sir.

24 Q And you didn't take that seriously at all, did you?

25 A Never have.



1 Q Right. You also said that why you don't know this  
2 fellow's name, you do know it's your stepdaughter's  
3 boyfriend, right?

4 A Yes, sir.

5 Q That that fellow had been making threats to him?

6 A Yes, sir.

7 Q He been calling him on the phone threatening him?

8 A That's what he said, that's what Sunny Scott said,  
9 yes, sir.

10 Q Right. In the same way that Sunny is saying I'm  
11 going to do this and I'm going to do that. He's also  
12 saying that because this guy is threatening me, that's why I  
13 feel that way?

14 A Yes, sir.

15 Q When did you find out that Steve Springs that's the  
16 fellow who dating his stepdaughter, when did you find out  
17 that he had died?

18 A It was on the news that night.

19 Q So right away?

20 A Yes, sir.

21 Q Did you ever contact law enforcement?

22 A I tried to, yes, sir.

23 Q What do you mean you tried to, when did you call  
24 them?

25 A I called them the week after -- the same week after

1 he done it a couple days, I called Mr. Hester's office.

2 Q You speak with Investigator Hester?

3 A No, sir. They said he was on vacation. I left him a  
4 message to call me.

5 Q And that was the week after?

6 A That was the same week not the week after, the same  
7 week that he done it.

8 Q So just a few days afterwards?

9 A Yes, sir.

10 Q You called and left a message?

11 A Yes, sir.

12 Q Do you remember what you said?

13 A I said that he needed to call me about the murder  
14 trial. I sold Mr. Scott a 410 a week before that.

15 Q Did you tell him anything else?

16 A I didn't leave all that on the answering machine, no,  
17 sir.

18 Q But you told him you had some information about a  
19 murder that you had seen on the news?

20 A Yes, sir.

21 Q And that you wanted to talk with him?

22 A Yes, sir.

23 Q When did you hear from Investigator Hester?

24 A I ain't never heard nothing from him.

25 Q He didn't call you back the next day?

- 1 A No, sir.
- 2 Q Didn't call you back when he got back from vacation?
- 3 A Never heard anything else.
- 4 Q He didn't call you the next month?
- 5 A No, sir.
- 6 Q He didn't call you in October?
- 7 A He never called me. I never had a phone call until
- 8 last Thursday at 4:15 to be at the Solicitor's at 2:30 the
- 9 next day.
- 10 Q He didn't call you in December?
- 11 A No, sir.
- 12 Q Not in January, not right before Easter not in the
- 13 summertime?
- 14 A No, I never heard from him.
- 15 Q Last Thursday is the first time you heard from
- 16 anybody?
- 17 A Yes, sir.
- 18 Q Did you ever call back?
- 19 A No, sir.
- 20 Q When you didn't hear from them by Thanksgiving, you
- 21 didn't think, well, man, maybe they didn't get the message
- 22 maybe I should call back?
- 23 A I figured they get in touch with me when all this
- 24 come out. I figure they get in touch with me.
- 25 Q And when you hadn't heard from them by Christmas, you

1       didn't call them then?

2       A     I figure they didn't want to hear nothing about me.

3       Q     And when Easter Sunday rolled around, you didn't call  
4       back then?

5       A     No, sir.

6       Q     And when the first day of summer came around?

7       A     No, sir.

8       Q     And what about the first day of hunting season this  
9       year when you thought, oh, man Sunny and I were working  
10      together this time last year. You didn't call them then  
11      either, did you?

12      A     No, sir.

13      Q     Okay.

14               MR. GROVE: I don't have any further questions,  
15      Your Honor.

16               THE COURT: Redirect?

17               MR. OZMENT: None, Your Honor.

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

19      Thank you, Mr. Black.

20               Any objection to the witness being excused?

21               MR. OZMENT: No, Your Honor.

22               MR. GROVE: No, Your Honor.

23               THE COURT: Mr. Black, you can stay if you like  
24      or you can leave.

25               (WHEREUPON, the witness leaves the witness

1 stand.)

2 THE COURT: Next witness.

3 MR. OZMENT: Your Honor, the State would call  
4 Michael Bruce to the stand.

5 THE CLERK: If you will, sir, place your left  
6 hand on the Bible and raise your right hand. Do you swear  
7 to tell the truth, the whole truth, and nothing but the  
8 truth so help you God?

9 THE WITNESS: I do.

10 THE CLERK: Please be seated in the witness  
11 chair and state your full name for the record.

12 THE WITNESS: Larry Michael Bruce, II.

13 WHEREUPON,

14 Larry Michael Bruce, II,  
15 after first having been duly sworn, testified as follows:

16 DIRECT EXAMINATION

17 BY MR. OZMENT:

18 Q How are you today, Mr. Bruce?

19 A I'm doing pretty good. How about yourself?

20 Q Good. What do you do for a living?

21 A I'm a heavy equipment operator.

22 Q All right. Where do you live?

23 A Pamplico, South Carolina.

24 Q Okay. What were you doing for a living back in  
25 September of last year?

1 A I was working for my dad, a painter.

2 Q All right. Is that commercial or residential?

3 A Both.

4 Q Okay. Back do you know Sunny Scott?

5 A Yes, sir.

6 Q How do you know Mr. Scott.

7 A Ever since I was a little boy he use to work for my  
8 dad.

9 Q Okay. Did you work with him when you worked for your  
10 dad?

11 A Yes, sir.

12 Q Okay. Going back to September 24th of last year, did  
13 you work with Mr. Scott that day?

14 A Yes, sir.

15 Q All right. Tell me where you all were working?

16 A I believe it's a little community called Summer Gate  
17 right there off Ebenezer in Florence.

18 Q What were you doing that day?

19 A Painting a house.

20 Q Okay. Was Mr. Scott with you painting that house?

21 A Yes, sir.

22 Q The whole time?

23 A Yes, sir.

24 Q Did you all have anything to drink while you were  
25 working?

- 1 A No, sir.
- 2 Q After work what did you do?
- 3 A We went hunting.
- 4 Q Who's we?
- 5 A Me and Sunny.
- 6 Q Where did you go hunting?
- 7 A On my property in Pamplico.
- 8 Q Deer hunting?
- 9 A Yes, sir.
- 10 Q How long were you out there hunting?
- 11 A Just a few hours, two hours maybe.
- 12 Q When did you come in from hunting?
- 13 A Right before dark.
- 14 Q Had you and Sunny ever hunted together before?
- 15 A Yes, sir.
- 16 Q Did you usually go to that same place?
- 17 A The same area, yes, sir.
- 18 Q Okay. When did you and Sunny hunt together or just
- 19 separate places on the property?
- 20 A Two separate places on the property.
- 21 Q Okay. What did you find when you came out of the
- 22 woods? When you came out of the woods and you were by
- 23 yourself I assume, what did you see?
- 24 A Sunny was out at the stand wanting me to carry him
- 25 home.

1 Q Was he on the phone?

2 A Yes, sir.

3 Q Do you know who he was talking to on the phone?

4 A At that time, I didn't, no, sir.

5 Q Had asked -- did you know anything about this phone  
6 call? Had you any conversation with Sunny or anything  
7 about calling somebody?

8 A No, sir.

9 Q Okay. Was your air conditioner working at your house  
10 that day?

11 A Yes, sir.

12 Q Do you have any problem with it?

13 A I believe it's having a few problems.

14 Q Okay. Had you talked to Sunny about problems with  
15 your air conditioner?

16 A One time I did.

17 Q That day had you?

18 A No, sir, I don't believe I did.

19 Q Okay. Do you remember talking to Investigator Hester  
20 in this case?

21 A Yes, sir. I remember talking to an investigator.

22 Q All right. Do you remember talking to him about your  
23 air conditioner that day?

24 A I can't recall. It's -- I might have did.

25 Q Okay.



1 A I don't remember what we all talked about really.

2 Q Do you remember telling Investigator Hester that your  
3 air conditioner had been cutting on and off and Sunny  
4 said, well, I got this man that might be able to fix it or  
5 whatever?

6 A Yeah, yes, sir.

7 Q Go ahead.

8 A But I had got somebody to fix it a couple days later.

9 Q Okay. But had you talked to Sunny about that?

10 A Yeah, I asked him, but I asked him did he know  
11 somebody.

12 Q Okay. Do you remember him telling that -- telling  
13 you that he could call a guy that might be able to fix it?

14 A He said he would see when I asked him did he know  
15 anybody.

16 Q Okay.

17 A He said he check into it.

18 Q Do you remember having that conversation with Sunny  
19 when you came out of the woods that night?

20 A I want to say it was earlier that day. I wasn't  
21 talking about the air conditioner soon as we come out of  
22 the woods I don't believe. I'm not quite positive, but I  
23 don't think it was earlier that day.

24 Q Okay. But it was that day?

25 A I want to say so.

1 Q Okay. When Sunny was on the telephone when you came  
2 out of the woods, could you hear what Sunny was saying?

3 A Him and the dude was arguing with each other.

4 Q Okay. When you say arguing, could you tell what they  
5 were arguing over?

6 A I didn't know what they were arguing about.

7 Q Okay. Did you hear any cussing?

8 A Yes, sir.

9 Q How long did that first conversation last?

10 A I really can't say. They was arguing about the whole  
11 time until I carried him home pretty much.

12 Q Okay. Was it one phone call?

13 A It was couple of them. I can't give you an exact  
14 number or nothing.

15 Q And so when you came out of the woods, do you know  
16 who called who on that first phone call?

17 A No, sir.

18 Q How long is the ride from where you were to take  
19 Sunny home?

20 A Fifteen minutes, 15 minutes something like that.

21 Q And during that ride was the same phone call or how  
22 many phone calls were there?

23 A I believe they called each other about twice,  
24 something like that wanting to say.

25 Q Do you remember after the first phone call ---

1     A     I remember when I hung the phone up on him one time  
2     and he called back, but I didn't answer.

3     Q     Do you remember on those phone calls on the way home,  
4     do you remember who was calling who? Do you remember?

5     A     No, sir, not really.

6     Q     Okay.

7     A     I remember the other man called Sunny back one time  
8     after I hung the phone up.

9     Q     Did you answer the phone?

10    A     No, when he call back, no, I didn't.

11    Q     So the time that you said you hung it up?

12    A     I told Sunny just quit arguing with him and I grabbed  
13    the phone and hung it up.

14    Q     Okay. And during all that, did you ever -- were you  
15    ever able to kind of ascertain what they were arguing  
16    about?

17    A     Not really, not really.

18    Q     Did you ever hear Sunny threaten the man at all on  
19    the phone?

20    A     They told each other they gone beat each others butt.

21    Q     All right. So did you hear Sunny threaten the man on  
22    the phone?

23    A     I wouldn't really say threaten. They was talking  
24    about whipping each others butt.

25    Q     Okay.

1 A But that was both of them at the time.

2 Q Did you know if Sunny had been drinking at all?

3 A We had a couple beers.

4 Q On the way home? You got to say yes or no.

5 A Yes, sir.

6 Q Okay. Do you remember how many Sunny had?

7 A No, sir.

8 Q You remember what kind of beer it was?

9 A Bud Light.

10 Q When did the conversations that Sunny and this man  
11 were having, when did they kind of finally end?

12 A What's that now?

13 Q When did all the -- you said they were kind of  
14 fighting kept calling back and forth when did it finally  
15 end?

16 A I dropped Sunny off at his house and I went back  
17 home.

18 Q And were they still arguing when you dropped him off?

19 A When I left Sunny, Sunny done hung up the phone. And  
20 I told Sunny I see him in the morning, you know, for work  
21 and I went home.

22 Q All right. When you dropped Sunny at his house, was  
23 anybody else there?

24 A No, sir.

25 Q All right. Do you recall if there were any lights

1 on?

2 A The yard light was on I believe.

3 Q What do you mean?

4 A Like the porch light outside, the porch.

5 Q Do you know if Sunny could get in his house?

6 A No, he couldn't.

7 Q Why is that?

8 A He didn't have his keys with him because I remember  
9 him calling his wife telling her he needed the keys.

10 Q Okay. Did Sunny have a gun with him at this point?

11 A Yes, sir, he had his hunting riffle with him.

12 Q Do you know what that hunting riffle looks like?

13 A Yes, sir.

14 MR. OZMENT: May I approach, Your Honor?

15 THE COURT: Yes, sir.

16 BY MR. OZMENT:

17 Q Is this the hunting riffle he had with him?

18 A Yes, sir.

19 Q That would be State's Exhibit 16. Do you know if  
20 that gun was loaded?

21 A I wasn't sure. I recon it was loaded.

22 Q Okay. What did you -- obviously, Sunny and this guy  
23 was fighting back and forth? What did you tell Sunny  
24 anything about it before you left him?

25 A Told Sunny don't worry about it, that man ain't

1 coming over here. I said don't worry about it. I see you  
2 in the morning.

3 Q Did you call your dad at all after that or during  
4 that time?

5 A I -- my dad lives right down the road from Sunny. I  
6 stop by my daddy's house. It was on my way home. I stop  
7 by and told my daddy what him and that man been arguing  
8 about on the phone and all that.

9 Q All right. What's your dad's name?

10 A Larry Bruce.

11 Q You're a junior that would make sense?

12 A Yes, sir.

13 Q Did you see Sunny any more that night?

14 A No, sir.

15 Q Do you know Steve Springs?

16 A No, sir.

17 Q Ever met him?

18 A No, sir.

19 MR. OZMENT: No further questions at this time,  
20 Your Honor.

21 THE COURT: Cross.

22 MR. GROVE: Thank you, Your Honor.

23 CROSS-EXAMINATION

24 BY MR. GROVE:

25 Q So, Michael, you're leaving Pamplico over the road,

1 right?

2 A Yes, sir.

3 Q Carrying Sunny home?

4 A Yes, sir.

5 Q And for at least part of this ride home, Sunny's on  
6 the phone with somebody, right?

7 A Yes, sir.

8 Q And you could hear Sunny talking?

9 A Yes, sir.

10 Q And in your statement you said that the speaker was  
11 up so loud that you could hear the other fellow talking  
12 too?

13 A Yes, sir.

14 Q It wasn't on speakerphone, but you were close enough  
15 to Sunny that you could hear what the guy was saying to  
16 Sunny?

17 A Yeah, I could hear him arguing back and forth.

18 Q And that's how you know Sunny was being threatened,  
19 right?

20 A Yes, sir.

21 Q And at some point didn't you get threatened?

22 A He told me he was gone beat my butt.

23 Q Did he say he was gone get rid of you?

24 A Something to that extent, yes, sir.

25 Q But you didn't take him seriously?

1 A No, sir.

2 Q Because you don't know this guy, right?

3 A Correct.

4 Q Earlier you testified that you not sure how many  
5 phone calls there were, but there were several, right?

6 A Yes, sir.

7 Q More than one at least?

8 A Yes, sir.

9 Q And Sunny was ending these conversations by hanging  
10 up phone and sometimes you hung up the phone for him,  
11 right?

12 A Yes, sir.

13 Q And you said that they called each other several  
14 times. You mean that Sunny called him or do you mean that  
15 Steve called Sunny?

16 A Really, I don't recall. I know he called Sunny back  
17 one time. I don't know who started the phone calls or  
18 nothing like that.

19 Q Right. Because down in Pamlico Sunny's already on  
20 the phone that by time ---

21 A By the time I come out the deer stand.

22 Q Sure. At some point Sunny's getting threatened and  
23 Sunny is mouthing off a little bit and hangs up the phone,  
24 right?

25 A Correct.



1 Q The fellow calls back hangs up the phone, right?

2 A Yes, sir.

3 Q And at one point I think you said you took the phone  
4 from Sunny and hang it up for him and said enough with  
5 this?

6 A Yes, sir.

7 Q Now, for the last couple of minutes of the drive  
8 home, you're trying to reassure that Sunny everything is  
9 okay, right?

10 A Yes, sir.

11 Q Not worry about it, don't think a bit about it,  
12 right?

13 A Correct, yes, sir.

14 Q Gloria's going to be home in just a few minutes and  
15 let you in everything will be fine, right?

16 A That's what I thought, yes, sir.

17 Q Sure. So after you dropped him off, you left?

18 A Yes, sir.

19 MR. GROVE: Beg the Court's indulgence.

20 THE COURT: All right.

21 (WHEREUPON, a pause in the proceedings.)

22 BY MR. GROVE:

23 Q You came out the deer stand right before dark, right?

24 A Yes, sir.

25 Q And then after a few minutes you carried Sunny home,

1 right?

2 A Correct.

3 Q And it takes you how long to get from Old River Road  
4 to up here?

5 A About 15 minutes something like that.

6 Q Okay. Mike, did you believe Steve Springs was coming  
7 over to Sharon Road that night?

8 A No, sir.

9 MR. GROVE: No further questions at this time,  
10 Your Honor.

11 THE COURT: Redirect?

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

13 THE COURT: All right. Mr. Bruce, you can step  
14 down.

15 (WHEREUPON, the witness leaves the witness  
16 stand.)

17 THE COURT: Can witness be released?

18 MR. OZMENT: Yes, sir, no objection from the  
19 State.

20 THE COURT: Mr. Bruce, you can leave if you like  
21 or certainly you can stay.

22 MR. GROVE: Your Honor, may we approach?

23 THE COURT: Yes, sir.

24 (WHEREUPON, a bench conference was held in the  
25 presence of the jury, but out of the hearing of the

1 jury.)

2 THE COURT: Everybody okay?

3 MR. OZMENT: Appreciate your patience, Your  
4 Honor, the State would call Gloria Scott to the stand.

5 THE COURT: Gloria Scott?

6 MR. OZMENT: Yes, Your Honor. Your Honor, may  
7 we approach?

8 THE COURT: Yes, sir.

9 (WHEREUPON, a bench conference was held in the  
10 presence of the jury, but out of the hearing of the  
11 jury.)

12 THE COURT: She's out there, Mr. Ozment?

13 MR. OZMENT: Yes, Your Honor, she was actually  
14 on the tenth floor in the waiting room.

15 THE COURT: Okay.

16 MR. OZMENT: She's having to come up a floor.

17 THE COURT: All right.

18 (WHEREUPON, a pause in the proceedings.)

19 THE CLERK: If you'll place your left hand on  
20 the Bible and raise your right hand. Do you swear to tell  
21 the truth, the whole truth, and nothing but the truth so  
22 help you God?

23 THE WITNESS: I do.

24 THE CLERK: Please be seated in the witness  
25 chair and state your full name for the record.

1 THE WITNESS: Gloria Shadoan Scott.

2 WHEREUPON,

3 Gloria S. Scott,

4 after first having been duly sworn, testified as follows:

5 DIRECT EXAMINATION

6 BY MR. OZMENT:

7 Q How are you today, Mrs. Scott?

8 A Good.

9 Q What is your relationship with the defendant?

10 A That's my husband.

11 Q Okay. How long have you all been married?

12 A Eighteen years.

13 Q Do you all have any children?

14 A No.

15 Q Do you have any children?

16 A Yes.

17 Q How many children do you have?

18 A I have one.

19 Q And who is that?

20 A Crystal Shadoan Hanna.

21 Q How old is she?

22 A Twenty-seven.

23 Q Okay. Did she for the time it would obviously be  
24 appropriate, she grew up in the house with you and  
25 Mr. Scott; is that correct?

- 1 A Yes.
- 2 Q So be his stepdaughter?
- 3 A Yes.
- 4 Q Does she have any children?
- 5 A Yes.
- 6 Q How many children does she have?
- 7 A Two.
- 8 Q That would be your grandkids?
- 9 A Yes.
- 10 Q His step grandkids; correct?
- 11 A Correct.
- 12 Q Are you all a close family?
- 13 A Yes.
- 14 Q Okay. Do stuff with the grandkids?
- 15 A Oh, yes.
- 16 Q All right. Mr. Scott do things with the grandkids?
- 17 A Yes, he does.
- 18 Q Did your daughter have a relationship with Mr.
- 19 Springs?
- 20 A Yes.
- 21 Q All right. Let me back up. How did you first come
- 22 to know Steve Springs?
- 23 A He was doing heating and air for my boss. I manage
- 24 some rental properties and he was doing the heat and air
- 25 for all of our rentals.

1 Q When did this business relationship start?

2 A I don't know exactly. I would say for my boss  
3 probably about seven years.

4 Q Okay. So you knew him a while?

5 A Yeah.

6 Q Okay. For the majority of that relationship, you and  
7 Mr. Springs cordial?

8 A Yes.

9 Q Friendly?

10 A Yes.

11 Q Okay. Now, is your daughter married?

12 A Yes.

13 Q Was Mr. Springs married?

14 A Yes.

15 Q Were they married to each other? Was your daughter  
16 married to Mr. Springs?

17 A No.

18 Q Okay. When did you determine that there may have  
19 been something more going on between your daughter and  
20 Mr. Springs?

21 A April or May of last year.

22 Q Okay. You didn't like that relationship?

23 A Not really. No.

24 Q Does your daughter have custody of her kids, your  
25 grandkids?

1 A She does.

2 Q Okay. How did you feel about the fact that  
3 Mr. Springs might be around those grandkids some?

4 A It concerned me.

5 Q Okay. Did you voice that to your daughter?

6 A I did.

7 Q And you told Mr. Springs about that?

8 A I did.

9 Q Okay. You said before your relationship with Mr.  
10 Springs was cordial and friendly?

11 A Yes.

12 Q And at this point, did it turn a bit sour?

13 A Not really. I just -- no. At that point it didn't.

14 Q But didn't you tell him to stop coming to your house?

15 A No.

16 Q Did he at some point stop coming to your house?

17 A He did.

18 Q Why was that?

19 A I think that he knew that I didn't -- really didn't  
20 approve of the relationship, that I felt he was having  
21 with my daughter. So he had stopped coming probably mid  
22 June I think was one of the last times he had been to my  
23 house.

24 Q Before that, how often did he come to your house?

25 A Every week.

1 Q And after that mid June, did he ever come by the  
2 house?

3 A No.

4 Q Did anybody come on his behalf?

5 A Yes.

6 Q Who was that?

7 A He would send his son or other coworkers or he would  
8 meet me if I was out and about at the properties to give  
9 me invoices and have me pay him for jobs he had done.

10 Q Okay. You and Mr. Springs ever talk about his  
11 relationship with your daughter?

12 A We did.

13 Q Some of those conversations probably were not very  
14 nice, were they?

15 A No, some of them were not.

16 Q All right. Probably wouldn't want your grandkids  
17 hearing a lot of those conversations?

18 A Certainly not.

19 Q All right. A lot of cussing going on?

20 A A little bit.

21 Q In fact, the weekend before Mr. Springs died you  
22 recall that weekend?

23 A Uh-huh.

24 Q You recall your grandson went on a camping trip I  
25 believe?



1 A I do.

2 Q What was that camping trip?

3 A The cub scouts go to Lynches River at the beginning  
4 of the season every year, so we had plan to take him down  
5 there to let him spend the night with cub scouts.

6 Q Okay. Did Steve Springs interfere with that in any  
7 way?

8 A He did.

9 Q Tell me about that?

10 A We had left to go down there probably about noon that  
11 Saturday. And on the way down there, I had gotten a call  
12 from a tenant that had an air conditioner problem. And  
13 because of prior conversations that I had had with him, I  
14 didn't know if I should call him or not, but I said, well,  
15 I needed let him know. And I don't think he answered the  
16 phone at that particular time. So I had called my  
17 daughter and I said I was trying to get in touch with  
18 Steve to let him know that, you know, I'm having an air  
19 conditioner problem at this unit. And if you see or talk  
20 to him could you please let him know. A little while  
21 later I had gotten a phone call from her and she said he  
22 said call Adam, which is his son. So I said, okay, I  
23 tried to call him and couldn't get him. And I can't  
24 remember if I left him a message or not, but I had tried  
25 numerous -- on numerous occasions to get ahold of Adam

1 about it. And I don't know I think they had gotten the  
2 message what unit it was, but I didn't understand at that  
3 time why Steve couldn't go and fix it. Later that  
4 evening -- and I had my phone with me wasn't picking up  
5 very good reception, so I have to walk certain places down  
6 there to pick up better reception. I had walked somewhere  
7 and tried to call again and then I got a phone call from  
8 him because I had made a post on Facebook from my phone  
9 that we were down at Lynches River or we were there having  
10 a good time with Jay. And he called and he's like  
11 something to the effect I can't believe that you can F'ing  
12 make post on Facebook about things but ---

13 Q Let me interrupt you, but he wasn't calling you about  
14 the post about your grandson at the camp, is that not what  
15 he was calling you about?

16 A No, he was -- I think he was upset because I had  
17 gotten on my phone and was able to make a post, but I  
18 wasn't able to get through to his son.

19 Q You don't -- and this was September 22nd?

20 A It was. It was.

21 Q Could the post you have made would that have been it  
22 is ashamed that my grandson's night got F up by this  
23 asshole, would that be the post?

24 A That -- I made that post after, that wasn't made  
25 before. That was made after he called me and cussed at me

1     because that's what made me mad because I had to leave.

2     Q     And so Mr. Springs was the asshole in that sentence?

3     A     That's correct.

4     Q     And then later in the same conversation on the  
5     Facebook you said, yeah, and the asshole is going to cause  
6     me to kill him. I will call you tomorrow and explain.

7     A     Yeah, my sister-in-law asked me what had happened and  
8     I told her that I would call her tomorrow and explain that  
9     just because I didn't want to put on Facebook that my  
10    daughter was messing with a married man.

11    Q     Right. Did the full quote is ---

12    A     Yes.

13    Q     Okay. And then later in this same conversation on  
14    Facebook regarding Sunny. You said Sunny did nothing yet  
15    but when he finds out; is that correct?

16    A     Yes.

17    Q     What did that mean?

18    A     I didn't let Sunny know that Mr. Springs had been  
19    calling me, cussing me on the phone that evening. I just  
20    told him that I needed to leave the camp. I had some  
21    things I needed to go back to Florence. My phone wasn't  
22    picking up. If tenants needed me, I needed to go back and  
23    I was trying the whole time getting back to get in touch  
24    with Adam about the air conditioner.

25    Q     Okay. But when you said Sunny did nothing yet, but

1     when he finds out, that's applying Sunny would do  
2     something when he found out?

3     A     Certainly, he would be mad.

4     Q     And then finally and there's some other conversation.  
5     Jay is your grandson; that's correct?

6     A     That's correct.

7     Q     You said, no, Jay is there, but I had to leave  
8     because of an asshole; is that correct?

9     A     That's correct.

10    Q     And that's again referring to Mr. Springs?

11    A     Right.

12    Q     Okay. And this was September 22nd I believe a  
13    Friday?

14    A     Saturday.

15    Q     Excuse me that's a Saturday. And then on the 24th is  
16    when Mr. Springs' is dead in your front yard?

17    A     That's correct.

18    Q     Let's move on to the 24th. What were you doing that  
19    day? What were you doing on the 24th?

20    A     I was at home, pick my grandson up from school. My  
21    husband came home from work. He said he was going to go  
22    hunting. He asked my grandson if he wanted to go. He  
23    said no. He wanted to go skating, so I took him to Skate  
24    Land.

25    Q     All right. Where is Skate Land?

1 A Off of David McLeod Boulevard.

2 Q About what time did you take him to Skate Land?

3 A I think six.

4 Q What time did you leave Skate Land?

5 A It was after eight, I do know that. I don't know if  
6 they stop at eight or 8:30 for the skate nights for the  
7 kids.

8 Q It was dusk outside or dark?

9 A Yes.

10 Q And then you leave and are you on your way home at  
11 that point?

12 A I am.

13 Q And you get a phone call from Sunny on this ride  
14 home; is that correct?

15 A Not right away. I'm on my way to take Jay home is  
16 where I was ---

17 Q Excuse me, excuse me. You take Jay home. You drop  
18 Jay off?

19 A Yes.

20 Q After you drop Jay off, you received a phone call  
21 from Sunny?

22 A Yes.

23 Q And what does Sunny -- after that conversation with  
24 Sunny, what do you do next?

25 A I got a phone call from Sunny and I was already on my

1 way home and I just came straight to the -- through the  
2 back of my neighborhood and I went to where he was.

3 Q Were you alarmed by the phone call?

4 A Yes.

5 Q Okay. Did you call 9-1-1?

6 A I did.

7 Q When did you call 9-1-1?

8 A As soon as I got Sunny and I was heading around to  
9 the dirt road and I was heading around the little trailer.

10 Q Sunny was in the car when you called 9-1-1?

11 A Yes.

12 Q Okay. And so I guess you talk to Sunny -- where --  
13 do you remember where you were on your drive home when you  
14 were talking to Sunny on the phone?

15 A Coming down Pamplico Highway I would say probably  
16 near I think that's the shop Kawasaki shop somewhere right  
17 in there.

18 Q And how far -- how long did it take you to get from  
19 there to home?

20 A Maybe three minutes, four minutes.

21 Q Short amount of time?

22 A Short amount of time.

23 Q You were driving pretty fast?

24 A Yes.

25 Q When you get home -- well, excuse me -- first place

1     you go is where?

2     A     Carl's.

3     Q     Why did you go Carl's?

4     A     Because that's where Sunny said was headed.

5     Q     Okay. And while you're at Carl's, you ran into  
6     George Watson; is that correct?

7     A     I did.

8     Q     And what did George Watson have for you at Carl's?

9     A     I asked him to go get me the gun and bring it to me.

10    Q     Why did George have the gun or do you know why he had  
11    the gun?

12    A     I don't.

13    Q     Okay. Did you pick up Sunny at Carl's?

14    A     Yes.

15    Q     Do you know how long Sunny had been at Carl's?

16    A     When I had talked to him, he was walking to Carl's.  
17    So it wouldn't have been for very long.

18    Q     Two or three minutes?

19    A     Probably.

20    Q     Okay. And you get there and Sunny gets in the car  
21    with you?

22    A     Yes.

23    Q     Where does the gun go?

24    A     George had set it on the back of the truck.

25    Q     And when you say the back, you mean the bed of the

1 truck?

2 A That's correct.

3 Q All right. What was in the bed of the truck at that  
4 point?

5 A Well, I don't know, stuff that I use for work, but he  
6 just sat it in the bed of the truck.

7 MR. OZMENT: May I approach, Your Honor?

8 THE COURT: Yes, sir.

9 BY MR. OZMENT:

10 Q Just so we're clear, this is State's Exhibit 16.  
11 This is the gun that was set in the back of your truck?

12 A Yes.

13 Q And it was set there by George Watson?

14 A Yes.

15 Q George put's the gun -- how long were you at Carl's?

16 A Long enough to tell Sunny to come on and we were  
17 going to the house. And as soon as he got in the truck, I  
18 called 9-1-1.

19 Q Did you talk to Carl at all?

20 A Carl was walking out of the door to go to his  
21 parent's house right next door at the time.

22 Q Okay. Do you remember telling Sunny to get his story  
23 straight because you had a dead man in your yard?

24 A No, I don't remember telling him that.

25 Q Okay. And did you have a conversation with George



1 at that point?

2 A No, I believe all I asked George was to get the gun  
3 and put it in the back of the truck.

4 Q Okay. Later on during the course of the night, did  
5 you have any more conversations with George?

6 A I did.

7 Q Did you tell him what you wanted him to tell the law?

8 A No.

9 Q Didn't tell him to change his story anything like  
10 that?

11 A No.

12 Q Okay. You pick up Sunny, the gun's in the back of  
13 the car. You go straight home; is that right?

14 A That's correct.

15 Q At this point, you called 9-1-1 between Carl's house  
16 and your house?

17 A That's correct.

18 Q How long is the drive to Carl's house to your house?

19 A A minute.

20 Q Okay. And you're on the phone with 9-1-1?

21 A I am.

22 Q Gun's in the back of the truck?

23 A That's correct.

24 Q Where does the gun go next?

25 A I took the gun in the house.

1 Q You took the gun in the house?

2 A I did.

3 Q Where did you put it in the house?

4 A I laid it on my bed.

5 Q Okay. Do you recall the 9-1-1 operator asking you  
6 where the gun is?

7 A I think so and I think I had said it was in the  
8 house.

9 Q All right. Would it surprise you if I told you that  
10 you said it was probably in the house?

11 A I don't know I was in shock. I laid it on the bed.

12 Q But you wouldn't deny if on the tape that you say  
13 it's probably in the house? You agree that you might have  
14 said that?

15 A I might have said that.

16 Q Okay. But now you're sure you were the one who took  
17 it in the house?

18 A Oh, yes, I was the one who took it off the truck and  
19 put it in the house.

20 Q Okay. On the 9-1-1, you've taken the gun in the  
21 house, I believe you checked on Mr. Springs at the 9-1-1  
22 operator's request?

23 A I did, yes.

24 Q You checked and from what you could tell didn't  
25 appear to be any signs of life based on what they were

1     telling you to do; is that correct?

2     A     That's correct.

3     Q     Okay. How long did it take the police to get there?

4     A     I may be was on the phone with 9-1-1 for three  
5     minutes may be.

6     Q     Not very ---

7     A     Not long at all.

8     Q     --- to one officer arrived?

9     A     Actually, it was a personal vehicle I think with two  
10    like, I guess, like first responders in it and then right  
11    behind was an offer.

12    Q     Okay. And at that point, they kind of took over the  
13    scene and they were running the show; correct?

14    A     They did.

15    Q     Do you know Larry Bruce?

16    A     I do.

17    Q     How do you know Larry Bruce?

18    A     My husband worked for him.

19    Q     How long did your husband work for him?

20    A     Off and on for years.

21    Q     And was he also a friend of you all?

22    A     He was, yes.

23    Q     You said was?

24    A     Is.

25    Q     Okay. Does he live somewhat near you all?

1 A He did.

2 Q Okay. What kind of work did your husband do with  
3 him?

4 A Painting.

5 Q Okay. And that's what Larry does by trade?

6 A Yes.

7 Q Do you remember Larry coming over to the house a day  
8 or two after this all happened?

9 A I do.

10 Q Do you remember talking to Larry at that time?

11 A I do.

12 Q Do you remember telling Larry Bruce that George  
13 Watson taken the gun and brought it back to you. You  
14 remember telling Larry that?

15 A Yes.

16 Q Okay. Do you remember telling Larry that you had put  
17 a knife on the ground next to Steve Springs?

18 A No, I didn't say that.

19 Q You don't remember telling Larry that you were  
20 worried that you might be in trouble, your DNA might be on  
21 the knife?

22 A No.

23 Q You didn't tell Larry Bruce that?

24 A No.

25 Q You don't remember telling Larry Bruce that you all

1     might be in trouble because you're trying to cover this  
2     thing up? You don't remember telling him that?

3     A     No.

4     Q     So certainly if he were to say that that all  
5     happened, that's not true?

6     A     That's correct.

7                 MR. OZMENT: Beg the Court's indulgence.

8                 (WHEREUPON, a pause in the proceedings.)

9                 MR. OZMENT: No further questions at this time,  
10     Your Honor.

11                THE COURT: Mr. Grove.

12                MR. GROVE: Thank you, Your Honor.

13                                 CROSS-EXAMINATION

14     BY MR. GROVE:

15     Q     Hey, Gloria.

16     A     Hello.

17     Q     In answering, Mr. Ozment's questions you said that  
18     you didn't approve your daughter's relationship with Steve  
19     Springs?

20     A     That's correct.

21     Q     She got kids, right?

22     A     Yes.

23     Q     Does he have kids?

24     A     Yes.

25     Q     So each of them has a family of their own?

1 further at this time, Your Honor.

2 THE COURT: Redirect.

3 MR. OZMENT: Briefly, Your Honor.

4 REDIRECT EXAMINATION

5 BY MR. OZMENT:

6 Q Mr. Grove just asked you said you didn't get into the  
7 nitty-gritty details with your husband?

8 A Correct.

9 Q But you put the nitty-gritty details on Facebook that  
10 night?

11 A He doesn't have Facebook or he doesn't get on  
12 Facebook.

13 Q You let the world know, but you're telling me you  
14 didn't tell your husband what happened?

15 A Yes.

16 Q Are you and your husband close?

17 A Yes.

18 Q I mean, he made you mad at one point. You were  
19 calling him an asshole said cause me to kill him, but you  
20 didn't feel the need to really tell your husband about the  
21 details of that?

22 A I don't tell him all my post on my Facebook, no.

23 Q But you said that Steve had been cussing you and you  
24 all were in a fight. You just plainly tell your husband,  
25 oh, we had a small skirmish and that's what you did?

1 A I didn't want to get him upset. He was going to be  
2 the one staying with my grandson. I was going to, but  
3 after this I left.

4 Q Okay. So he stayed for the weekend with your  
5 grandson?

6 A He stayed for the night, yes, and I picked them back  
7 up the next morning.

8 Q Now, you did say Sunny did nothing, but when he finds  
9 out. I mean, that imply in that comment is that Sunny  
10 would do something when he finds out, but you're saying  
11 Sunny never found out because you never told him?

12 A Correct.

13 Q You just kind of glossed over it, let's not mention  
14 it even though you kind of put what Facebook kind of  
15 implies that Sunny would end up doing something, right?

16 A That he would be mad, yes.

17 MR. OZMENT: No further questions, Your Honor.

18 THE COURT: Anything else, Mr. Grove?

19 MR. GROVE: Very briefly, Your Honor.

20 RECROSS-EXAMINATION

21 BY MR. GROVE:

22 Q Mr. Ozment says you put the nitty-gritty details on  
23 Facebook. Do you remember exactly word for word what your  
24 posts were?

25 A No.

1 Q Would it surprise you that the first one was shame  
2 that my grandson's night got F'd up by this asshole?

3 A That's probably what I put, yes.

4 Q Are there any details in that?

5 A No.

6 Q Does that say Steve Springs called me this word and  
7 that word and the other word?

8 A No.

9 Q So it is safe to say you didn't put the nitty-gritty  
10 details on Facebook?

11 A Correct.

12 MR. GROVE: No further questions.

13 THE COURT: You can step down. Thank you,  
14 ma'am.

15 (WHEREUPON, the witness leaves the witness  
16 stand.)

17 THE COURT: All right, ladies and gentlemen, we  
18 been in here for a little over an hour and 15 minutes.  
19 We're going to take a break. You may not discuss the case  
20 at all. We'll have you back out in just few minutes and  
21 we'll begin with the next witness.

22 (WHEREUPON, the jury retire to the jury room.)

23 THE COURT: Anything from the State before we  
24 break for a few minutes?

25 MR. OZMENT: I don't know if -- Mrs. Scott is



1 also on Mr. Grove's witness list. If she wants to stay in  
2 the courtroom, I think Mr. Grove has to agree not to call  
3 her, but I don't know what his intention is.

4 MR. GROVE: Your Honor, I'll need a couple  
5 minutes to think about it.

6 THE COURT: Sure. Is the pathologist here yet?

7 MR. OZMENT: I don't see her. She said she had  
8 to drop her kids off at 7:30, 7:40 in Charleston. She  
9 told me she be here about ten. We all know how driving up  
10 from Charleston can be.

11 THE COURT: We'll break until 11 or shortly  
12 after.

13 Anything from the defense before we do that?

14 MR. GROVE: Not at this time, Your Honor.

15 THE COURT: Okay. We'll take a break for about  
16 15 minutes.

17 (WHEREUPON, a break was taken.)

18 THE COURT: Everybody in place, Mr. Ozment?

19 MR. OZMENT: Yes, Your Honor, prepared to move  
20 forward.

21 THE COURT: Mr. Grove.

22 MR. GROVE: I am prepared, Your Honor. I'll  
23 just for the record say before we broke we discussed  
24 Mrs. Scott was listed as one of my witnesses. I thought  
25 about it, I talked to my client. I don't think I have any

1 more information that I would call her to get testimony  
2 on. I told her that and I told her she isn't able to talk  
3 with any witnesses that have not yet testified about how  
4 many people have testified or who has testified or what  
5 they've testified to or what she has testified to, but  
6 being as that I'm agreeing not to call her as a witness in  
7 my case, that so far as I'm concerned the sequestering no  
8 longer applies to her.

9 MR. OZMENT: That's fine, Your Honor.

10 THE COURT: All right. You ready to go with  
11 your next witness?

12 MR. OZMENT: Yes, Your Honor.

13 THE COURT: Bring in the jury.

14 (WHEREUPON, the jury came into open court.)

15 THE COURT: All right. We're ready to move  
16 forward, ladies and gentlemen.

17 Mr. Ozment, you can call your next witness.

18 MR. OZMENT: The State calls Larry Bruce to the  
19 stand.

20 THE CLERK: Place your left hand on the Bible  
21 and raise your right hand. Do you swear to tell the  
22 truth, the whole truth, and nothing but the truth so help  
23 you God?

24 THE WITNESS: I do.

25 THE CLERK: Please be seated in the witness

1 chair and state your full name for the record.

2 THE WITNESS: Larry Michael Bruce.

3 WHEREUPON,

4 Larry M. Bruce,

5 after first having been duly sworn, testified as follows:

6 DIRECT EXAMINATION

7 BY MR. OZMENT:

8 Q How are you today, Mr. Bruce?

9 A I'm doing fine.

10 Q Where do you live?

11 A I live on Pamplico Highway, Pamplico Highway.

12 Q All right. How long have you lived there?

13 A About a year.

14 Q Where did you live before that?

15 A Let me rephrase that. I live there about eight  
16 months. I lived at Sharon Road prior to that.

17 Q Is that near the Scott's residence?

18 A Yes, it is.

19 Q Okay. Do you know Sunny Scott?

20 A Yes, I do.

21 Q Do you know Gloria Scott?

22 A Yes, I do.

23 Q How do you know those two individuals?

24 A Sunny's an employee of mine for the last 15 years or  
25 so real good friend, real good fishing partner. Someone I

1     enjoy spending time with. His wife -- he's married to  
2     Gloria.

3     Q     Okay. You and Sunny always gotten along?

4     A     Yeah, I got along good with Sunny.

5     Q     Okay. Was Mr. Scott working for you back in  
6     September of last year?

7     A     Yes, sir.

8     Q     Did he work for you on September 24th of last year?

9     A     I don't know what date that was.

10    Q     Okay.

11    A     If it was on a Friday -- if you get into this, if it  
12    was on a Friday prior to this happening that day, yeah, he  
13    work with that day.

14    Q     Okay. And do you recall or do you know are you aware  
15    what Sunny did after he worked that day?

16    A     I'm aware of the circumstances that happened after  
17    what he did. Well, I know what he did for me that day.  
18    He worked for me that day. And then he left and went  
19    hunting with my son down at my son's residence.

20    Q     That's what I meant he went hunting with your son.  
21    You're aware of that?

22    A     Yes, sir.

23    Q     Okay. After he and your son went hunting, did you  
24    have any contact with your son?

25    A     Yes, sir. I think got a call from him. I don't

1 recall exactly what was said.

2 Q Don't tell me what your son said, but you had contact  
3 with your son?

4 A Yeah.

5 Q Okay. Did you have any contact with Mr. Scott that  
6 day after the hunting trip?

7 A Later on in that evening I got a call from him  
8 wanting me to come over to his house, but he was kind of  
9 intoxicated about that time kind of out of it. So me and  
10 him always like that. You know, we fuss at each other  
11 when one of us is drinking or something. We don't get  
12 along good when we drinking, so I didn't want to deal with  
13 him that day and he had made some comments about -- trying  
14 to remember it correctly. It was Steve the air condition  
15 man. They had been having a falling out, you know, for  
16 months prior to this leading up and they had some type of  
17 confrontation that day, exactly what went on I don't know.  
18 I wasn't there.

19 Q Mr. Scott told you that they been ---

20 A Yeah, feuding. My recollection I told my son to  
21 bring -- take Sunny back to his house. And I got a couple  
22 calls from Sunny and he wanted me to come over there.

23 Q Did he tell you why he wanted you to come over there?

24 A Yeah.

25 Q What did he say?

1     A     He wanted me to come over there and beat Steve  
2     Brown's butt. I don't know if his name is Brown or  
3     whatever, but he was the heating and air man. And he  
4     wanted me to beat him up. I told him I didn't have no dog  
5     in that fight and I wasn't getting in it and I took my  
6     phone off the hook. And I didn't speak with him no more  
7     that day.

8     Q     Okay. Did you at some point after that find out that  
9     Steve the heating and air man was now deceased?

10    A     I found out the next morning through his wife.

11    Q     Okay. Whose wife would that be?

12    A     Gloria Scott.

13    Q     How did you come into contact with her that next day?

14    A     Well, the first thing I did I went over there and I  
15    went to his house the next morning. And I met Gloria and  
16    she said he did it. I said did what. She told me that he  
17    killed Steve. And I was in shock because I couldn't put  
18    Sunny hurting nobody or doing anything like that. And she  
19    said I'm in trouble. I said, how are you in trouble if he  
20    killed him. She said I put a knife in his hand and I'm  
21    worried about the DNA coming back matching me. I said,  
22    Gloria, why you tell me that. I said, I wish you hadn't  
23    told me that.

24    Q     When she told you that, what did you do?

25    A     Well, I kind of asked her about it all. She said

1 something about it was a screwdriver or something in his  
2 hand to begin with. She took the screwdriver out of his  
3 hand and put a knife in it is what she told me.

4 Q Go ahead.

5 A I told Detective William Hester, I think that's his  
6 name, this information. I gave him this information  
7 because I was afraid that I be charge with accessory after  
8 the fact of murder. Because I know this charge could  
9 carry that and that's the reason I said about it because I  
10 thought it was the right thing to do.

11 Q Okay. And this was the day that you were over, this  
12 is the morning?

13 A It was the morning after he was killed that night. I  
14 remember that precisely.

15 Q When you had this conversation with Gloria, how did  
16 that make you feel?

17 A I'm gone be honest with you. I know Sunny Scott. I  
18 know him real well. He's not capable of doing this on his  
19 own. I think Gloria planned it ---

20 MR. GROVE: Your Honor, may I approach?

21 THE COURT: Yes, sir.

22 (WHEREUPON, a bench conference was held in the  
23 presence of the jury, but out of the hearing of the  
24 jury.)

25 THE COURT: Ladies and gentlemen, if you would

1 please step to your jury room for just a few minutes.  
2 I'll have you back out soon. Please do not discuss the  
3 case.

4 (WHEREUPON, the jury retire to the jury room.)

5 THE COURT: All right. Mr. Grove, you can put  
6 your objection on the record and it may cure itself, but  
7 go ahead just put on the record what you mentioned up here  
8 and anything else.

9 MR. GROVE: Certainly, Your Honor, and I don't  
10 think any of this information has come out yet. I did try  
11 and object right before the testimony that I predict  
12 Mr. Bruce was about to offer. He's headed down a path of  
13 simply suggesting that my wife -- my client's wife,  
14 Gloria, and that my client had some sort of a plan to do  
15 this and that Gloria, my client's wife, put him up to this  
16 essentially. And that obviously the testimony that he  
17 just gave was that Sunny isn't capable of doing this on  
18 his own. I believe those was his exact words. The follow  
19 ---

20 THE COURT: You're fine with that, right?

21 MR. GROVE: I'm fine with that portion, Your  
22 Honor, but I'm not fine with him suggesting that there's  
23 any sort of a conspiracy. The State's never charged  
24 conspiracy to my client or his wife. His wife wasn't  
25 charged with anything in relation to this crime whatsoever



1     assuming a crime was committed obviously, but she having  
2     never been charged in relation to this incident. And he  
3     having never been charged with any sort of a conspiracy.  
4     The State's theory of the case being that he on his own  
5     lured Mr. Springs to his house and shot him on his own  
6     accord and then did the planting of the evidence by  
7     himself, that -- any comment from Mr. Bruce regarding a  
8     plan between Gloria and Sunny or a plan of Gloria's to put  
9     Sunny up to this would certainly be improper.

10           THE COURT: All right. So, Mr. Ozment, was that  
11     the path you were doing down?

12           MR. OZMENT: No, Your Honor. I also disagree  
13     with my theory of the case a little bit, but, no, Your  
14     Honor, I was more trying to elicit from the witness how  
15     that made him personally feel when he heard those things  
16     from Mrs. Scott --

17           THE COURT: Like happy, sad, scared?

18           MR. OZMENT: Yes, Your Honor.

19           THE COURT: Why don't you go ahead and rephrase  
20     the question. If you have no intention of going into what  
21     Mr. Grove objects to, I guess I will sustain the  
22     objection. Of course, if you think that that's a relevant  
23     issue, that's another point if you care to respond to  
24     that.

25           MR. OZMENT: Well, Your Honor, and I guess I

1     said part of our theory would be that Mrs. Scott even  
2     though she's not charged, that doesn't mean she didn't  
3     help cover up this crime in some ways.

4             THE COURT:   After the fact?

5             MR. OZMENT:   Yeah, Mr. Bruce just testified that  
6     she told him she put the knife there.

7             THE COURT:   Okay.   You have no technical  
8     objection to that, do you?

9             MR. GROVE:   To the comment about her putting the  
10    knife there, no.

11            THE COURT:   Taking the screwdriver out putting  
12    the knife in?

13            MR. GROVE:   I got no objection with that, Your  
14    Honor.   I certainly understand that testimony.   But any  
15    comments about how many client isn't capable of doing this  
16    without encouragement from someone else, I think is  
17    certainly a problem.

18            THE COURT:   Do you have a problem with me  
19    instructing the witness to testify not about any type of  
20    conspiracy, but instead whether or not how he personally  
21    felt?   You can rephrase it if you want and we see how that  
22    goes.

23            MR. OZMENT:   Your Honor, I think what we're  
24    really trying to avoid is speculative testimony.

25            THE COURT:   All right.   Why don't you go ahead

1 and ask him that question again how it made him feel.

2 Mr. Bruce, that's the question after she told  
3 you all of this, how did that make you feel.

4 A How it made me feel? Well, it hurt me because he's a  
5 friend of mine and I felt like I just lost a friend for  
6 the rest of my life.

7 THE COURT: And when you say he, you mean  
8 Mister...

9 A It hurt me to hear that Sunny had kill someone.

10 MR. OZMENT: All right.

11 THE COURT: Any objection to that?

12 MR. GROVE: I'm unclear as to which friend he's  
13 lost for the rest of life.

14 A I'm talking about Sunny.

15 MR. GROVE: Okay, no objection, Judge.

16 THE COURT: Anything else that you think might  
17 prompt us having to send the jury out?

18 MR. OZMENT: Not at this time, Your Honor.

19 THE COURT: Okay. Anything else, Mr. Grove?

20 MR. GROVE: Again, Your Honor, as long as  
21 there's not testimony regarding a conspiracy or a plan or

22 ---

23 THE COURT: Before the fact?

24 MR. GROVE: Yes, sir, Your Honor. As long as,  
25 there's no testimony in that regard that was the substance

1 of my objection here whether or not I find something  
2 objectionable later.

3 THE COURT: I understand.

4 Mr. Bruce, please don't offer any testimony  
5 without any permission from me about any thoughts on your  
6 part that Gloria Scott may have organized any type of plan  
7 with Mr. Scott.

8 LARRY BRUCE: All right, sir.

9 THE COURT: Ready for the jury?

10 MR. OZMENT: Yes, Your Honor.

11 THE COURT: You can bring them in.

12 (WHEREUPON, the jury came into open court.)

13 THE COURT: You can go ahead, Mr. Ozment.

14 MR. OZMENT: Thank you, Your Honor.

15 DIRECT EXAMINATION CONTINUED

16 BY MR. OZMENT:

17 Q Mr. Bruce, when you had that conversation with  
18 Mrs. Scott the day after, how did that make you feel  
19 when you heard those things?

20 A I feel like I was hurt because I had lost a friend  
21 and I felt like I had lost him forever.

22 Q When you said friend, who are you talking about?

23 A I'm talking about Sunny Scott.

24 Q How long was it before you contacted the law to tell  
25 because earlier you said you spoke to Investigator Hester.

1     How long was that before you thought you needed to talk to  
2     the law?

3     A     Well, I'm pretty sure I didn't wait too long after  
4     what Gloria had told me I did not wait too long at all  
5     because like I said I know what that charge carries to  
6     withholding information in a murder case. And I had  
7     nothing to gain from telling him that and nothing -- no  
8     rewards or anything. It was something I thought I should  
9     do and I did it.

10    Q     All right.

11                 MR. OZMENT: No further questions, Your Honor.

12                 THE COURT: Mr. Grove.

13                         CROSS-EXAMINATION

14    BY MR. GROVE:

15    Q     Mr. Bruce, you said you didn't wait too long to talk  
16    to law enforcement. How long is not too long?

17    A     I don't know.

18    Q     You did you go straight there?

19    A     I beg your pardon.

20    Q     Did you go straight there?

21    A     Did I go straight there? No, I didn't go straight  
22    there.

23    Q     Did you go that afternoon?

24    A     I think I might have called him right after she told  
25    me that.

1 Q You think you might have called him?

2 A Yeah, I'm pretty sure I called him and he told me  
3 when to come in. I'm pretty sure I did.

4 Q What time did you call him?

5 A Sir, I hate to sound like I'm not trying to answer  
6 your question, but I could ask you what time it was  
7 yesterday when you went to the bathroom. I don't know  
8 exactly what time.

9 Q That's perfectly fine. You made two statements with  
10 law enforcement, didn't you?

11 A Yes, sir.

12 Q You made a first statement and then you came back and  
13 made a second statement, right?

14 A I'm pretty sure I did, but I'm not gone say something  
15 I can't recall a year ago.

16 Q You can't recall whether or not you made two  
17 statements?

18 A I'm pretty sure I did. I know I made statements up  
19 there. I know I did.

20 Q Sure. When was the first statement that you made?

21 A The first statement was I think and I'm not sure was  
22 right after the killing.

23 Q They came over to your house that night?

24 A No, I was asleep. I didn't know it until the next  
25 day.

1 Q Well, you went over there that night?

2 A No, I didn't.

3 Q And then -- well, the next morning you stop by  
4 Gloria's?

5 A I went by there the next morning that's what I told  
6 you.

7 Q You stop by Gloria's the next morning?

8 A That's right.

9 Q And you went -- and she told you she fixed the whole  
10 crime scene, right?

11 A Sir, it was exactly what she told me is exactly what  
12 she did. She had no reason to lie to me.

13 Q Please answer my question.

14 A I just answered it.

15 Q The following morning you went over to their house  
16 and she told you she had fixed the crime scene?

17 A She didn't tell me anything about she fix no crime  
18 scene. She told me she placed a knife in a man's hand and  
19 removed a screwdriver, that's exactly what I just  
20 testified to. She didn't say anything about fixing a  
21 crime scene or anything like that, but being that you said  
22 it, that's the way it sounded to me.

23 Q And that's when you called the law and said I got  
24 something to tell you about Gloria Scott?

25 A I'm sure not on that. I know that it wasn't too long

1 after that. First of all, me and my son give a statement  
2 up there together. And I give a statement about what  
3 Gloria had told me.

4 Q Would it surprise you to know you didn't say anything  
5 about any of this the first time you made a statement to  
6 law enforcement?

7 A No, sir, it wouldn't surprise me at all.

8 Q So you didn't tell them that right after you left  
9 Gloria Scott, did you?

10 A I beg your pardon. No, I just told you I give two  
11 statements. The first statement I went up there. I don't  
12 know which one I gave first, but I know I went up there  
13 with my son. And I know what Gloria told me. And I don't  
14 think I did mention it the first time and I had a reason  
15 for not mentioning it. The reason that I did not mention  
16 it is because the way I felt about Sunny Scott. But then  
17 I got to thinking about, you know, what had lead up to all  
18 this and everything. And that, you know, it was coming to  
19 the job every day, he work for me and stuff. And I knew  
20 that he didn't -- he might have shot him, but he ain't the  
21 one that killed him, that's what I felt in my heart. And  
22 I didn't see him go down. And I didn't say anything, but  
23 I felt like if I didn't say anything I'm withholding  
24 information on a murder trial and I couldn't sleep with  
25 that. And so I went back and I told Mr. William Hester



1 exactly what I told in the courtroom this morning and  
2 that's the truth and that's the truth as I know it.

3 MR. GROVE: Beg the Court's indulgence.

4 THE COURT: All right.

5 (WHEREUPON, a pause in the proceeding.)

6 BY MR. GROVE:

7 Q Do we agree that you made two statements?

8 A I would agree with that, yes, sir.

9 Q And do we agree in your first statement, you didn't  
10 say any of this stuff?

11 A Sir, you talking something over a year ago. I would  
12 agree that I did make that statement about what Gloria  
13 told me. And I can't agree with you whether it was the  
14 first one or the second one. I really can't agree with  
15 you on that because I don't know. I mean, it's been a  
16 long time ago. But I can agree with you on this is she  
17 did tell me that.

18 Q In your first statement, do you remember talking with  
19 Investigator Hester about there being a knife there? And  
20 you said I'm betting that's his knife, in your first  
21 statement. Didn't you say that?

22 A I can't recall that, but if you say and it's in that  
23 statement and Mr. Hester wrote it up, I said it.

24 Q Do you remember Investigator Hester asking you about  
25 what the knife looked like and you said it was camouflage

1 with a black blade. You talking about Sunny's knife at  
2 this point.

3 A Sunny's knife was a camouflage knife with a black  
4 blade. I work with him every day. He had a black knife  
5 camouflage, yeah.

6 Q You agree you remember saying if it's Sunny's knife,  
7 that's Sunny's knife?

8 A If I said that at that time, I said it. Like I said,  
9 I know Sunny's knife cause we work with it and he hand it  
10 to me when I needed to cut a tube of caulk. I said Sunny  
11 let me hold your knife cause I don't carry a knife. He  
12 hand it to me, I hand it back to him.

13 Q And he hand you a camouflage knife with a black  
14 blade?

15 A Yes, sir.

16 MR. GROVE: May I approach the witness, Your  
17 Honor?

18 THE COURT: Yes, sir.

19 BY MR. GROVE:

20 Q I'm going to show you a picture.

21 THE COURT: What's the number?

22 MR. OZMENT: Your Honor, this is State's 6.

23 BY MR. GROVE:

24 Q Take a look at that is that the knife Sunny use to  
25 hand you to cut cooper?

1 A I ain't never seen that knife.

2 Q Is that a camouflage knife with a black blade?

3 A No.

4 MR. GROVE: Beg the Court's indulgence.

5 A But he's a knife collector now. He's got a bunch of  
6 knives.

7 MR. GROVE: Thank you, sir.

8 THE COURT: Anything else? Oh, you need  
9 sometime.

10 MR. GROVE: Just a moment, Your Honor.

11 (WHEREUPON, a pause in the proceedings.)

12 MR. GROVE: I don't have anything further at  
13 this time, Your Honor.

14 THE COURT: All right. Redirect, Mr. Ozment?

15 MR. OZMENT: Briefly, Your Honor.

16 REDIRECT EXAMINATION

17 BY MR. OZMENT:

18 Q Mr. Bruce, Mr. Grove was just asking you about when  
19 you were talking about Sunny's knife in your statement.  
20 Did Gloria tell you what the knife looked like she put  
21 next to Steve?

22 A She never told me what kind of knife she put in his  
23 hand.

24 Q Okay. And so the description Mr. Grove just read  
25 you, you were saying that is Sunny's knife, right?

1 A Exactly.

2 Q Okay.

3 MR. OZMENT: So -- may I approach, Your Honor?

4 THE COURT: Yes, sir.

5 BY MR. OZMENT:

6 Q This is not Sunny's knife?

7 A No, sir.

8 MR. OZMENT: No further questions, Your Honor.

9 RECROSS-EXAMINATION

10 BY MR. GROVE:

11 Q Have you ever seen that knife before?

12 A That knife?

13 Q Yes, sir.

14 A No, sir.

15 MR. GROVE: Thank you.

16 THE COURT: Okay... You can step down. Thank  
17 you, Mr. Bruce.

18 (WHEREUPON, the witness leaves the witness  
19 stand.)

20 MR. OZMENT: I ask that Mr. Bruce be released  
21 from his subpoena.

22 MR. GROVE: No objection, Your Honor.

23 THE COURT: All right. Mr. Bruce, you can stay  
24 if you like or you can leave.

25 Next witness.

1 MR. OZMENT: Your Honor, the State calls  
2 Dr. Erin Presnell.

3 THE CLERK: You swear to tell the truth, the  
4 whole truth and nothing but the truth so help you God?

5 THE WITNESS: Yes, ma'am.

6 THE CLERK: Please be seated, state your full  
7 name for the record.

8 THE WITNESS: My name is Susan Erin Presnell  
9 P-R-E-S-N-E-L-L.  
10 WHEREUPON,

11 Dr. Susan E. Presnell,  
12 after first having been duly sworn, testified as follows:

13 DIRECT EXAMINATION

14 BY MR. OZMENT:

15 Q How are you today, Dr. Presnell?

16 A I'm good, thank you.

17 Q What do you do for living?

18 A I'm a forensic pathologist. I work at Medical  
19 University of South Carolina down in Charleston.

20 Q And how long have been in that position?

21 A I was hired as faculty forensic pathologist in 1999,  
22 14 years.

23 Q What do you do down there?

24 A I'm a forensic pathologist. I know everyone is  
25 kind of getting use to or expose to on television shows

1 and all about forensic pathology but just to kind of back  
2 up and explain it for a moment. Forensics is actually a  
3 subspecialty of the medical field of pathology. Pathology  
4 is the study of disease, so pathologist are the ones that  
5 will look at tissues and what not and diagnose disease.  
6 So if you go to your doctor and get a skin biopsy or you  
7 have an operation something comes up, the pathologist they  
8 look for cancer, infection whatnot and generate a  
9 diagnosis. So I'm trained in general pathology, but I  
10 also did a subspecialty training in forensics where we're  
11 not just looking at a piece of tissue or a biopsy or  
12 something that's removed. But, of course, we're looking  
13 at whole entire deceased person and our procedure or  
14 examines are called the autopsy. We are looking for  
15 disease processes, but we're also interpreting traumatic  
16 injuries. And ultimately through the whole autopsy, we  
17 generate a report with a cause and manner of death.

18 Q And I guess you say you conduct autopsies. Kind of  
19 in layman terms what exactly is an autopsy?

20 A Well, an autopsy is a complete exam of a deceased  
21 individual. So there's an external exam and then the  
22 internal exam. And we do ancillary studies like we look  
23 at some tissues under the microscope if needed, also do  
24 toxicology for drugs and alcohol and blood. And when all  
25 those results come back, then we generate a final autopsy

1 report.

2 Q Okay. What kind of school did you go to to become a  
3 forensic pathologist?

4 A Well, a pathologist is a medical doctor, so I went to  
5 Clemson for undergrad. Then I went to MUSC for medical  
6 school, which is four years. At that point you pick your  
7 specialty, so whether pediatrics, family medicine whatnot.  
8 I choose pathology. And at the time, that's a five-year  
9 training program and then additional year of forensic  
10 training.

11 Q All right. Are you a board certified medical doctor  
12 then?

13 A Right, I'm licensed to practice medicine in South  
14 Carolina and I'm board certified in pathology and forensic  
15 pathology.

16 Q All right. Are you a member of any kind of  
17 professional organizations that do that kind of thing?

18 A Yes.

19 Q What organizations would those be?

20 A Well, National Association of Medical Examiners,  
21 American Pathologist, Medical Academy of Forensic Science  
22 several more.

23 Q All right.

24 MR. OZMENT: Your Honor, at this time, the State  
25 would ask that Dr. Presnell be made an expert in forensic

1 pathology.

2 THE COURT: Mr. Grove.

3 MR. GROVE: No objection, Your Honor.

4 THE COURT: All right. Ladies and gentlemen,  
5 the witness is qualified as an expert in the field of  
6 forensic pathology. As I mentioned to you earlier, the  
7 witness is permitted to give opinions. And the reasons  
8 for those you are not bound however by the testimony of an  
9 expert just because it comes from an expert. You give her  
10 and any other expert's testimony the weight you believe it  
11 deserves.

12 You can continue, Mr. Ozment.

13 MR. OZMENT: Thank you, Your Honor.

14 BY MR. OZMENT:

15 Q Dr. Presnell, did you ever perform an autopsy on a  
16 Steve Springs?

17 A Yes, I performed an autopsy at MUSC on September 25th  
18 of 2012.

19 Q Okay. And how did you come into contact with  
20 Mr. Springs?

21 A Well, South Carolina is a coroner state, so each of  
22 the counties have coroners. They respond to crime -- that  
23 scene and decide whether or not somebody needs an autopsy.  
24 In this case, Mr. Matthews, who was the coroner at the  
25 time referred this case to us down at MUSC down in



1 Charleston.

2 Q All right. And when you first saw Mr. Springs, what  
3 was the first thing you did in your investigation or  
4 examination excuse me?

5 A First thing we do is photographs.

6 Q Of the whole body and everything?

7 A Right, we take all kinds of photographs. And then  
8 next would be kind of documenting anything that we needed  
9 to prior to undressing him on diagram. Then we would  
10 undress him, examine the clothes, go back examine the  
11 body, clean what we needed to examine again. I get x-rays  
12 in this case because it was a gunshot wound. The x-rays  
13 are used to help locate the bullet if there is one inside.  
14 And then after that, look inside document the injuries, do  
15 the internal exam and then we're done with the gross  
16 component of the autopsy.

17 Q You brought up this is a gunshot wound. Where did  
18 you observe the gunshot on Mr. Springs?

19 A Mr. Springs had a gunshot wound to his right upper  
20 abdomen.

21 Q You welcome to stand up to show where you're trying  
22 to point.

23 A His entrance gunshot wound is to the right upper  
24 abdomen right here. The bullet goes through the liver,  
25 the stomach, the pancreas, the small intestines, the left

1 kidney, the left adrenal gland and the spleen and comes to  
2 rest in the skin on the left left back.

3 Q Okay. Thank you. And how were you able to trace on  
4 that external wound where all the bullet went?

5 A Well, the bullet leaves damage in the organs that  
6 it's traveling through. And also we have the location of  
7 where the bullet is located, so we can track that by  
8 putting a probe through that entrance wound to where the  
9 bullet is recovered.

10 Q All right. Were you able to recover the bullet?

11 A Yes, we did.

12 Q So there was not an exit wound?

13 A Correct, there was no exit wound.

14 Q Now, are you aware of what kind of firearm is alleged  
15 to have shot this bullet?

16 A A riffle.

17 Q Is it consistent -- were your findings with no exit  
18 wound that the path was that consistent with a riffle?

19 A I don't know that that gives me a clue one way or  
20 another. We relay -- the information was relayed just by  
21 the coroner. The other particular thing is I mention that  
22 we took x-rays. In particular with riffle gunshot wounds  
23 because of the high velocity you can get some shredding of  
24 the lead in the bullet and it leaves little little tiny  
25 sprinkles along the path, which we call a lead snowstorm

1 and this case it comes out to you.

2 Q All right. Did it seem notable to you that there was  
3 no exit wound?

4 A I mean, riffles are high velocity, so it wouldn't be  
5 unusual to see an exit wound. I don't know why particular  
6 in this case it didn't exit.

7 Q In your examination of Mr. Springs, did you see any  
8 other signs of trauma or other gunshot wounds anything  
9 else on his person?

10 A He had a single gunshot wound. He did have two  
11 abrasions, which are scratches on the back of his left  
12 hand, two small scratches.

13 Q Anything else?

14 A No.

15 Q Okay. How significant were those abrasions?

16 A They're just .2 inch scratches. They were not  
17 significant. They weren't significant to his health.

18 Q Were they bloody?

19 A I mean, I don't know. I can't recall. It would  
20 have -- he would have come with blood on him already and  
21 we would have washed it off to examine the injury.

22 Q Okay.

23 MR. OZMENT: Beg the Court's indulgence.

24 (WHEREUPON, a pause in the proceedings.)

25

1 BY MR. OZMENT:

2 Q Okay. Now, you stated that the gunshot went in kind  
3 of right under the ribs right in here; is that correct?

4 A Right, although your ribs are probably a little  
5 higher.

6 Q Okay. And from the angle the bullet went in, could  
7 you tell at all anything about the location of the shooter  
8 or anything like that?

9 A What I can do is track the bullet through the body,  
10 but I can't correlate to his position at the time of the  
11 event. The angle through his body. I mean, you can kind  
12 of picture it just with the path way that I was saying.  
13 If you go into the right upper abdomen and you're on the  
14 left back, it's going in this direction. So from his  
15 right to his left, from front to back and it's going just  
16 slightly down, just a smidgen down.

17 Q Okay. When a bullet strikes a person's body, does  
18 that -- does the angle it takes in the body is that all  
19 correlate with the direction the bullet entered the body?

20 A Well, I mean it typically is unless it hit something,  
21 you know, major perhaps that might throw it off its  
22 pathway like hit a bone or something. But in general it's  
23 the proximate direction of where the bullet came from.

24 Q Did it hit any bones in this case?

25 A No, I don't believe so. I'm looking to see if it

1 maybe had hit a rib, but, no, I don't have it hitting any  
2 bone.

3 Q Okay. And so the angle you said was slightly down.  
4 And so by that you mean going toward -- obviously, not  
5 going toward the feet, but generally towards his feet and  
6 not his head is what you mean by down?

7 A Right.

8 Q Okay. In your report, you kind of go through every  
9 possible area of his body. Was there anything else you  
10 found that could have caused his death in this case?

11 A No, the gunshot wound was the cause of his death.

12 Q Okay. And so what do you rule as the forensic  
13 pathologist the manner of death was?

14 A The manner of death is homicide. He was killed at  
15 the hands of another.

16 MR. OZMENT: No, further questions, Your Honor.

17 THE COURT: Mr. Grove.

18 MR. GROVE: Thank you, Your Honor.

19 CROSS-EXAMINATION

20 BY MR. GROVE:

21 Q Homicide doesn't mean murder though, does it, Doctor?

22 A Correct, that's the medical -- like the medical  
23 examiner terminology for manner of death. We have four to  
24 choose from. One is accident. The other is natural,  
25 suicide and homicide. And, of course, there could be

1     undetermined. But of those four categories, homicide is  
2     used at the death at the hands of another, but it doesn't  
3     take into account whether it's murder or some other type  
4     of reason.

5     Q     It doesn't take into account that it could be  
6     self-defense, does it?

7     A     Correct.

8     Q     In your report, does your diagnosis address a blood  
9     alcohol content of Mr. Springs?

10    A     Yes, we drew blood samples at the time of autopsy and  
11    sent it to the SLED toxicology laboratories. They sent us  
12    the results and his blood alcohol level was 0.199.

13    Q     As a medical doctor, does that mean he's drunk?

14    A     That he's good -- he's intoxicated, yes. So .08 mean  
15    the legal limit for driving. And this is .199, so almost  
16    .2.

17    Q     I know you're not qualified as an expert in math,  
18    but is that about two and a half times?

19    A     Multiply on the stand. Say .08 times two is .16 and  
20    then another .04 would be -- yeah, so about two and a  
21    half.

22    Q     Your diagnosis also in reference to the gunshot wound  
23    itself. Your report says it hit the liver, stomach,  
24    pancreas, mesentery, small bowel, spleen, left adrenal and  
25    left kidney, that -- does that essentially mean that it

1 hit everything from here down in terms of organs?

2 A Well, there's more in your pelvis, so like your  
3 bladder -- and he wouldn't have a uterus, but prostate and  
4 your large intestines that it did not hit.

5 Q From the bottom of his ribs to his waist line, it hit  
6 everything give or take in there with the exception of the  
7 prostate and maybe the bladder?

8 A I thought of another one aorta, it didn't hit the  
9 aorta.

10 Q But your report says it hit one, two, three, four,  
11 five, six, seven, eight different organs; is that correct?

12 A Yes, mesentery you refer to mesentery, that's the  
13 connected tissue that kind of holds the small bowel  
14 together. So I guess we can count that as an organ, so,  
15 yes, seven to eight.

16 Q Seven organs and some tissue?

17 A Correct.

18 Q A more accurate medical description?

19 A Yes.

20 Q Was Steve Springs standing upright when he was shot?

21 A I can't tell that at the time from just the autopsy.

22 Q Was he leaning forward?

23 A I can't tell.

24 Q Would that have an impact as to the upward or  
25 downward direction of the bullet path through his body?

1     A     This is good to explain. Remember, I'm documenting  
2     the path through the body. So if -- I'll stand up. So if  
3     it's going slight down, the bullet could be coming from  
4     this direction. However, if he bends over and the bullet  
5     is still trying to reproduce this direction, it could be  
6     coming from down below. It all depends on his position as  
7     to where that actual gun was fired from. Does that make  
8     sense?

9     Q     So is what you're telling me a bullet could be  
10    traveling in an upward direction, but based on the angle  
11    of his body, could be traveling downward through his body;  
12    is that correct?

13   A     Correct.

14   Q     And you have no idea if he was standing upright  
15    laying down, side ways or otherwise; correct?

16   A     Correct.

17   Q     What can you tell me about the effect of the damage  
18    with a bullet hitting seven organs and some tissue?

19   A     I been thinking about this. Well, first of all, it's  
20    in my opinion a fatal injury. I mean, you can live with  
21    one adrenal gland. You can live without one kidney. You  
22    can live with part of your pancreas. You can live with  
23    part of your liver. You can live if you sew your stomach  
24    up. You can live if you sew your small intestine up. But  
25    all that damage at once -- and keep in mind, too, that



1     it's not just like putting a hole through these organs.  
2     There's a lot of kinetic energy associated with the bullet  
3     that's released into the tissue, so it's not just the hole  
4     that it makes. But it damages the tissues afar from it as  
5     well, so all those in conjunction this is a -- I would  
6     consider this a fatal injury.

7     Q     When you say you consider this to be a fatal injury,  
8     do you mean that at the point of impact -- at the time of  
9     impact, it's your opinion that no amount of time to  
10    receive medical treatment would have mattered?

11   A     Yes, I think so. Is there possibly a chance, maybe,  
12   but I don't think so. I think all greatest probability  
13   this was not survivable.

14   Q     It doesn't matter if EMS is on the way. In your  
15   opinion, he's not going to survive this injury?

16   A     Well, I'll make an even more extreme scenary in my  
17   head what if he's in the hospital when this happened, you  
18   know, could possibly, maybe. I don't know, but out in the  
19   field type situation, I can't see how this could be  
20   survivable.

21   Q     So again your testimony is it doesn't matter if help  
22   gets there in five minutes or ten minutes or an hour or  
23   he's even already at the hospital, that you don't think  
24   he's going to survive this?

25   A     I think the greatest chances are he will not survive.

1 MR. GROVE: Thank you. No further questions.

2 THE COURT: Redirect.

3 MR. OZMENT: Briefly, Your Honor.

4 REDIRECT EXAMINATION

5 BY MR. OZMENT:

6 Q On the last point, you know that he wouldn't --  
7 probably wouldn't survive this based on being a medical  
8 doctor?

9 A Correct.

10 Q So you wouldn't expect Joe on the street to know  
11 that?

12 A Correct.

13 Q Now, you talked about the position of the body, you  
14 know, determines kind of how it would go in. So downward  
15 as you talked about and it was shot from below, what would  
16 the -- what would Mr. Springs have to been doing to get  
17 down on his body and a shot coming from -- well, say the  
18 shot was rising?

19 A When I think downward, it's slightly downward. So  
20 think of it as almost straight with just a little bit  
21 downward angle. And to get that position, you would have  
22 to be bending over if he was -- he's in a standing up  
23 position, you would have to bend over if it's coming from  
24 bullets.

25 MR. OZMENT: No further questions, Your Honor.

1 THE COURT: Anything else?

2 MR. GROVE: Beg the Court's indulgence.

3 (WHEREUPON, a pause in the proceedings.)

4 MR. GROVE: Nothing further, Your Honor. Thank  
5 you.

6 THE COURT: Okay. You can step down. Thank  
7 you, ma'am.

8 (WHEREUPON, the witness leaves the witness  
9 stand.)

10 THE COURT: Can the doctor be excused?

11 MR. OZMENT: Yes, Your Honor.

12 MR. GROVE: No objection, Your Honor.

13 THE COURT: Dr. Presnell, you can leave if you  
14 would like.

15 Next witness.

16 MR. OZMENT: Your Honor, can we approach.

17 (WHEREUPON, a bench conference was held in the  
18 presence of the jury, but out of the hearing of the  
19 jury.)

20 MR. OZMENT: Your Honor, the State would call  
21 Crystal Hanna to the stand.

22 THE CLERK: Place your left hand on the Bible  
23 and raise your right. Do you swear to tell the truth, the  
24 whole truth, and nothing but the truth so help you God?

25 THE WITNESS: Yes, ma'am.

1           THE CLERK: Please be seated in the witness  
2 chair and state your name for the record.

3           THE WITNESS: Crystal Shadoan Hanna.

4 WHEREUPON,

5                     Crystal S. Hanna,  
6 after first having been duly sworn, testified as follows:

7                     DIRECT EXAMINATION

8 BY MR. OZMENT:

9     Q     Mrs. Hanna, could you scoot up a little bit, so you  
10 will be closer to that microphone. Where do you live?

11    A     South Canal Drive.

12    Q     Who's your mom?

13    A     Gloria.

14    Q     And what's her last name?

15    A     Scott.

16    Q     Okay. Who is your step dad?

17    A     Wayne Scott.

18    Q     All right. Do you have any kids?

19    A     Yes, sir.

20    Q     How many kids do you have?

21    A     Two.

22    Q     What are their ages?

23    A     Seven and four.

24    Q     Is one of your children Jay?

25    A     Yes, sir.

- 1 Q All right. He's in the Boy Scouts?
- 2 A Yes, sir.
- 3 Q Now, are you married?
- 4 A Yes, sir.
- 5 Q Who are you married to?
- 6 A Kevin Hanna.
- 7 Q How long have you and Kevin been married?
- 8 A Four years.
- 9 Q All right. Have you all had trouble at times in that  
10 relationship?
- 11 A Yes, sir.
- 12 Q Is Sunny Scott your biological father?
- 13 A No.
- 14 Q How long have you known Mr. Scott?
- 15 A About 25 years.
- 16 Q All right. Most of your life?
- 17 A Yes, sir.
- 18 Q What is the relationship between your kids and  
19 Mr. Scott?
- 20 A That's their granddaddy.
- 21 Q Okay. Now, did you know Steve Springs?
- 22 A Yes, sir.
- 23 Q How did you first come to know Steve Springs?
- 24 A He did air condition work on rental properties that  
25 my mother manages.

1 Q Okay. Did you eventually become close to  
2 Mr. Springs?

3 A Yes, sir.

4 Q Tell me how that had happened?

5 A My husband quit his job and he was willing to let me  
6 work to try to ---

7 Q You said your husband quit his job. Who's he?

8 A Steve let me work to try to make money.

9 Q In his business with your mom?

10 A Right.

11 Q Okay. When did you start working with Steve?

12 A Maybe June, July.

13 Q Of?

14 A Last year 2012.

15 Q Okay. At Some point did you and Steve also become  
16 romantically involved?

17 A Yes, sir.

18 Q When did that start?

19 A After we started working together.

20 Q All right. Were you married at the time?

21 A Yes, sir.

22 Q Was he married at the time?

23 A Yes, sir.

24 Q Okay. Did your mom know about you and Steve becoming  
25 romantically involved?

1 A Yes, sir.

2 Q How did she find out about it?

3 A Because she knows everything.

4 Q All right. Did you spend a lot of time with your  
5 family prior to last year?

6 A Yeah.

7 Q Okay. Close with your family?

8 A Yeah, pretty much.

9 Q Were you and Steve romantically involved in September  
10 of last year?

11 A Yes, sir.

12 Q How often would you all spend time together?

13 A Almost every day.

14 Q Did your husband know about you and Steve?

15 A At the end, yes, sir.

16 Q Did your mom ever talk to you about your relationship  
17 with Steve?

18 A Not really.

19 Q Okay. Did Sunny Scott ever talk to you about your  
20 relationship with Steve?

21 A No, sir.

22 Q Okay. Did you ever hear them talking to Steve about  
23 you alls relationship?

24 A No, no, sir.

25 Q Okay. The week before Steve died are you aware if

1 Mr. Springs and your mom had any contact with each other?

2 A Yes, sir, they did.

3 Q Were you there for that contact?

4 A Yes, sir.

5 Q Tell me what happened?

6 A Thursday prior to the Monday of his death, he was at  
7 my house to pick me up and we were leaving. And my mom  
8 showed up unannounced and him and her exchanged words.

9 And he went to go walk out the front door to sit in the  
10 truck and wait on me to finish getting my stuff and, you  
11 know, leave and she pushed him down the steps. He didn't  
12 fall, but I mean she just put her hands on him, pushed him  
13 down the steps and a police report was made.

14 Q Okay. Was her pushing him was that part of the  
15 ongoing altercation they had?

16 A That was the only physical like -- the only touching  
17 that there was, yes, sir.

18 Q How long did that argument go on that day at your  
19 house?

20 A Maybe ten, 15 minutes if that like, that's probably  
21 maybe a little too long maybe ten minutes.

22 Q All right. Do you know what the substance of their  
23 argument was about?

24 A Just that they had Gloria and Steve had a business  
25 relationship. When we started being involved



1 romantically, she found it her business of -- to make  
2 everything else her business. So it was more less arguing  
3 over my daily business. You know, to trying to get her to  
4 mind her business. And it's just almost like high school  
5 back and forth, texting wars. I mean, you know, one  
6 saying one -- just back and forth constantly ---

7 Q Who?

8 A Steve and Gloria.

9 Q Would be texting?

10 A Constantly.

11 Q And that was Thursday. What were -- did you and  
12 Steve have any plans for that weekend?

13 A The weekend before that Saturday he came and picked  
14 me up and we went to the beach. And we were at the beach  
15 until late Sunday night and then Monday the next day was  
16 the day that this happened.

17 Q Okay. When you were talking about that weekend  
18 that's after the Thursday incident?

19 A Right.

20 Q Okay. While you were at the beach and all that, do  
21 you know if Steve had any contact with your parents?

22 A Yes.

23 Q What was that contact?

24 A I think some bills had to be turned in or something  
25 for some work that had been done or money was trying to be

1 collected for work that had been done. And being we were  
2 out of town, he was trying to get his son to go get it  
3 from her, pick it up from her. Well, they had my little  
4 boy at Lynches River State Park on a Cub Scouts camp out.  
5 And on that Saturday that we were at the beach and they  
6 had been texting back and forth arguing and carrying on  
7 and that's...

8 Q After that texting and carrying on, you know if your  
9 mom goes on Facebook?

10 A Yes.

11 Q Did she mention it on Facebook at all?

12 A A status was made that said an M.F. is going to cause  
13 me to -- no, M.F. has mess my grandson's night up. So,  
14 of course, people commented on it asking why, what  
15 happened, you know. I thought you all were camping.

16 Q Let me interrupt you, don't tell me anything they  
17 said. But you saw a Facebook status?

18 A I saw it, yes, sir.

19 Q Okay. When did you all come back from the beach?

20 A Late Sunday night.

21 Q Okay. What did Steve do or you know what Steve did  
22 the rest of Sunday night when you all got back?

23 A Went home.

24 Q Okay. Did you have any contact with Steve Monday?

25 A Yes, sir.

1 Q What was the first time, did you have contact with  
2 Steve Monday?

3 A It was late Monday afternoon, that I had talk to him.  
4 I was gone with a friend of mine. And he had came by the  
5 house and had gotten mad or something because I was gone  
6 with my girlfriend and wasn't there. And I saw him for a  
7 brief minute that Monday afternoon and then he was suppose  
8 to come back later night, but unfortunately never made it.

9 Q Do you know where he went after you saw him?

10 A After I saw him, it was still early. It was probably  
11 around four maybe or so three or four Monday afternoon. I  
12 don't know exactly where he was going then.

13 Q Okay. After that, did he call you or text you or  
14 anything the rest of that evening?

15 A Yes, sir, we had texted back and forth. Then he  
16 called me and said that he had, you know, some phone calls  
17 from Sunny saying that Michael's air condition was messed  
18 up and needed to be looked at, which was where he was  
19 hunting that night. And Steve called me because he said  
20 that he had a really bad feeling about it. Something just  
21 didn't sit right with him about Sunny calling him so  
22 persistently about the air condition situation. So he  
23 wasn't going to go down there and called him back to let  
24 him know that and had me on three way when he called Sunny  
25 back.

1 Q So when he called Sunny back you were on the  
2 telephone with him ---

3 A Yes, sir.

4 Q --- like a conference call?

5 A Yes, sir.

6 Q Okay. Did Sunny pick up the phone?

7 A Yes, sir.

8 Q What was the substance of their conversation at that  
9 point?

10 A You know, that he wasn't coming out there. Sunny  
11 ended up saying that they ended up getting the air  
12 condition fixed any ways, that it didn't matter, but that  
13 they needed to talk. And Sunny said that -- blew up. You  
14 could kind of tell he had been drinking and blew up and  
15 was like I will beat your mother -- bla bla. And Steve  
16 was like, woo, I don't have any beef with you. I'm not  
17 trying to fight you, you know. He said so, you know, you  
18 can just calm down. Like I'm not trying to fight you, all  
19 I want to do is talk to you. And that's when Sunny told  
20 him to -- that he could -- at first, the original plan  
21 they were going to meet at my house to talk. And I said  
22 that that was a not a good idea because I was putting my  
23 kids to bed. And, you know, I didn't want any of that at  
24 the house. So they -- Sunny then told him that he would  
25 be home in just a little while that he could meet him at

1 his house and they could talk.

2 Q Okay. Was Steve mad?

3 A Uh-uh.

4 Q Steve -- did you hear any threats go from Steve to  
5 Sunny?

6 A No, sir.

7 Q Why were you on this phone call? Why did he want you  
8 on the phone call?

9 A Just -- I think he wanted me to see why it was maybe  
10 that he had the uneasy feeling that he had about the  
11 initial phone call about the whole air condition problem.  
12 I think that just didn't sit right with him and he didn't  
13 know why at the time. So he just said I'm going to call  
14 three way.

15 Q Okay. After that phone call, did you hear anything  
16 else from Steve?

17 A Yes.

18 Q What was that?

19 A He called me to let me know that he was almost at my  
20 mom's house to talk to Sunny. He was about to pull up and  
21 that he would see me when he left.

22 Q Did he ever come to your house? You have to answer.

23 A No, sir.

24 Q Okay. How did you hear Steve had passed away?

25 A I got a phone call from my husband because my mother

1     called him and told him so he called me.

2     Q     What did you do when your husband called you?

3     A     I ran to my neighbors to get her to come sit with my  
4     babies cause I had just put them to bed. And I jumped in  
5     the car and I stopped by the Exxon down the street from my  
6     house, that he went to all the time and asked if they had  
7     talk to him. And they said they had made a phone call to  
8     him but hadn't gotten a return phone call. And I told  
9     them what I had heard. The phone call I had just gotten  
10    and they said just ---

11           MR. GROVE: Objection, Your Honor, hearsay.

12           MR. OZMENT: That's fine, Your Honor.

13           THE COURT: All right.

14   BY MR. OZMENT:

15   Q     Don't tell me what they told you, but just tell me  
16   what you did. You're at the gas station what did you do?

17   A     I met -- I called my best friend and she told me or I  
18   met her at the gas station, so she could drive me over  
19   there because I was a little -- very much upset and she  
20   drove me to my mother's house and that's pretty much  
21   how...

22   Q     When you got to your mother's house who was there?

23   A     Seem like every police in the city. I came in the  
24   back way. It was police as far as you can see. And the  
25   ambulance at the end of my momma's driveway. And Steve's

1 van in the driveway with the door open.

2 Q Did you talk to any of the police that night?

3 A Yes, I think I talked to an investigator.

4 Q All right. Give him -- did you tell him what you  
5 told us here today?

6 A Yes, sir, well, I answered any questions that he had  
7 for me.

8 Q Okay. How has this affected your relationship with  
9 your mom and dad?

10 MR. GROVE: Objection, Your Honor, relevance.

11 THE COURT: Mr. Ozment. Why don't you all come  
12 on up for a second.

13 (WHEREUPON, a bench conference was held in the  
14 presence of the jury, but out of the hearing of the  
15 jury.)

16 THE COURT: Objection is overruled. Go ahead,  
17 Mr. Ozment.

18 BY MR. OZMENT:

19 Q How has this affected your relationship with mother  
20 and stepfather?

21 A I hate them.

22 MR. OZMENT: I just have one last question. May  
23 I approach, Your Honor.

24 THE COURT: Yes, sir.

25

1 BY MR. OZMENT:

2 Q Now, you also worked with Steve, right? You said  
3 that earlier. I'm holding up defense exhibit one. Do you  
4 recognize where that photo's taken of?

5 A In the van.

6 Q You see a black case in that photo?

7 A Yes, sir.

8 Q What is that black case for?

9 A His flashlight.

10 MR. OZMENT: No further questions, Your Honor.

11 THE COURT: Mr. Grove.

12 CROSS-EXAMINATION

13 BY MR. GROVE:

14 Q Okay. You spoke with an investigator when you got  
15 there; is that correct?

16 A Where?

17 Q To Sharon Road last September?

18 A Yes, not when I got there, but before I left, I spoke  
19 with one then.

20 Q You spoke with one that evening at Sharon Road?

21 A Yes.

22 Q And they recorded that statement from you? Do you  
23 remember that?

24 A I'm not sure.

25 Q On the scene?



1 A Yes.

2 Q Do you remember what you said in that statement?

3 A I mean, I don't recall making a statement they ask  
4 question and I gave them answers.

5 Q Do you remember what you said in that statement?

6 A I mean, I don't recall making a statement. They  
7 asked questions and I gave them answers.

8 Q Do you remember them saying that Sunny didn't have a  
9 problem with your relationship at least he never addressed  
10 it with you, right?

11 A Right.

12 Q Do you remember saying that your last phone call with  
13 Steve was at 8:07? Would that surprise you?

14 A No.

15 Q Do you remember not mentioning anything to the  
16 investigator about your last phone call being that he was  
17 on his way over to Gloria's?

18 A Do what now?

19 Q Would it surprise you that that information is not in  
20 the statement that you gave to law enforcement?

21 A Because I didn't give a statement. They asked  
22 questions and I answered the questions. I never made --  
23 nobody asked me what happened this night and wrote down  
24 word for word a statement from me. They ask me questions  
25 and I answered them.

1 Q So you gave them information?

2 A Yes.

3 Q Would it surprise you to know in the information that  
4 you gave them you didn't mention anything about your last  
5 conversation with Steve being that he was on his way over  
6 to Gloria and Sunny's?

7 A No.

8 Q Just a moment ago you said that you were on a  
9 three-way phone call?

10 A Uh-huh.

11 Q Sunny and Steve were talking?

12 A Uh-huh.

13 Q And this is earlier in the same evening?

14 A Uh-huh.

15 Q And that originally you saying that Sunny was trying  
16 to meet Steve somewhere, right?

17 A He tried to get Steve to go out to Michael's house  
18 claiming that was an air condition problem and that it  
19 needed to be looked out.

20 Q And then you testified that when the air conditioner  
21 problem was solved, then he tried to get Steve to come  
22 over to your house or meet him over there, right?

23 A The option of meeting at my house, yes, did come  
24 about.

25 Q And you said that's not a good idea because I'm

1     putting my kids to bed?

2     A     That's right.

3     Q     While you were on mute in a three-way conversation?

4     A     No...

5     Q     Take your time.

6     A     I mean, no. I mean, because they said that the idea  
7     was thrown around. I said, no, that that wasn't gone  
8     happen any ways, but I wasn't having a conversation with  
9     them.

10    Q     So earlier Steve had said ---

11    A     I was on the conversation not carrying on a  
12    conversation with them.

13    Q     So earlier Steve said later on Sunny's going to  
14    invite me over to your house, I want to make sure that's  
15    not a good idea ---

16    A     No, no, no, don't put words in my mouth, that's not  
17    what I said.

18    Q     What you said was that Sunny said let's go meet over  
19    at Crystal's and then you said that that's not a good  
20    idea, that's what you said?

21    A     Yeah, I did say that, but I didn't say that I said  
22    that on the conversation. I said that to myself to me in  
23    my conversation.

24    Q     You said in it your head and the two of them  
25    miraculously figured out ---

1     A     No, because then they decided that they were going to  
2     his house any ways. I mean, like they -- they ultimately  
3     decided they were not coming to my house. Regardless of  
4     the fact that I -- that wouldn't have been an option any  
5     ways is the point I'm making. I didn't physically say to  
6     them, no, you are not coming to my house because I was on  
7     a three-way conversation muted and was not carrying on a  
8     conversation with them. I was listening to the  
9     conversation.

10    Q     Do you remember when you were speaking with law  
11    enforcement that evening that you said that several days  
12    before -- maybe a couple weeks before Steve had jumped out  
13    the car and said something to Kevin at the baseball field?

14    A     Uh-huh.

15    Q     What was that about?

16    A     About the relationship that we were having excuse  
17    me -- the affair we were having is that better.

18    Q     Steve was yours?

19    A     Do what?

20                 MR. OZMENT: Your Honor, object to relevance.

21                 THE COURT: All right. The question was -- what  
22    about the baseball field?

23                 MR. GROVE: May we approach, Your Honor?

24                         (WHEREUPON, a bench conference was held in the  
25    presence of the jury, but out of the hearing of the

1 jury.)

2 THE COURT: Objection is overruled.

3 Go ahead, Mr. Grove.

4 BY MR. GROVE:

5 Q Steve confronted your husband out at the baseball  
6 field?

7 A Uh-huh.

8 THE COURT: You need to answer with a no or a  
9 yes.

10 A Yes, sir.

11 Q Was this like a little league game or T-ball game?

12 A No.

13 Q What was happening at the baseball field?

14 A He was trying to talk to Kevin Hanna.

15 Q About you?

16 A Uh-huh.

17 THE COURT: That's a...

18 A Yes, sir. I'm sorry, I'm sorry.

19 Q You and Steve had argued earlier that day, hadn't  
20 you?

21 A Uh-huh. Yes, sir.

22 Q He went so far as to take his class ring back, didn't  
23 he?

24 A Yes, sir.

25 Q Was Steve a drinker?

1 A Yes, sir, he drank a little bit.

2 MR. GROVE: Beg the Court's indulgence.

3 (WHEREUPON, a pause in the proceedings.)

4 BY MR. GROVE:

5 Q Crystal, how many times were you on the phone when  
6 Steven and Sunny were talking? Let me ask it a different  
7 way. Were you on one conversation that lasted a few  
8 minutes or were you on several short conversations?

9 A I think because of where Michael lives off Claussen  
10 Road, I think the service may haven gotten lost a time or  
11 two. And it wasn't one long conversation that there had  
12 to be -- the phone call had to be remade.

13 Q But you don't remember specifically?

14 A I don't remember exactly how many times, no, sir.

15 MR. GROVE: Nothing further at this time, Your  
16 Honor.

17 THE COURT: Redirect?

18 MR. OZMENT: Nothing further from this witness,  
19 Your Honor.

20 THE COURT: Thank you, ma'am. You can step  
21 down.

22 (WHEREUPON, the witness leaves the witness  
23 stand.)

24 THE COURT: Everybody on the jury, okay?

25 Mr. Ozment.

1 hand on the Bible and raise your right. Do you swear to  
2 tell the truth, the whole truth, and nothing but the truth  
3 so help you God?

4 THE WITNESS: I do.

5 THE CLERK: Please be seated in the witness  
6 chair. And if you will, sir, state your full name for the  
7 record.

8 THE WITNESS: George Howard Watson, Jr.

9 WHEREUPON,

10 George H. Watson,  
11 after first having been duly sworn, testified as follows:

12 DIRECT EXAMINATION

13 BY MR. OZMENT:

14 Q How are you today, Mr. Watson?

15 A I'm okay.

16 Q Do you know Sunny Wayne Scott.

17 A Yes, sir.

18 Q How long have you known him?

19 A Going on about nine years I believe.

20 Q How do you know Mr. Scott?

21 A I bought some property right behind him.

22 Q So you all neighbors?

23 A Yes, sir.

24 Q How long -- nine years?

25 A Yes, sir.

1 Q Okay. How often would you all see each other living  
2 next to each other?

3 A Probably every day.

4 Q So you were friends?

5 A Yeah.

6 Q Okay. Do you recall the night of September 24th  
7 2012?

8 A Yes, sir.

9 Q You remember what night of the week it was?

10 A I believe it was a Monday.

11 Q All right. What were you doing that evening?

12 A Waiting on American Chopper to come on.

13 Q What time does that come on?

14 A I want to say about seven.

15 Q Okay. Did anything happen that night that aroused  
16 you out of your house?

17 A I remember a commercial coming on saying it was ten  
18 minutes before it came on and I heard a gunshot. It sound  
19 like it was in my background.

20 Q Okay. How many shots did you hear?

21 A Just one.

22 Q What did you do when you heard the gunshot?

23 A Ask my fiance to let me hold her .45 and I put it in  
24 my belt, went outside to take a look and see what's going  
25 on.



1 Q Why did you ask for the .45?

2 A Sound like a -- it was right there in my backyard. I  
3 just want to be prepared in case something was wrong.

4 Q Okay.

5 A Because you don't usually hear gunshots that late at  
6 night because there's a lot of hunting going on around the  
7 house. You can hear gunshots off in the distance not  
8 right there in the yard.

9 Q When you walked outside, where did you go?

10 A I started over there by my shop towards the backside  
11 of my house. I walked over to my jet ski. It was real  
12 dark over there on that side. And I looked toward's  
13 Sunny house and I seen him in the backyard talking on a  
14 cell phone.

15 Q Could you hear anything he was saying?

16 A The only thing I heard him say is I shot him.

17 Q What did you do at that time?

18 A I waited until he got off the phone to acknowledge  
19 that I was in the yard. I say, hey, Sunny was that you  
20 that shot and he replied, yeah. The gun went off and the  
21 bullet jammed in his gun. So I started making my way  
22 toward him.

23 Q Okay. Did you see a gun at that point?

24 A No, sir.

25 Q Okay. Did you ask him any follow-up questions about

1 his gun jamming?

2 A Well, I asked him did he kill a dog or a cat. I  
3 figured that's what he probably done. One was in his yard  
4 in the trash or something, I figured he probably shot one  
5 of them or something.

6 Q Okay. What did you do next?

7 A We walked half way to my house, half way to his house  
8 is about right at the corner of my property line and we  
9 started talking. He was telling me about hunting.

10 Q And how long did that go on?

11 A Not long. And then he confessed something to me.

12 Q What do you mean by that?

13 A He told me he shot Steve.

14 Q Do you know who Steve is?

15 A Yes, sir.

16 Q Who is Steve? Did you know Steve personally?

17 A Yeah, he came to my house and fixed my air  
18 conditioner and didn't charge me nothing.

19 Q Okay. And when Sunny said that to you, what did you  
20 do?

21 A I thought he was lying. I mean, I just didn't pay it  
22 no attention at first. And then ---

23 Q What was demeanor? How was he acting?

24 A That's why I didn't think he was telling the truth  
25 because, I mean, he didn't act weird or anything abnormal

1 out the way. He was just acting like we are right now.

2 Q So did you continue talking to him?

3 A Yes, sir.

4 Q What happened then?

5 A We started talking. And then after he told me that  
6 he killed Steve and I didn't believe him. And he  
7 threatened me said if you tell anybody, I will shoot you  
8 or you gone have to shoot me or I'm going to burn your  
9 house down with your kids in it.

10 Q What did you think of that?

11 A I didn't know what to think about it. So I walked  
12 out towards -- to the left towards the trash pile of my  
13 house and his house. And I looked around the corner and  
14 seen Steve's van there with the light on and the door open  
15 on the driver's side.

16 Q When you say the light on, which light are you  
17 talking?

18 A Inside the cab of the truck.

19 Q Okay.

20 A And that's when it sunk in that he might be telling  
21 the truth and that's when my heart just fell. I just,  
22 just didn't know what to do.

23 Q What happened once you saw the van and you thought he  
24 might be serious?

25 A He was -- after he threaten me, he ask me to help him

1 put the body in the van and take it down the road, so he  
2 could dump him out. And I told him I wasn't and that's  
3 when he threaten me again. If I didn't help him, he was  
4 going to kill me.

5 Q So what did you do?

6 A I started crying and fell to my knees.

7 Q Did you help him?

8 A No, sir, I did not.

9 Q What did he do?

10 A He proceeded to tell me the reason he killed Steve  
11 was he wasn't gone have his grandkids calling him  
12 father -- daddy.

13 Q Calling who daddy?

14 A Steve.

15 Q What did you say to that?

16 A I said, well, did he have anything in his hand Sunny.  
17 He said no. I said, well, you know that's plan out  
18 cold-blooded murder. I said if he didn't come after you  
19 with something, it was murder.

20 Q What did Sunny say to that?

21 A He said that he didn't have nothing in his hand, so  
22 that's when he proceeded over to his boat and he got a  
23 screwdriver out, a black one red tip about this long  
24 whipped it off with his jacket and went around there to  
25 put it in his hand. I stayed around back. I never went

1 around towards the front of the house. I stayed around  
2 back, that's when he come back and told me that Steve was  
3 still alive.

4 Q And let me stop you there.

5 MR. OZMENT: May I approach the witness, Your  
6 Honor?

7 THE COURT: Yes, sir.

8 BY MR. OZMENT:

9 Q George, I'm going to show you what's been marked as  
10 State's Exhibit 8. Do you recognize what's in that  
11 picture?

12 A Yes, sir.

13 Q What is in that picture?

14 A That's Sunny's boat.

15 Q Is that the boat you were just talking about?

16 A Yes, sir. He got the screwdriver out of the live  
17 well right there where there's a bunch of tools.

18 Q So show me where exactly?

19 A Right there.

20 Q What looks like a seat, but you're saying it's a live  
21 well?

22 A I think it's tools. It was a bunch of tools in  
23 there.

24 Q Okay. Have you seen the screwdriver since you saw it  
25 that night?

1 A No, sir.

2 Q I'm going to open State's Exhibit 14. Is this the  
3 screwdriver?

4 A Yes, sir.

5 Q The one you saw that night?

6 A Yes, sir, that's the one he whipped off and went  
7 around there to put it in his hand.

8 Q Went around the house with the screwdriver and he  
9 came back. What happened next?

10 A He told me he was still alive. He was going to go  
11 around there and shoot him again. And that's when I was  
12 going take my .45 out and shoot him, but I got scared.

13 Q Did he tell you that Steve said anything to him?

14 A No, he just said he was still moving.

15 Q What did you say to that?

16 A That's when I fell to my knees again and started  
17 crying please Sunny.

18 Q What did Sunny do?

19 A When he came back and told me that, he went back  
20 around there and come back with his gun and point it at  
21 me, coming at me like this with his gun. And when he got  
22 about four or five feet from me, he dropped the butt of it  
23 and handed the gun up like this. I said what do you want  
24 me to do with this. He said get rid of it. I said what  
25 you want me to do with it. He said I don't care what you

1 do with it, throw it woods for all I care.

2 Q You remember what the gun look like?

3 A Yeah, it was a hunting riffle .30 ought 6.

4 Q What color was it?

5 A I want to say it was a blue barrel synthetic stock.

6 I think it was a dark color.

7 Q Have you seen the gun since that night?

8 A No, sir, like I said, it was dark too.

9 MR. OZMENT: May I approach, Your Honor?

10 THE COURT: Yes, sir.

11 BY MR. OZMENT:

12 Q I'm going to show you what's been marked as State's

13 Exhibit 16. Is this the gun he handed you that night?

14 A Yes, sir.

15 Q When he handed you the gun, what did you do with it?

16 A I grabbed it by the strap, so my fingerprints  
17 wouldn't be on it and took it through my yard and tossed  
18 it in the woods across the street.

19 Q Once you tossed it in the woods, what did you do  
20 next?

21 A Ran to my house and told my wife to get the kids in  
22 the bedroom. It took me a few minutes to calm down to  
23 actually tell my girlfriend what happened.

24 Q Did you tell her everything that happened?

25 A No, I just told her that Steve was shot and Sunny did

1 it to be -- just stay in my room and just in case he wants  
2 to come back and finish the job after he confessed to me.

3 Q And don't tell me what she said. But what did she  
4 do?

5 A She was panicking and she told me not to go outside.  
6 I stayed on the porch with the .45 just in case he try to  
7 come back and finish me off cause he confessed everything  
8 to me.

9 Q Do you know where Sunny was during this time?

10 A No, sir. I thought he was still at home.

11 Q Okay. What happened next after you were standing on  
12 the porch?

13 A I got a phone call from Gloria and she ask me --  
14 Sunny threaten said if I told anybody, he kill me. So  
15 when Gloria asked me, George, have you talked to Sunny. I  
16 said yes, ma'am. She said what did he tell you. I said  
17 what did he tell you. He told me that he shot Steve. Is  
18 said, well, that's what he told me. That's when -- next  
19 thing I know I seen her drive up in the driveway, drive  
20 around the yard, drive through my yard. After she paused,  
21 the headlights towards the van, then drove through the  
22 middle of my yard and went around the curve to my  
23 brother-in-law's house right across the street from my...  
24 Then she ask me to meet her half way. She ask me where is  
25 the gun. I said Sunny told me to get rid of it. I threw



1     it in the woods. She said, well, go get the gun for me.  
2     She went in and proceeded into my brother-in-law's house  
3     Carl's.

4     Q     Who is your brother-in-law?

5     A     Carl Munn.

6     Q     Okay. Did you go get the gun?

7     A     Yes, sir, I did. I knew about where I threw it and  
8     so I kicked around until I found it. And then I picked it  
9     up by the strap so my fingerprints wouldn't be on it. I  
10    carried it like this to my brother-in-law's house and laid  
11    it in the back -- bed of the truck with the barrel on the  
12    box.

13    Q     Okay.

14    A     And then I proceed into the house where she was  
15    trying to get Sunny off the couch. He was drinking and  
16    watching wrestling. She said you better get your story  
17    straight because we got a dead man in the front yard. We  
18    got to get our story straight before we call the law.

19    Q     Okay. Was she on the phone with anyone while you saw  
20    her there?

21    A     No, sir, she was yelling at Sunny to get his ass up  
22    excuse me sorry -- get his butt up.

23    Q     After you witnessed their interaction at Carl's  
24    house, what did you do next?

25    A     We all proceed outside and Gloria told me if the cops

1 ask me anything the only thing I heard was arguing and a  
2 gunshot.

3 Q Okay. Where did you go then?

4 A I went home. Me and brother-in-law Carl walked to my  
5 house and waited on the law to get there. So whenever  
6 they got there, we was going to make our presence known by  
7 walking over there and try to get somebody to hear the  
8 truth.

9 Q How long was it until the law got there?

10 A After she left his house, approximately about 20  
11 minutes.

12 Q And when did you go back over?

13 A I was in the yard the whole time.

14 Q In whose yard?

15 A Mine.

16 Q Okay. And the law got there, what did you do?

17 A We kind of eased our way because they was looking for  
18 the gunshot shell that he said he threw in my yard. They  
19 was over near my trash pile, so I kind of made my way over  
20 there me and Carl did just to kind of let them know --  
21 make ourself known.

22 Q And did you speak to any of the law enforcement?

23 A Yes, sir, I did. I talk to one of them. I told them  
24 exactly what Gloria told me why Sunny and Gloria were  
25 right there.

1 Q What did you say?

2 A That all I heard is arguing and gunshot.

3 Q All right. Go ahead.

4 A When they put Sunny in the cop car and had Gloria  
5 detained around the corner, is when got I another officer  
6 and told him if they would meet me down the road, I will  
7 tell them what happened after the gunshot.

8 Q Did you end up meeting someone down the road?

9 A Yes, sir, I did.

10 Q Where did you meet them?

11 A At the Waffle House.

12 Q Who did you meet?

13 A Officer Hester and another investigator.

14 Q Okay. When you got there, what did you tell them?

15 A I told them the same thing I told you.

16 Q What you said here today you mean?

17 A Yes, sir.

18 Q Briefly, I want to clear one thing up. I think at  
19 one point, you said your fiancé, at one point you said  
20 your wife. Who do you live with?

21 A It's my fiancé. We been together almost 15 years. I  
22 consider her my wife. I'm sorry.

23 Q But that's the same person?

24 A Yeah, sorry.

25 MR. OZMENT: Thank you very much. Please answer

1 said to her.

2 MR. OZMENT: Correct.

3 THE COURT: I'll just leave it at that. You can  
4 go ahead and proffer the full manner you think is  
5 appropriate, so I'll have an idea of what you're talking  
6 about.

7 MR. OZMENT: Yes, Your Honor. I'm just going to  
8 address part of her testimony.

9 THE COURT: All right.

10 THE WITNESS: Do you want me to say my name?

11 THE COURT: He's going to ask you questions.  
12 And by the way, she'll be re-sworn when the jury comes  
13 back in, okay.

14 WHEREUPON,

15 Sabrina Hartfield,  
16 after first having been duly sworn, testified as follows:

17 DIRECT EXAMINATION IN-CAMERA

18 BY MR. OZMENT:

19 Q What is your name?

20 A Sabrina Denise Hartfield.

21 Q Thank you. How are you related to George Watson?

22 A Me and George Watson are not married, but we been  
23 together for 14 years.

24 Q Okay. A couple days prior to Steve's death, did you  
25 have a conversation with Gloria Scott?

1 A Yes, sir.

2 Q Tell me what the contents of that conversation was?

3 A She stopped me while I was coming in my driveway and  
4 said that her and Steve got into a conflict over at  
5 Crystal's house and that she was going -- her plan was she  
6 was going to whip his ass or kill him.

7 Q Okay. Did she curse at all during this exchange?

8 A Yeah. She was going off.

9 THE COURT: And how long before the shooting was  
10 this?

11 SABRINA HARTFIELD: Probably a couple weeks  
12 after that, that's when it happened. I mean, I can't  
13 recall exactly the exact dates and exact time but...

14 BY MR. OZMENT:

15 Q But she referenced an incident at Crystal's?

16 A She -- yeah, that Gloria and Steve got into it at  
17 Crystal's house.

18 Q Did she tell you anything about that as to what it  
19 was?

20 A No.

21 Q Did she make any comment as to her or what she meant  
22 by beating him or killing, did she continue on that at  
23 all?

24 A She was very upset highly angry and that's all she  
25 said. She said they got in a big argument at Steve's -- I

1 mean, at Crystal's house. And she was either gone whip  
2 his ass or kill him one.

3 Q Okay. Did she mention Sunny at all?

4 A Yeah.

5 Q How did she mention Sunny?

6 A She mention that Sunny was gonna do it or she was  
7 gone do it.

8 MR. OZMENT: Your Honor, I think that's about  
9 all the testimony.

10 THE COURT: First of all, do you have any  
11 questions of the witnesses?

12 MR. GROVE: No, Your Honor, Mr. Ozment covered  
13 exactly what I was referring to at the bar.

14 THE COURT: Your objection?

15 MR. GROVE: My objection, Your Honor, is the  
16 same for her as it was with some prior testimony. First  
17 of all, I believe Mr. Ozment noted to you that Gloria had  
18 said she and Steve -- she had never threatened Steve or  
19 she and Steve never gotten into it. And I think that her  
20 testimony was that they had had squabbles. And they had  
21 disagreement in the past. I don't think that she disputed  
22 an incident that occurred at Crystal's house.  
23 Furthermore, Crystal's already testified to that. I don't  
24 think that that topic ever came up with Gloria on the  
25 stand, that's not something that she denied. She was

1 never asked about it.

2 Secondly, as we addressed earlier, a very very  
3 large portion of that testimony goes toward some sort of  
4 grand conspiracy, that no one has ever charged. That's  
5 not an element any of these crimes. They are essentially  
6 suggesting that my client's wife put him up to this. I  
7 certainly don't think that that's appropriate. I don't  
8 find that to be an element of any crime and I don't think  
9 that it's relevant.

10 THE COURT: Okay.

11 MR. GROVE: In a situation where he's been  
12 charged with murder and not conspiracy and she's been  
13 charged with nothing at all.

14 MR. OZMENT: Your Honor, what she's charged with  
15 is completely irrelevant whether charges are brought are  
16 up to the State.

17 THE COURT: Say that again?

18 MR. OZMENT: I would contend that whether she's  
19 charged or not is irrelevant in this case, whether she's  
20 charged is up to the State. That has nothing to do with  
21 the admissibility of certain things. I would offer this  
22 to impeach her testimony as to the state of she and  
23 Steve's relationship, that she hadn't threatened him.  
24 That she kind of went on about that. Obviously, I think  
25 some impeachment was done on the stand with the Facebook

1        comments and that sort of stuff?

2                THE COURT: Are relevance are her threats to  
3        Ms. Hartfield or her comments to Ms. Hartfield about what  
4        she was going to do to Steve. I'm saying all these first  
5        names because is the way the witnesses have said. What's  
6        relevant about that to the issue of whether or not with  
7        malice aforethought that this defendant unlawfully killed  
8        Mr. Springs.

9                MR. OZMENT: Two things, they are husband and  
10       wife. And secondly, she said and that was the last  
11       question I asked her. Did she mention Sunny? She said  
12       yes. She said that either she or Sunny would do it. And  
13       Mr. Scott is on trial for doing that very thing right now.

14               THE COURT: All right. So you're saying that  
15       that constitutes a second hand admission from Sunny that  
16       he was going to do it or what?

17               MR. OZMENT: I think it's evidence of the malice  
18       aforethought that it's an indication that Mrs. Scott and  
19       Sunny were having some sort of conversation or dialogue  
20       among themselves that this might occur and obviously it  
21       did occur.

22               MR. GROVE: All right. And, Your Honor, I don't  
23       think that that's the case at all. First of all, I  
24       don't -- I'm not going to dispute whether or not Gloria  
25       denied making a threat to Steve. I don't remember that.



1 If it's in the record, I'm certainly okay with that. None  
2 of this testimony is Gloria making a threat to Steve.  
3 None of this is Gloria saying to Steve I'm going to kill  
4 him. It's Gloria saying to a third party something  
5 offhand about how he's going to be taken care of where  
6 gone have to kill him. None of that impeaches testimony  
7 of her saying that she didn't make a threat to Steve, if  
8 that is the statement that she made on the stand.

9 THE COURT: Well, he says it relevant to prove  
10 malice aforethought not necessarily for impeachment.

11 MR. GROVE: Your Honor, I don't know that there  
12 is an element of either your malice or your wife's malice  
13 will satisfy the element of malice aforethought in a  
14 murder if she planned it ahead of time. And then you can  
15 be guilty of murder. I don't see how that's an  
16 appropriate fact for the jury to consider.

17 THE COURT: Okay. Anything else from the State  
18 on that point?

19 MR. OZMENT: Briefly. Just the point that she  
20 said Sunny may do it and that's really what we're pointing  
21 to here.

22 THE COURT: All right. Anything else? Reason,  
23 I'm doing this -- it's your objection, so I'm giving you  
24 the last word. You can say I don't have anything else to  
25 say or you can ---

1           MR. GROVE: None of that testimony said that  
2 Sunny said anything. All of the testimony is that Gloria  
3 said something to this witness not to Steve. And again,  
4 it's reasserted a conspiracy that doesn't exist. It's  
5 placing the malice element that's required to be levied  
6 against my client on his wife hoping that it will transfer  
7 through their husband and wife relationship.

8           THE COURT: Okay. In my view based on the  
9 proffer and the arguments that you have made, I do not  
10 think that the testimony of Gloria saying if I don't do  
11 it, Sunny is going to do it is sufficient evidence of  
12 malice aforethought even with any other evidence in this  
13 case. Even if it is relevant, I believe that under 403  
14 the probative value of that evidence is substantially  
15 outweighed by the danger of unfair prejudice or confusing  
16 the issues or misleading the jury. So I'm going to not  
17 allow that particular part of the testimony and we'll let  
18 it sit there. I just want to make sure you have the  
19 proffer as fully as you want to make it now.

20           What I'm ruling, ma'am, is that you cannot  
21 reference anything Gloria said to you about Sunny having  
22 any part in killing Mr. Springs. It's already come out  
23 through another witness I thought that she said she was  
24 going to do. Hadn't that already come out proffer or that  
25 come out in the proffer too?

1 MR. OZMENT: If nothing else it came out when  
2 she was on the stand in her Facebook, that she might have  
3 to kill him.

4 THE COURT: I guess, you can explore that if you  
5 want. And ironically, I guess, you be the one who want  
6 explore it. I don't know why all that's really relevant  
7 either, but it did come out earlier. And we don't try  
8 cases in a vacuum and I understand lots of times things  
9 come out that turn out not to be really relevant, but  
10 neither side really has a big heartburn about that. What  
11 we'll do now is we'll take about a ten minute recess. How  
12 many more witnesses do you have?

13 MR. OZMENT: This is the last one. Especially  
14 with that out, she's going to be relatively short?

15 THE COURT: Well, we don't need to take a break  
16 then.

17 Yes, sir.

18 MR. GROVE: Just very briefly for clarity of the  
19 witnesses sake, references to Gloria are okay, references  
20 Sunny individually or we, a collective we, would obviously  
21 imply Gloria and Sunny?

22 THE COURT: That's my ruling. Now, if you want  
23 to split that hair, that's fine, but that's my ruling.

24 MR. GROVE: I just wanted clarity of that ruling  
25 on the record to include not just him individually but

1       them as a group.

2               THE COURT:   And you understand that, ma'am?

3               SABRINA HARTFIELD:   Yes.

4               THE COURT:   And when -- why don't you just have  
5       a sit in that chair right back there.   When the jury comes  
6       in, you'll be re-sworn.

7               You can bring the jury in.

8               (WHEREUPON, the jury came into open court.)

9               THE COURT:   Okay.   Ma'am, you can step forward  
10       and be sworn.   Sabrina Hartfield; is that correct?

11               SABRINA HARTFIELD:   Yes.

12               THE COURT:   Put your hand on the Bible please  
13       and be sworn.

14               THE CLERK:   Do you swear to tell the truth, the  
15       whole truth and nothing but the truth so help you God?

16               SABRINA HARTFIELD:   Yes, ma'am.

17               THE COURT:   Okay, Mr. Ozment.

18       WHEREUPON,

19                       Sabrina Hartfield,  
20       after first having been duly sworn, testified as follows:

21                               DIRECT EXAMINATION

22       BY MR. OZMENT:

23       Q       How are you today, Ms. Hartfield?

24       A       Doing okay.   A little nervous never been in court.

25       Q       Where do you live? ..

1 A Silver Stone Drive.

2 Q Who do you live there with?

3 A I live there with George and my kids.

4 Q Okay. And who is George?

5 A George Watson.

6 Q Is your husband or fiance?

7 A He's -- we been together for 14 years. We're not  
8 married, but we consider us as married.

9 Q All right. Were you living there back on September  
10 24th 2012?

11 A Yes, sir.

12 Q Do you know Wayne and Gloria Scott?

13 A Yes, sir.

14 Q Where do they live in relation to you?

15 A Right behind me.

16 Q How far would you say your houses are?

17 A I'm not good with distance.

18 Q Farther than the courtroom or...

19 A Probably a little bit further than the courtroom.

20 Q Can you see their house from your house?

21 A Yeah.

22 Q On the night of September 24th, did you hear anything  
23 that you remember from that night?

24 A Yes, my bedroom is like on the back of our house. I  
25 heard a shot. It sound like it was in our bedroom, scared

1 the scrap out of us. It was probably about eight or nine  
2 somewhere around there, can't specifically say what time  
3 it was I heard a gunshot.

4 Q Where was George when this happened?

5 A George was in the bedroom with me. We're both  
6 watching TV.

7 Q Okay. When you heard this gunshot, what did you do?

8 A It scared me because my kids were in the other --  
9 their bedrooms and I was scared for my kids. It sound  
10 like it was in my backyard.

11 Q All right. What did George do?

12 A George went to the safe, got the gun out and went  
13 outside to check things out.

14 Q Okay. Did you watch him out a window or anything?

15 A No, sir.

16 Q How long -- well, how long was he outside?

17 A He was gone for a little while and I couldn't  
18 understand what took him so long. So I went outside and I  
19 seen him outside. And he told me please hurry up and get  
20 in the house, get in the house now. I'll explain to you  
21 when I get in there, just please get in the house and get  
22 the kids in the room with you and that's what I done.

23 Q What was his demeanor?

24 A He was -- I have never seen George like that my  
25 entire life. He was scared. I didn't get a chance to get

1 a good look at him because he was outside, but I could  
2 tell he was scared because he was telling me please hurry  
3 up and get in the house, get all the kids in the room. So  
4 I knew he was scared.

5 Q All right. What did you do when he told you that?

6 A I done exactly what he told me to do. I got my kids,  
7 I got in our bedroom and we sat right there until he come  
8 back in the house.

9 Q How long was it until he came back in the house?

10 A Maybe three or four minutes at top.

11 Q All right. And when he got back in the house what  
12 happened?

13 A He was white as a piece of cotton. I had never seen  
14 that and I ask him, George, what is going on. He couldn't  
15 even speak.

16 Q Okay. Was he able to tell you what had happened?

17 A Yes, sir. As soon as I got -- I said calm down a  
18 little bit, sit down. He was white like I said white as a  
19 piece of cotton. I never seen him like that before. He  
20 looked very scared. He said he threaten to kill ---

21 Q Let me just cut you off there. How long was he at  
22 that house that time before he left again?

23 A Ten minutes at the most.

24 Q Okay. And, I guess, what prompted him to leave the  
25 house again?

1     A     He was -- after he told me what happened, he stood on  
2     his porch to protect us just in case because he did not  
3     know where Sunny was at.

4     Q     All right. And how long -- do you know how long was  
5     he on the porch?

6     A     I do not know how long. It went by so fast I can't  
7     tell you how long he was on the porch.

8     Q     Okay. Did you know what he did after he sit on the  
9     porch?

10    A     Gloria called and told him to come over there to  
11    Carl's.

12    Q     Do you know if he went?

13    A     Yes, he did.

14    Q     Okay. How long after he went over to Carl's until he  
15    returned back?

16    A     He come back and said the law was on the way.

17    Q     What was his demeanor at that point?

18    A     He was still scared.

19    Q     A little while before this day and this happened, did  
20    you have occasion to run into Gloria Scott?

21    A     Yes, sir.

22    Q     Tell me about that incident?

23    A     She stopped me in -- my driveway right beside her  
24    house. And she stop me and said that her and Steve got  
25    into a conflict at Crystal's house. And that I don't know



1 if I'm suppose to say this or not.

2 MR. GROVE: Your Honor.

3 MR. OZMENT: Your Honor.

4 THE COURT: In accordance with my earlier  
5 instructions.

6 SABRINA HARTFIELD: So I can say what she said?

7 MR. OZMENT: I'll leave it up to the Court..

8 THE COURT: Come on up please.

9 (WHEREUPON, a bench conference was held in the  
10 presence of the jury, but out of the hearing of the  
11 jury.)

12 THE COURT: Please step out, ladies and  
13 gentlemen of the jury, you may not discuss the case.

14 (WHEREUPON, the jury retire to the jury room.)

15 THE COURT: Restate question and we'll have a  
16 dry run.

17 MR. OZMENT: She may have been referring to the  
18 profanity.

19 THE COURT: The profanity even though it's not  
20 desirable, you can say the curse words. What I want to  
21 make sure is that she understands my ruling that she's not  
22 to reference anything in context Gloria saying what Sunny  
23 would do. She can say the curse words unless you want her  
24 to edit that, that will be up to your judgment.

25 MR. OZMENT: Yes, Your Honor.

1 THE COURT: She can testify to what Gloria said  
2 she would do. Just repeat the question so we can have a  
3 little practice here.

4 BY MR. OZMENT:

5 Q What did Gloria Scott tell you when you ran into her  
6 on the driveway?

7 A She stop in my driveway and told me that her and  
8 Steve got in a conflict at Crystal's house. She was  
9 highly upset and she said that she was either gone fucking  
10 beat his ass or fucking kill him.

11 THE COURT: That will come in.

12 MR. OZMENT: Thank you, Your Honor.

13 MR. GROVE: I don't have an objection to that,  
14 Your Honor. I was -- we were tiptoeing a line and I want  
15 to make sure it was clear where that line was drawn.

16 THE COURT: All right. And that will either --  
17 then you'll either move on or explore that a little bit  
18 further.

19 MR. OZMENT: Yes, Your Honor.

20 THE COURT: All right. Bring in the jury.

21 (WHEREUPON, the jury came into open court.)

22 MR. OZMENT: Thank you, Your Honor.

23 THE COURT: Okay, Mr. Ozment.

24 MR. GROVE: Thank you, Your Honor.

25 DIRECT EXAMINATION CONTINUED

1 BY MR. OZMENT:

2 Q I think you just said that you ran into Gloria Scott  
3 in your driveway. What did she say to you?

4 A She was highly mad because her and Steve got into it  
5 at Crystal's house. And she told me she was either  
6 fucking gone beat his ass or she was gone fucking kill  
7 him.

8 Q All right.

9 MR. OZMENT: Thank you, Your Honor. No further  
10 questions.

11 SABRINA HARTFIELD: Sorry for the profanity.

12 THE COURT: All right, Mr. Grove.

13 MR. GROVE: Thank you, Your Honor.

14 CROSS-EXAMINATION

15 BY MR. GROVE:

16 Q I want keep you long, Ms. Barfield. This  
17 conversation that you had with Gloria. I'm not gone hold  
18 you to a specific hour of a specific day, but can you tell  
19 me when about this happened?

20 A Like I said before, I don't know exactly what period.  
21 It could have been two weeks, could have been three weeks  
22 I'm not sure.

23 Q Sometime before all of this?

24 A Before all this happened.

25 Q And then you just described September 24th?

1 A Uh-huh.

2 Q And I was making notes over there. You said you  
3 weren't exactly sure what time. Did you say that it was  
4 either eight or nine or did you say it was 8:09?

5 A 8:09 because we were checking on the TV guide to see  
6 when our program come on at nine.

7 Q And you can't specifically say, but it was 8:09?

8 A I mean, I could because looked at my clock it was  
9 8:09.

10 Q Okay. And your husband or your fiance, George, was  
11 outside for a few minutes came back inside and he was  
12 outside for a few more minutes?

13 A He was not outside for a few minutes. I got worried  
14 about him because he was outside for a long period of time  
15 the first time he went out. I got worried, so I stepped  
16 out on my porch. I seen him walking across the yard. I  
17 called for him. He said please get in the house, please  
18 get in the house now. I done exactly what he told me to  
19 do. And probably a couple minutes later he come in the  
20 door.

21 Q And all of your information with the exception of a  
22 sound and what George told you about going back in the  
23 house, all of your information from September 24th comes  
24 from George, doesn't it?

25 A I meant, I heard the gunshot.

1 Q Then George came in and told you what he had seen and  
2 heard?

3 A And plus the expression on his face I knew something  
4 bad had happened.

5 Q At what point did you talk to law enforcement?

6 A I talk to law enforcement I say last week or this  
7 week sometime. It was last week excuse me.

8 Q What time that night did you talk with law  
9 enforcement?

10 A I didn't talk to law enforcement that night.

11 Q What time the week after that surely you called them  
12 the next week?

13 A No, I did not. George had already contacted them and  
14 talked to them right after it happened.

15 Q And you didn't have anything to add?

16 A I didn't have anything to add.

17 Q Until now?

18 A The reason why they wanted me to come and testify to  
19 testify what kind of state George was in when he come into  
20 my house.

21 Q And ---

22 A And gunshot I heard.

23 Q And your first contact was a couple weeks ago?

24 A No, it wasn't a couple weeks ago, probably wasn't  
25 even a week ago.

1 Q Would it surprise to say it was on October 17th?

2 A It might have been.

3 Q That been about a week ago?

4 A Yeah. I have kids, it's hard to keep up with time.

5 Q I understand that.

6 MR. GROVE: I don't have any further questions.

7 MR. OZMENT: Nothing further of this witness,  
8 Your Honor.

9 THE COURT: Thank you, ma'am. You can step  
10 down.

11 (WHEREUPON, the witness leaves the witness  
12 stand.)

13 MR. OZMENT: I ask that Ms. Hartfield be  
14 released from her subpoena.

15 MR. GROVE: No objection, Your Honor.

16 THE COURT: Ma'am, you can stay if you like or  
17 you can leave.

18 Mr. Ozment.

19 MR. OZMENT: Your Honor, at this time the State  
20 rest.

21 THE COURT: Okay. Can I see the lawyers up here  
22 for just a minute.

23 (WHEREUPON, a bench conference was held in the  
24 presence of the jury, but out of the hearing of the  
25 jury.)

1           THE COURT: Is there anything at all that you  
2 want me to go back over?

3           THE DEFENDANT: No, sir.

4           THE COURT: If you talk to your lawyer this  
5 afternoon or even in the morning and you make your mind  
6 up, that doesn't mean you can't change it. The only time  
7 you can't change it, is after your lawyer says the defense  
8 rests. You can't change your mind after that, okay.

9           THE DEFENDANT: Okay.

10          THE COURT: So you can go back and forth in your  
11 own mind all you want. And in the end, the final decision  
12 is yours.

13          THE DEFENDANT: Yes, sir.

14          THE COURT: You all need some more time to talk  
15 about that?

16          THE DEFENDANT: Yeah.

17          MR. GROVE: Yes, sir.

18          THE COURT: Okay. In the morning, we'll kind of  
19 do this in a little summary form again and make sure you  
20 understand everything, talk to your lawyer about  
21 everything I mention to you. If you don't understand  
22 something, you all let me know.

23          THE DEFENDANT: Yes, sir.

24          THE COURT: All right. Mr. Grove, what I like  
25 to do now is take about five minutes so we can -- over

1     about a period of about ten minutes go over any jury  
2     charges so we can kind of get a jump start on that since  
3     we do have lot of the afternoon left.

4             MR. GROVE: That will be fine.

5             THE COURT: All right. We'll take about ten  
6     minutes.

7             (WHEREUPON, a break was taken.)

8             THE COURT: Is there anything we can -- go  
9     ahead, I'm sorry.

10            (WHEREUPON, a pause in the proceedings.)

11            THE COURT: Okay, you all ready?

12            MR. GROVE: Yes, Your Honor, I don't think he's  
13     prepared to respond one way or the other at this point  
14     obviously about testifying tomorrow. I was talking with  
15     him about some jury charges. I'm not prepared to argue  
16     one way or the other. I been talking with Mr. Scott about  
17     whether or not we would concede a charge to voluntary  
18     manslaughter. I don't know what the State's position is  
19     on that at this point, that might be something that we  
20     oppose. I'm happy to argue that in the morning. I'll be  
21     candid with you, I left that in my client hands as to  
22     whether he wants me to consent to that or to oppose. I'm  
23     prepared to do either.

24            THE COURT: All right. Is the State going to  
25     seek a lesser-included?



1           MR. OZMENT: Yes, Your Honor, I would seek  
2 voluntary. I don't think involuntary would fly in this  
3 case.

4           MR. GROVE: I would concede that involuntary is  
5 not appropriate.

6           THE COURT: And you want to talk to your client  
7 about whether or not he will go along with the request for  
8 a voluntary manslaughter lesser-included option?

9           MR. GROVE: That's correct, Your Honor. I'm  
10 prepared to argue against it. I'm also prepared to  
11 concede it. I'm leaving that choose in his hands. I'll  
12 save that one for the morning if that suits, Your Honor.  
13 The rest I'm prepared to hear what Your Honor has in mind.

14          THE COURT: Okay. First of all, does either  
15 side have any written charges that they like to hand up?

16          MR. GROVE: I'll defer to the standard charges  
17 you have.

18          MR. OZMENT: Not at this time, Your Honor.

19          THE COURT: All right. So I guess we can go  
20 ahead and discuss the frame work of why or not voluntary  
21 manslaughter may or may not be proper. Of course, it's  
22 the defendant taking the life of another in the sudden  
23 heat of passion based on sufficient legal provocation, so  
24 that will be the basic standard of basic elements the  
25 State would have to meet. I haven't given it much thought

1     either today, but as we started yesterday, I was thinking  
2     about it. It may be a valid option under the law in this  
3     particular case, but I'll give you the right tomorrow to  
4     argue either way on that. But you don't have anything in  
5     writing does either side have a charge to hand up?

6             MR. OZMENT: No, Your Honor, I just hear what  
7     Your Honor plan on charging if we want to modify  
8     something, but I'm sure bench book would be sufficient.

9             THE COURT: Okay. Now, there's a new case  
10    called State vs. Logan. It think that's the name of it  
11    that has the new upon request circumstantial evidence  
12    charge. So the defendant has to decide whether or not he  
13    wants me to give that or what I would call the former  
14    standard circumstantial evidence charge. And I'm trying  
15    to think of anything else that might be a little bit of  
16    out of the ordinary. I really can't think of -- but just  
17    be caution that when you say my standard charge suits you,  
18    after I give my charge -- after I go over my charge with  
19    you and then give it to the jury, don't say, well, what  
20    about so and so because standard is a relative term.

21            MR. GROVE: I agree, Your Honor. The one that  
22    immediately comes to mind is implied or inferred malice of  
23    use of a deadly weapon. I think that's only appropriate  
24    when there is not any information in the record that would  
25    suggest a weapon was gathered for any other purpose.

1           THE COURT: State vs. Belcher says that if self  
2 defense is a viable defense, that I can't mention that.  
3 The State agrees with that?

4           MR. OZMENT: I concur with that, Your Honor.

5           THE COURT: Does the State agree that  
6 self-defense will go to the jury?

7           MR. OZMENT: Yes, Your Honor.

8           THE COURT: And I assume both sides will agree  
9 that I will not charge any part of the immunity statute  
10 that's a pretrial defense. It is not a jury issue.

11          MR. GROVE: I might disagree, but I do agree  
12 that that is the law. I might disagree with the principle  
13 of it, but obviously being such a relatively new statute  
14 it is a pretrial matter. We had a pretrial hearing that  
15 obviously being here, that pretrial hearing was denied.  
16 The only case law I was able to find about the castle  
17 doctrine or the protection against person and property act  
18 being submitted to a jury were cases that might have  
19 otherwise fallen under the statute, but predated the  
20 issuance of the statute. Again, there's not much case law  
21 out there nothing is directly on point, but I will concede  
22 we been heard on that matter.

23          THE COURT: As a practical matter, the codified  
24 common law on self defense is still in the jury charge.  
25 The juries just not told anything about the specific

1 content of the statute.

2 MR. GROVE: Certainly.

3 THE COURT: Anything else that you can think of?

4 MR. GROVE: And again, you only saying not to be  
5 cautious with taking the bench book. The self defense  
6 charge including language that State not only has to prove  
7 each element of murder beyond a reasonable doubt or  
8 voluntary manslaughter beyond a reasonable doubt if that  
9 is an appropriate charge, but also that it has to prove  
10 that it was not done in self defense beyond a reasonable  
11 doubt.

12 THE COURT: The State has to disprove self  
13 defense beyond a reasonable doubt.

14 MR. GROVE: Thank you.

15 THE COURT: There's no doubt about that. There  
16 is no question, but that if he's not convicted of murder,  
17 he can't be convicted of possession of a weapon during  
18 commission of a violent crime. I'm sure both sides would  
19 agree with that.

20 MR. GROVE: Yes, Your Honor.

21 MR. OZMENT: Yes, sir.

22 THE COURT: Okay. We'll go over the charge in  
23 detail in the morning. Is there a chance, Mr. Grove, that  
24 you will not be calling any witnesses at all? Cause if  
25 that is the case, we can move immediately -- I would like

1 the witness chair and state your name for the record.

2 THE WITNESS: Kevin Hanna.

3 WHEREUPON,

4 Kevin Hanna,

5 after first having been duly sworn, testified as follows:

6 DIRECT EXAMINATION

7 BY MR. GROVE:

8 Q Good morning, Kevin. I'm going to ask -- make sure  
9 you speak into that microphone, speak clearly and speak up  
10 so we'll hear you, okay.

11 A Yes, sir.

12 Q Your name is Kevin Hanna; correct?

13 A Yes, sir.

14 Q How do you know Sunny Scott?

15 A I married his stepdaughter.

16 Q And what's her name.

17 A Crystal.

18 Q How long have y'all been married?

19 A Four years.

20 Q You're currently married?

21 A Yes, sir.

22 Q This trial has been about an incident that took place  
23 on September 24th of last year. Are you aware of that?

24 A Yes, sir.

25 Q Do you remember and you're also aware that the

1       deceased -- you're aware of the deceased in this case?

2       A     Yes, sir.

3       Q     Do you know what his name is?

4       A     Yes, sir.

5       Q     What's his name?

6       A     Steve.

7       Q     Do you know his last name?

8       A     Springs.

9       Q     How do you know Mr. Springs?

10      A     He did air conditioning work for Gloria and I also  
11      did work like maintaining grass wherever throughout the  
12      lots that's how I know him.

13      Q     Do you know of any other way?

14      A     No, sir.

15      Q     Were you aware that he was having a relationship ---

16               MR. OZMENT: I object to the leading question.

17               THE COURT: Overruled.

18      BY MR. GROVE:

19      Q     Were you aware that he was having a relationship with  
20      your wife?

21      A     Eventually, I found out.

22      Q     Do you remember an incident -- again, this was  
23      September 24th of last year. Do you remember an incident  
24      that took place about a week before that?

25      A     About what?

1 Q Do you remember filing a police report about a week  
2 before that?

3 A Yes, sir, I do.

4 Q Can you tell us about what happened at that incident?

5 A He came to my job and threaten me and wouldn't let me  
6 to my car.

7 Q Did he say anything to you?

8 A He threaten excuse my language, he threaten to kick  
9 my ass.

10 Q Did you take that seriously?

11 A Yeah.

12 Q What did you do when he threatened you?

13 A I was on -- I was on the phone with my father at that  
14 time and my father heard everything that he said. I just  
15 stayed in the car until he left. I told him that the  
16 police was on the way. He said he didn't care.

17 Q And the police were on the way?

18 A Correct.

19 Q And you filed a police report about this incident?

20 A Correct.

21 Q When were you aware -- when did you become concerned  
22 that day about Mr. Springs, was it at your job?

23 A Aware of what as far as him and my wife?

24 Q As far as you and your safety?

25 A That day at work.

1 Q Okay. What had been doing earlier that day?

2 A I had my kids that day and had to go to work that  
3 afternoon. And it all started when I seen them two  
4 driving down the road and he just got mad at me because I  
5 busted them together and that was the reason for him  
6 coming to my job.

7 Q Let me stop you right there. You said you had your  
8 kids that day. Were you all separated at this time?

9 A Not legally. We just weren't living together.

10 Q How long did you all live separately?

11 A Three, maybe four months at the most.

12 Q At that time how long had y'all been living  
13 separately?

14 A I say at least two months, maybe a little bit longer.

15 Q Okay. And you said that you saw them riding in his  
16 van?

17 A Yes, sir.

18 Q And I believe you said that he was angry with you  
19 because you had busted them. Tell me about that?

20 A Well, like I said, I was coming down Pamplico  
21 Highway. I was going to my mom and dad's house and I just  
22 happen to see his van. And they always claim they were  
23 never together, they were never together. Well, I seen  
24 two people in the van. He made a right turn. I seen  
25 Crystal turn around and look and I went and waited in my



1 yard. And I seen them ride by, so I left and came back  
2 and he pulled up behind me at the stoplight at the  
3 baseball field. I went one way and he went the other. I  
4 immediately turned around and I seen her get out the car.  
5 And that's when she must have called him and told him.  
6 And when I got to my job, he was parked there waiting on  
7 me.

8 Q And he threatened you at your job?

9 A Yes.

10 MR. GROVE: I don't have any further questions  
11 for this witness.

12 THE COURT: Mr. Ozment.

13 MR. OZMENT: Thank you, Your Honor.

14 CROSS-EXAMINATION

15 BY MR. OZMENT:

16 Q How are you today, Mr. Hanna?

17 A Fine, thank you.

18 Q Good. Where do you work?

19 A I work at Red Lobster.

20 Q Where did this happen?

21 A Longhorn's.

22 Q Same Longhorn you got on your sweat shirt?

23 A Yes, sir.

24 Q How long was Mr. Springs with you at Longhorn?

25 A Probably at least ten, 15 minutes. I know as soon he

1 got there I was on the phone somebody else. They called  
2 the police for me. And by the time the police got there,  
3 he already left, but the police had past him on the way to  
4 my job.

5 Q And how scared were you when he was outside your car?

6 A I was a little scared. Honestly, I didn't feel like  
7 he was gone really do anything to me at that time because  
8 I know that there was a security camera right there. I  
9 didn't think he was like dumb enough to do anything there  
10 with a video camera.

11 Q Did you think he was gone kill you right there?

12 A No.

13 Q Did he have a bunch of weapons with him a knife?

14 A No.

15 Q Maybe a screwdriver.

16 A No, not that I knew of.

17 Q So it was a verbal confrontation?

18 A Yes.

19 Q Is he shaking your car about to break a window?

20 A He did try to jerk my door.

21 Q But he didn't -- he try to break through your window?

22 A No, my window was down.

23 Q Your window was down?

24 A Yes.

25 Q Did he ever hit you through the window?

1 A No.

2 Q So you were arguing through the open window?

3 A I really didn't have much to say. I was on the other  
4 line with my father. He heard everything and I just let  
5 him talk.

6 Q Okay. So the window -- did you ever roll up the  
7 window?

8 A No, my motor was broke. I had to pull it up and down  
9 by hand, so I couldn't just roll it up.

10 Q But you weren't scared -- you didn't think he would  
11 come through the window actually?

12 A I wasn't worry about that.

13 Q Okay. You said the police finally came?

14 A Yes.

15 Q Did he file a charge?

16 A I didn't file any charge against him threatening me.  
17 I just didn't want to cause any more problems than what it  
18 was.

19 Q Okay. So you weren't scared that in the future he  
20 might come back and do something?

21 A No.

22 Q Okay. And to your knowledge, he was never arrested  
23 or anything like that with anything to do with the  
24 incident you had with him?

25 A I never had him arrested.

1           MR. GROVE: Thank you, Your Honor. I usually  
2 try not to stand in front of a podium and anchored here.  
3 I usually try not to have a lot of notes, but I got a lot  
4 of things to say so bear with me.

5           Before this trial began, I told you story about  
6 a car that I had. My very first car, Ethel. I have a  
7 habit of naming cars and I've only had a couple. And all  
8 of them have been hand-me-downs by at least one or two  
9 different people. The one I've got now has 240 miles on  
10 it. No signs of stopping yet and Ethel was no different.  
11 And I loved her to death. Seems like I use to wash her  
12 every weekend out in the driveway. And again, like I told  
13 you, I was told to go one way. And for the most part, I  
14 went that way. When it was convenient for me, I went that  
15 way. When I had the time, I took a left at that stop  
16 light. But one day I decided it wasn't convenient for me.  
17 One day I decided I was gone go the other way after being  
18 told not to. And unfortunately for me, there were  
19 consequences to that. The guy who was stopped in traffic  
20 on the down sloop of that hill as I came over it and I  
21 plowed into the back of him, wasn't his fault. My parents  
22 had told me don't go that way. Go the other way, it  
23 wasn't their fault. They didn't bring me down that path.  
24 They told me to stay away. I had to go back to riding the  
25 bus for the rest of that year and a good portion of my

1 senior year because I didn't have a car. Because I  
2 couldn't afford to get it fixed obviously. And like I  
3 said fortunately in that situation nobody got hurt. The  
4 consequence there was a lesson I learned the hard way.  
5 Not a lesson my parents wanted me to learn the hard way,  
6 that's they told me ahead of time go the other way. There  
7 consequences to every action, ladies and gentlemen. And  
8 there were consequence to Steve Springs actions on  
9 September 24th of last year.

10 I'm going to rehash a little bit of the  
11 testimony only because we've had a lot. It's Thursday a  
12 little after 11 o'clock. We been here all week. And I  
13 know that you all had been paying attention, but it is  
14 almost more than I can stand. And I been over there  
15 taking notes pretty feverishly the whole time. We had  
16 Deputy Gifford up here testifying. He wasn't the first  
17 officer on the scene, but he was the responding deputy.  
18 By the time, he got there I think Rollins Rhodes had  
19 already placed my client into custody. He was cuffed and  
20 Deputy Gifford said he took a statement. Deputy Gifford  
21 didn't record a statement. Deputy Gifford made his report  
22 a while later and made his reports based on the notes.  
23 And he even said from right over there, I didn't take a  
24 thorough statement. My only goal as the responding deputy  
25 is to get there, figure out what happened, get the nuts

1 and bolt of it, pass that on to somebody else. And then  
2 make sure I maintain security at the scene, tape  
3 everything off. Everybody that comes and goes comes  
4 through me, got to sign this sheet so we know who's here  
5 and who ain't. He says in his statement, my client said  
6 he put the gun in the house. Obviously, you've heard some  
7 testimony that suggest otherwise. That my client's wife  
8 sometime later put the gun in the house.

9           Here's what I want to ask you, ladies and  
10 gentlemen, Deputy Gifford taking notes, not recording the  
11 statement -- I'm not sure what the question was and I'm  
12 not sure what the answer was. Was the question where is  
13 the gun, it's in the house. Suspect put gun in house.  
14 That's not the same thing. Without a recording -- without  
15 knowing definitively what the question was and what the  
16 answer was, we don't know what actually was said and  
17 that's important. And I know it is important to record  
18 statements because four other statements got recorded and  
19 only five were taken. In the same way, you heard from  
20 Investigator Hester. He said he was walking through --  
21 here I'll use exhibit 13. He said he parked around here  
22 and he walked down the driveway between the screwdriver,  
23 between Mr. Steve Springs and the knife and the van, he  
24 walked this way and got to my client. And then he took a  
25 statement from my client. And he said -- saw that

1 screwdriver before I got there, hadn't been marked. You  
2 remember he said they hadn't put up the little tent  
3 markers yet number one and two. I saw it laying on the  
4 ground. And his report I think he said he made it on the  
5 27th, this happened on the 24. He had talked to several  
6 witnesses two or three times by then. He already made up  
7 his mind as to what had happened by the time he got down  
8 scribbling notes on his report. But in his report, he  
9 said my client said I saw him with a screwdriver. Ladies  
10 and gentlemen, I love for you to hear a recorded statement  
11 of my client taken at the scene that said I saw something  
12 in my hand or I saw something in his hand or I saw a  
13 screwdriver in his hand cause Gifford says he said he saw  
14 something in his hand. Now, was that question, did he  
15 have a weapon. Yeah, I think so, subject said he saw  
16 something in his hand. And was Hester's question did he  
17 have something in his hand. Yeah. Was it that  
18 screwdriver over there. I guess so. Subject said he saw  
19 him it with a screwdriver. Do you see why this is  
20 critical. It's absolutely critical. You can't possibly  
21 know because they want tell you. And the State is going  
22 to present evidence to you that said that it hinges right  
23 there. And I absolutely agree that that is a critical  
24 factor of evidence that didn't give. What did he say?  
25 Gifford would also suggest that a screwdriver

1 and a knife are not weapons. He and I are going to have  
2 to agree to disagree on that.

3 Corporal Johnson she now lives down in Columbia.  
4 She came, she took a bunch of pictures. She's the one  
5 that went around laying tent markers everywhere. She said  
6 they swabbed for DNA. They swabbed the screwdriver for  
7 DNA. They swabbed the knife for DNA. And then she bagged  
8 them up. She didn't do anything with them because she  
9 ended up moving to Columbia sometime later. She said we  
10 didn't bother fingerprinting them. Why not? I wasn't  
11 told. Nobody told her to. They told me to swab, that's  
12 it. Didn't bother fingerprinting. When the question is  
13 who was the last person to touch this. How is the answer  
14 not let's try fingerprinting it, let's give it a shot,  
15 let's may be we'll answer our own question. Maybe, we can  
16 remove reasonable doubt. If I can tell you who the last  
17 person to have their hands on anything is, we know a lot  
18 more wouldn't we. They can't tell you because they didn't  
19 do their investigation. The way they know they could.  
20 They didn't report my client. They didn't even attempt to  
21 fingerprint him, but we'll swab around here. Where did  
22 she swab? Did she swab a little bit on the bottom. Did  
23 she swab every square inch of the handle. She swab any of  
24 the shaft of the screwdriver. I believe her testimony was  
25 just the handle not sure where. Just the knife on the



1 handle not sure where, not sure how much. You heard a  
2 SLED agent testify if you swab here and there's no DNA  
3 here, that doesn't mean if you hadn't swabbed here you  
4 wouldn't have found something, thoroughness, ladies and  
5 gentlemen. Thoroughness is how the State would otherwise  
6 convince you beyond a reasonable doubt and that's what  
7 they haven't done here, which is why they haven't  
8 convinced you beyond a reasonable doubt. Corporal Johnson  
9 also testified about a bag of screwdrivers that she found  
10 in the back of Steve Springs' car. And in her report, she  
11 noted none of them appeared to be missing. Sounds like  
12 she had made up her mind as to what had happened said I've  
13 never seen this bag. I don't know this fellow. I have  
14 know idea what it look like yesterday but nothing looks  
15 like it's a miss here. Sounds like I made up my mind. My  
16 investigation is over. It is the afternoon of the  
17 following day and I have decide, that's what Corporal  
18 Johnson will tell you. She says I know what happened even  
19 though she didn't get there for another hour. The place  
20 was crawling with investigators and forensics people doing  
21 this that and the other. She's relying on a little bit of  
22 information to make a lot of decisions.

23           Investigator Hester took five statements. If  
24 you count the first one that George Watson, he said only  
25 lasted a few seconds, he took six. I'm only going to

1 count five because George says the first one wasn't real,  
2 took five recorded four. What are the odds? What are the  
3 odds that the one, the one that he decided not to record  
4 was Sunny Scott. Awfully convenient and I'm telling you,  
5 ladies and gentlemen, a lot of questions would be answered  
6 if we had a recorded statement. He was at the scene. He  
7 had the capability and we know that because four more  
8 statements from the scene were recorded, but not Sunny's.

9 Where is the gun? It's in the house. Suspect  
10 says he put the gun in the house, not the same.

11 We heard from Hubert Black. Hubert Black is one  
12 of the Johnny-come-latelies in this case. Right before  
13 hunting season last year, which estimatively would have  
14 been two weeks prior to September 24th, Hubert Black says  
15 Sunny was telling him he was gone kill about everybody in  
16 Florence County. He gone kill this guy. He was gone kill  
17 that guy. He was gone do this. And then later Hubert  
18 finds out that one of those guys is actually dead. I  
19 called, I left a message. They said he was on vacation.  
20 I told him he needed to call me because I had some  
21 information. When did he call him? He didn't. Ever.  
22 Thirteen months later, nothing.

23 Well, your information was so critical surely  
24 you followed up with him, couple weeks went by, Hey,  
25 hadn't heard from that investigator. He's definitely back

1 from vacation now. I'll give him a call. I'll tell him  
2 what I got to say. Didn't do that. Thanksgiving and  
3 Christmas and every holiday in between September of last  
4 year and September of this year came and went. Hunting  
5 season came and went. Man, has it really been a year and  
6 I hadn't heard. Maybe, I should call. Nothing, but now,  
7 ladies and gentlemen, now he's got something to say. And  
8 he's got a sharp memory for an old guy who hadn't gone  
9 over that in the last 13 months. And it hadn't been on  
10 his mind then enough to bother anybody, but he for 13  
11 months didn't think a thing about it and now all of sudden  
12 he remembers. Here's what I will tell you, even if it got  
13 said -- the other day I walked into my house and my dog  
14 chewed up a shoe. I could kill him. I'm going to kill  
15 him the next time he does it. I hope he hadn't chewed up  
16 a shoe when I come home today because apparently now I'm  
17 going to have to kill him because I said that. I've  
18 obligated myself to committing to what I have said even if  
19 it's an expression. I could eat a horse. I will never  
20 say that one again.

21           Investigator Hester using his memory of what the  
22 back of the van looked like said, yeah, I think it was  
23 secured everything was organized, yeah, that's how I  
24 remembered it. The same way I remember that he said the  
25 fellow had a screwdriver, that's how I remember the back

1 of the van. And everything was secured and locked down  
2 and everything was very well organized. Yet, that's how I  
3 remember it, just like what he said. Reasonable doubt  
4 ladies and gentlemen.

5 The DNA from the SLED report she said there  
6 wasn't any usable information. Hubert Black he doesn't  
7 have usable information. If it was that valuable, ladies  
8 and gentlemen, he would have done something about it. He  
9 would have followed up or they would have followed up with  
10 him.

11 Deputy Gifford did his job. He absolutely did  
12 it. But he did a cursory job of it, that's the way it's  
13 suppose to be. He's not the lead investigator. It's not  
14 his job to determine what gets fingerprinted, what gets  
15 recorded, what gets done. It's his job to get in there,  
16 get a very broad assessment of what's happened and secure  
17 the scene.

18 Corporal Johnson same way. It's her job to take  
19 pictures. It's not her job to make decisions. She does  
20 what she's told. She followed up. She swabbed. She  
21 turned it in and never heard from it again.

22 Michael Bruce the State called Michael Bruce.  
23 Michael Bruce will tell you Steve Springs was threatening  
24 Sunny on the phone. I could hear him, I'm coming over  
25 there to get rid of y'all. No, you're not, don't come

1 over here, leave me alone, stay away. I'm coming. Don't  
2 worry Sunny he's not coming. I don't know this guy, but  
3 he ain't gone follow through with that, he's not coming.  
4 You ain't got anything to worry about. Sunny does. When  
5 he pulls in that driveway and shines his headlights in  
6 Sunny's face, Sunny's got something to worry about.to.

7 Mr. Ozment wants to talk about Facebook, what my  
8 client's wife said on Facebook two or three days before  
9 this happened. And how she said I could kill him, wait  
10 until Sunny finds out, wait until Sunny finds out. And  
11 what he's gone do? Nothing. He got upset with her.  
12 Well, I'm sorry that he got upset. All she said -- she  
13 said all I told him was that he got upset with me and I  
14 had to leave. I got to go take care of this. I got to  
15 make sure this woman's air gets turned back on. That's  
16 going to drive somebody to commit a murder. I'm going to  
17 be careful about what I put on Facebook. I'm going to be  
18 careful about what I say from now on if that's enough,  
19 ladies and gentlemen.

20 Larry Bruce. Larry Bruce has known Sunny 20  
21 years. He's worked for Sunny or Sunny's worked for him.  
22 They worked together. He lived right down the road. He  
23 said I couldn't put Sunny at hurting somebody like that.  
24 He knows it, known him for two decades. Murder no way,  
25 not a chance. Sunny I believe he said Sunny not capable

1 of doing that, not capable of murder.

2 Dr. Presnell the autopsy report she says that  
3 Steve Springs was essentially unsavable at the time of  
4 impact, that on the pulling of the trigger with the way  
5 the bullet went through his body, I believe she said he  
6 could have been at the hospital and I don't think that he  
7 would have lived.

8 An enormous portion of Mr. Ozment's case is what  
9 happened afterwards. What he would suggest happened  
10 afterwards. What Dr. Presnell says, ladies and gentlemen,  
11 of what I'm here to tell you is that that doesn't matter.  
12 She's saying CPR, surgery on the operating table not going  
13 to survive with all that damage and that's a terrible,  
14 that's an absolutely awful thing. But what it means,  
15 ladies and gentlemen, is that when my client feels  
16 threatened in that moment and squeezes that trigger,  
17 that's what matters that moment in time. The moments that  
18 led up to it and that second, that split second that's the  
19 moment that you need to be worried about, that's the  
20 moment that you need to be focusing on not the fact that  
21 he freaked out later and was in shock and didn't know what  
22 to do. Even if you believe the testimony presented by the  
23 State couldn't that be all that is. Never shot a man  
24 before and doesn't know what to do with himself. Has  
25 Mr. Ozment convinced you beyond a reasonable doubt, that

1     that isn't the case. He will probably tell you that this  
2     is a murder because Steve Springs wasn't coming over there  
3     to cause any trouble.

4             Crystal Hanna Steve's paramour is a legal term  
5     for girlfriend and boyfriend. They're both married to  
6     other people, but they were having a relationship. She  
7     loved him, she's crazy about him. They been together for  
8     several months. She'll tell you that her phone was on  
9     mute on a three-way conversation and when she says Sunny  
10    suggested well let's meet over at Crystal's house. She  
11    said that's not a good idea, I'm trying to put my kids to  
12    bed oops. We can't hear that. Miraculously the two them  
13    somehow agreed, oh, yeah, we'll go somewhere else. And  
14    now, Steve's coming over to Sunny house per Sunny's  
15    suggestion according to Crystal. What I might agree to,  
16    ladies and gentlemen, is that when Steve Springs knew that  
17    Crystal Hanna was listening maybe then, maybe then he  
18    said, hey, bud everything is cool can you imagine that.  
19    One phone call I'm coming over there I'm going to get rid  
20    of you, I'm going to kick your ass. And then a few  
21    minutes later when his girlfriend was listening. Hey, man  
22    everything is cool. I just want you to tell your wife to  
23    leave me alone, that's all, that's what I'm coming over to  
24    tell you. If that's what you got to say, you don't need  
25    to come over. I heard you. You made your point. You

1     said it. When you come over, you got something else to  
2     say. You not done talking. You've made your point if I  
3     just want you to leave me alone. If you want to be left  
4     alone, don't come over, that's the easiest way because I'm  
5     at my house. I'm not saying you can't go somewhere else.  
6     I'm saying I'm at my house. It's easy for me to leave you  
7     alone when I'm sitting on my front stoop. The easy way is  
8     you don't come over, that's what should have happened.

9             Crystal was obviously very upset on the stand  
10     and I'm not in a position to dispute that either, ladies  
11     and gentlemen. It's a terrible thing. A person that she  
12     cared about obviously a life is gone. And anything that I  
13     have said during this trial, anything that I'm saying now  
14     don't ever suggest that any of that to me means I wanted  
15     this or that Sunny wanted this. Nobody wants anybody else  
16     to get shot. Nobody wants anybody else to die. Worse  
17     case scenario, last option, but what did she, well, Mr.  
18     Ozment asked her how it's affected her relationship with  
19     her mother and her stepfather. She said I hate them. I  
20     hate them. How much you hate them Crystal? Hate them  
21     enough to come up here say that Sunny say, oh, yeah, come  
22     on over to the house because you'll remember she admitted  
23     that that wasn't in her statement. Now, she'll say she  
24     didn't gave a statement, she just answered some questions,  
25     but she left that part out. But I hate him. I can't



1 stand him. Crystal's testimony.

2 Carl Munn didn't have a whole lot to offer.  
3 Carl Munn's got his times wrong and that's fine he was  
4 only up here for a few minutes.

5 And then we had George Watson. George Watson  
6 you heard investigator testify that if George Watson did  
7 anything voluntarily accessory after the fact, so maybe he  
8 does take the gun. Maybe, he's the one to get the  
9 screwdriver and then the cops show up. Oh, man, what if  
10 they charge me with murder. Then what if they found out  
11 that I did anything afterwards. He was freaked out. He  
12 didn't know what to do. I was trying to trying to help.  
13 He threatened me. He said he was going to kill me. He  
14 said he was going to kill my girlfriend. He said he was  
15 going to burn our kids up in our house. And then he  
16 handed me a loaded gun. He said I'm going to kill you,  
17 I'm a threat to you here take this riffle. Sounds  
18 reasonable doesn't it. And then he didn't do anything  
19 about it. At one point he admitted that he told them that  
20 night, I was going to make a citizens arrest. I was going  
21 to take him into custody, but I didn't want to have to  
22 shoot him. That doesn't sound like somebody who's very  
23 intimidated or somebody that's a threat, sounds like  
24 Captain American of the year, just been handed a loaded  
25 gun by a person who's told him, I'm going to kill you.

1 He's an accessory to this crime, ladies and gentlemen, if  
2 you find a crime was committed and I don't think that one  
3 has. But he doesn't know that that night. All he knows  
4 is the cops are here and they're asking a lot of questions  
5 and I don't want to go. I'm worried about number one  
6 right now. Sunny can worry about himself some other day,  
7 but today now it's about George. No, no, he forced me to  
8 do all that stuff and I say him put the screwdriver there  
9 and all that. We're not buying it, ladies and gentlemen.

10 Another thing I thought was peculiar George  
11 Watson suppose to be terrified, right, horrified. I'm so  
12 scared. I'm so scared that I still live from here to that  
13 door frame. I'm so scared that it hadn't changed my life  
14 whatsoever. I'm so scared that when I'm done testifying I  
15 think I'll stay. I sit right there on the front row,  
16 that's how scared I am if I'm George. I'm terrified.  
17 Doesn't sound like a guy that's scared to me. His fiancé,  
18 his wife whatever you want to call her she comes up here  
19 yesterday. What did she say? She basically said, yeah,  
20 everything that George said was the truth. Oh, and also  
21 I've never spoken to law enforcement ever. I didn't  
22 bother talking with them that night. I didn't bother  
23 talking with them the next week. In fact, the first time  
24 I ever talked with anybody was a week ago today. Maybe,  
25 she and Hubert Black have the same cell phone provider. I

1 don't know. Maybe, their phones don't work, but they have  
2 all of this information and surely somebody would like to  
3 know it. They'll come find me. Didn't so much as -- she  
4 didn't even call. She didn't call and leave a message.  
5 At least Hubert did that said I got something I might want  
6 to tell you. I'm not going to follow up on it. She  
7 didn't even bother leaving a message. She did nothing.

8           The judge is gone charge you the law of the case  
9 in a little bit. If I tell you anything that he says is  
10 otherwise, he's right. And I am absolutely every time.  
11 What he's gone tell you is that the State not only is  
12 their burden beyond a reasonable doubt for the charge of  
13 murder. Their burden is beyond a reasonable doubt to  
14 disprove self defense. Because my client said I defended  
15 myself. He came. He had threatened me. He came, called  
16 me earlier saying he was gone come over there and get rid  
17 of it. Those were his words. I'll get rid of him.  
18 Michael Bruce heard him say that. I'm coming over there  
19 to get rid of him. And everybody told me he wasn't coming  
20 and here comes his van.

21           I can't imagine that feeling, ladies and  
22 gentlemen, sitting there locked out of my house, nowhere  
23 to go, waiting on my wife to get home and here it comes.  
24 What am I going to do now? Steve Springs came over there  
25 for one reason and it was not to be left alone. And it

1     wasn't to tell anybody leave me alone. He came over there  
2     to get rid of Sunny Scott. Judge, like I said, he's gone  
3     tell you beyond a reasonable doubt to disprove that my  
4     client acted in self defense.

5             I'm a football fan and I'm originally from North  
6     Carolina which make me a Tar Heel fan and that's very  
7     inconvenient for me especially during football season for  
8     any of you who are fans. But I watched a lot of college  
9     football, watch pros as well. And they got a new rule in  
10    the last few years where if a judge disagrees with a call  
11    or a coach disagrees with a call, they can challenge it.  
12    And the coach has a couple of red flags as oppose to the  
13    yellow flags that a referee would have and throw it out on  
14    the field and he'll say didn't happen that way. His foot  
15    was -- he was in bound. He was out of bounds. He caught  
16    the ball and he made a football move, that's a reception  
17    and then a fumble, that's not an incomplete pass. And  
18    then referee will walk over to the sideline -- they'll be  
19    an original call on the field incomplete pass. He'll walk  
20    over to the sideline. He'll watch a few videos of  
21    different angles try and decide what happened. If he  
22    can't decide what happened, call on the field.

23            The rule in the NFL and the rule in college and  
24    if you have seen any of these games with a challenge,  
25    you've heard them say it it's indisputable evidence. Now,

1     that's not the same words as beyond a reasonable doubt,  
2     ladies and gentlemen. But I put to you that they're  
3     basically the same. You got to have indisputable video  
4     evidence of the football play to decide that the call on  
5     the field is wrong. The call in this courtroom, ladies  
6     and gentlemen, is not guilty. And without evidence beyond  
7     a reasonable doubt without evidence that's indisputable  
8     not up for a dispute that's reasonable, you can't overturn  
9     that call. And without evidence to overturn the call of  
10    self defense that's indisputable, that's beyond a  
11    reasonable doubt, you can't overturn that call either.

12           He's also going to charge you on possession of a  
13    weapon during the commission of a violent crime. Ladies  
14    and gentlemen, when it's self defense, there is no crime.  
15    You want have to answer that question once you found the  
16    reasonable doubt in the first charge. You want have to  
17    move on to that. Without the finding of a crime, there is  
18    no finding on possession of a weapon during a crime.

19           Nothing else matters, ladies and gentlemen, that  
20    moment in time. What must have seemed like hours,  
21    watching that van come down the road. What am I going to  
22    do now? Where can I go? He pulls into the driveway,  
23    opens up door, I'm gone get rid of him, comes around the  
24    door, comes toward him.

25           The State has not met their burden, ladies and

1 gentlemen, that not proving it beyond a reasonable doubt.  
2 If you're looking for the reasonable doubt, it's scattered  
3 all over the floor. When you get back there -- before you  
4 get back there, the judge will tell you all 12 of you  
5 unanimously must agree one way or the other. And I'm  
6 confident that all 12 of you unanimously will agree, my  
7 client is not guilty of murder. They have not disproven  
8 self defense beyond a reasonable doubt. Thank you.

9 THE COURT: Mr. Ozment.

10 MR. OZMENT: Thank you, Your Honor. If it  
11 please the Court. Mr. Grove. Mr. Grove gave an excellent  
12 analogy in this case, in his opening and then in his  
13 closing talking about his car. Talked about if you touch  
14 a hot stove, you'll get burned. Talked about if I play  
15 with a knife, I'll get cut. Apparently, with Mr. Scott  
16 though, you don't cut, you don't get burned, you get belly  
17 shot. You get murdered. I told you in my opening that  
18 there was a plan, there's a plan, an act and cover up.  
19 Every murder has those three things. So I'm going to go  
20 through briefly as to where each of those things -- where  
21 we saw that in this case. A plan Hubert Black came up  
22 about two weeks before. Sunny had been drinking said, you  
23 know, I'm going to kill three people one of them was Steve  
24 Springs. Mr. Grove talked about, you know, if I say my  
25 dog chewed a shoe, now I'm going to kill him if he does

1     that again. Hope, he doesn't chew another shoe. Well,  
2     if -- someone walked into Mr. Grove's house sitting, Mr.  
3     Grove is sitting there holding a riffle his dog is dead on  
4     the floor with a shoe in his mouth, that's what we have  
5     here. Well, the last time Mr. Grove said next time my dog  
6     chewed a shoe, I'm going to kill him. Mr. Grove, riffle  
7     and a dead dog and shoe next to it. I say that's pretty  
8     much what he did. Sabrina Hartfield said she had run into  
9     Ms. Scott right before this Ms. Scott said this Steve  
10    Springs really bothering us. I'm going to have to do  
11    something with him. Two days before this, two days before  
12    a dead man was in her driveway had on Facebook, it's  
13    ashame my grandson F up by this asshole. Yeah, an  
14    asshole's going to cause me to kill him. I'll call you  
15    tomorrow. Sunny did nothing yet but when he finds out.  
16    And we know the rest of that sentence now. You know  
17    exactly what happened to Steve Springs. I'm not going to  
18    use her word for him again.to.

19               Crystal Hanna, Mr. Scott's own daughter, mother  
20    of his grandchildren. Obviously, very very hard for her  
21    to testify up here by the end of it basically and crying.  
22    What did she say? She said I talked to Steve that day.  
23    He was calm. He told Sunny I'm gone come over we're going  
24    to talk. They decided where to meet. She didn't say  
25    Steve was, you know, in a blinding rage cussing and all

1 that. And I'm not going to say they didn't have words on  
2 the phone earlier. I believe Michael Bruce that they had  
3 words on the phone earlier. But the fact of the matter is  
4 Steve was going over there just to settle this like men,  
5 let's talk about it. Let's hash this out. You leave me  
6 alone and I'll leave you alone. That's what Crystal said.  
7 Crystal said the last time she talked to Steve Springs is  
8 at 8:07 according to her cell phone. She said it was 8:07  
9 said he was going to the house right then.

10 Let's move on to the act. Crystal talked to him  
11 at 8:07. Investigator Hester said on Mr. Scott's cell  
12 phone they're calls to his wife 8:07 14 seconds, 8:11  
13 seven seconds, 8:12 23 seconds, 8:32 35 seconds. The  
14 first thing George saw when he walked outside, Sunny Scott  
15 on the cell. When is the first time, Sunny Scott used his  
16 cell phone 8:07, 8:07. When was 9-1-1 called, 8:53 46  
17 minutes. Right now, I been talking to you about five  
18 minutes. Forty-six minutes Steve Springs laid in that  
19 front yard propped up in that door wheezing for his life  
20 until he was dead. Forty-six minutes before anyone even  
21 called 9-1-1. And then who called. Let's think about how  
22 9-1-1 was called. Sunny Scott didn't never call 9-1-1.  
23 He had time to go to Carl Munn's house. He had time to  
24 use Carl's word, watch wrestling and time to drink a  
25 couple beers. He didn't have time to dial four buttons



1 9-1-1 send. Didn't have time for that. Forty-six  
2 minutes. And then Gloria called once Sunny was already in  
3 the car with her. Remember, Sunny's called Gloria and  
4 said, hey, I just shot Steve. Somebody's in the yard.  
5 Gloria didn't call 9-1-1. She went home. She picked up  
6 Sunny. She said and George said put the riffle in the  
7 back of the truck. Then she called 9-1-1. Forty-six  
8 minutes later with a dead man in her front yard.

9           Also all that time we never heard that anybody  
10 checked on Steve. You know, Sunny didn't shoot him and  
11 then oh my gosh see what we can do. They heard from  
12 George who thinks that he's still alive and have to shoot  
13 him again. And that makes since Sunny's deer hunter. In  
14 my younger days, there was a time or two that I shot a  
15 deer. It would go off in the woods, you follow the blood  
16 trail and that deer wouldn't be dead yet. You shoot it  
17 again put it out of its misery. That's exactly what Sunny  
18 is going to do. He's a deer hunter. Lucky, Steve had  
19 passed by that point. So what did Sunny do. He went and  
20 watched wrestling and drink a beer.

21           What else do we know about his action. We know  
22 about distances. We have right here the van was 14 feet  
23 and 10 inches from the stoop or by all accounts Mr. Scott  
24 was sitting. I'm going to try not to smack myself in the  
25 face with this tape measurement. Right here 178 inches

1 14 feet ten inches where that van is parked. He open the  
2 door it's 17 feet right here, 17 feet is where that open  
3 door was. So I asked him or listen to what Mr. Scott  
4 said. He said that Steve pulled up and took one or two  
5 steps. He said you take another step I'm going to shoot  
6 you. Well, from 17 feet, we'll say Steve took a big step.  
7 He was this far away when he shot him. Ladies and  
8 gentlemen, self defense says that Mr. Scott had to be in  
9 reasonable fear of his own death with great bodily injury.  
10 The evidence shows and this is a big step is how far he  
11 was when he was shot, stumbled back a step or two and fell  
12 over. He was closer than that, didn't see anything on the  
13 ground that indicated he was any closer than that. Dr.  
14 Presnell I asked her about gunshot wound. I asked her  
15 does small wound penetrating right in the abdomen. She  
16 didn't say there were soot marks. She didn't say it was a  
17 burn mark like it was shot from six inches. No no, she  
18 said it was just a small gunshot wound shot him back here.

19 Now, another element of self defense whether or  
20 not Steve was armed because reasonable fear of death,  
21 great bodily injury. What did Mr. Grove tell you? He  
22 said you can't necessarily believe what Sunny said about  
23 if he had something in his hand not at the scene. All  
24 right. So Steve may have had nothing in his hand see or  
25 he may have had something or it maybe different stories.

1     Because what George said is Sunny got a screwdriver out  
2     and planted it. Mr. Grove may be George planted the  
3     screwdriver, that again implies Sunny wasn't armed at all  
4     -- I mean excuse me not Sunny. Steve wasn't armed at all.  
5     I don't think that helps Mr. Scott. I think that helps  
6     the case that this was a murder. What about the knife?  
7     Nobody saw a knife that night.

8             Let's talk about George for a minute. We're  
9     still in the act here. George heard a gun shot left his  
10    house. Sunny says, oh, my gun jammed. My gun jammed. He  
11    says actually, no, I killed him. George didn't believe  
12    him at first. Walked to the side, see's his van. Oh, my  
13    gosh Sunny seems to be serious. Threatens George three  
14    times, threatens him, threatens his family, threatens to  
15    burn his house down, get rid of this gun. You know  
16    Mr. Scott may have taken the law into his hand that night  
17    and taken care of somebody he didn't like. But George  
18    Watson after having his life threatened, his family  
19    threatened, living right there next door. I don't blame  
20    him at all for being scared. I would have been scared.  
21    He did what he was told because he was scared to death.  
22    Was he scared? Yeah, think about what his wife said, said  
23    that he was white as a ghost. He was freaking out. I've  
24    never seen him like that before. When I started talking  
25    to him, she was shaky up here. Why would George have

1 anything to cover up? Talk about George might be charged  
2 with accessory. George could only be charge with  
3 accessory if this is a murder. That's the only reason  
4 George would have. George didn't sound like he was  
5 getting scared being charged or anything, so I scared I  
6 did what I was told. And as soon as I felt safe, at the  
7 Waffle House I told the police exactly what happened.

8 So moving on with George, let's talk about the  
9 cover up. What did George see? George saw a screwdriver.  
10 Remember, I asked George I said George have you seen the  
11 screwdriver since that night. No. Is this the  
12 screwdriver? Yes. Saw Sunny take this screwdriver out of  
13 the boat, which you'll have a picture of back in the jury  
14 room and walk around to the front of the house. George  
15 didn't say I saw him plant it. No, no, George telling you  
16 the truth. He said I saw him just walk around the front  
17 of house. When he came back, this screwdriver wasn't  
18 there. George is telling the truth.

19 Now, what else did George say. George said talk  
20 to Gloria she tells me to go get the gun go back to the  
21 woods, come back, put the gun in the back of the truck.  
22 Gloria back that up. She said I told George to go get the  
23 gun. He put it in the back of the truck. I said you mean  
24 the bed of the truck? Yes, the bed of the truck. So we  
25 know that George had taken the gun. He taken the gun

1     except for the fact that his life was threatened if he  
2     didn't take the gun, so everyone agrees on that.

3             Then George said he heard Gloria talking to  
4     Sunny before she called the had police and said you better  
5     get your story straight. Because I got a dead man in my  
6     yard. Carol Munn said Sunny came over to watch wrestling  
7     for about 20 minutes. He wasn't sure about the time, had  
8     a beer or so. He said he killed Steve. I didn't really  
9     believe him and he left. Didn't seem like Sunny was too  
10    concerned.

11            Let's now talk about Larry Bruce. Larry said  
12    I'm a good friends with Sunny. I have been. I think he  
13    said he worked for him 15 years or more friends a long  
14    time. And Larry Bruce said what makes me sad to be up  
15    here I'm losing my best fishing buddy. And Sunny's a good  
16    guy. I didn't think Sunny would ever do something like  
17    this.

18            What else did Larry tell us? Said I went over  
19    there the next day saw Gloria and she said I put a screw  
20    driver excuse me -- I mean, I move the screwdriver from  
21    his hand and I put a knife there. And I'm worried my DNA  
22    may be on it. So Larry told us. Why would Larry say  
23    that? This is his best fishing buddy, unless it's the  
24    truth. Why would he come in here and throw his fishing  
25    buddy -- his good friend under the bus unless it's true.

1     You know, Mr. Grove wants you to listen to Mr. Bruce and  
2     believe that Sunny is a good guy and wouldn't do something  
3     like this. But ignore the rest of his testimony about  
4     Gloria moving the screwdriver that Sunny there and putting  
5     a knife in his hand.

6                 Growing up, my dad had a farm and I spent more  
7     Saturdays than I wanted to when I was 14 years old digging  
8     fence posts. And for some that, that wouldn't always be  
9     with an auger on the back of a tractor, which is usually  
10    the ones he wants me to did. And the ones we couldn't use  
11    an auger, we use pushed wheel diggers. So mid afternoon  
12    dad and I would take a break. We go up get like a Snicker  
13    bar from the corner store. One day I opened that Snicker  
14    bar took a bit tasted good, took another bite it tasted  
15    good, pulled the wrapper back some more and the other end  
16    of the Snicker bar was covered in mold. Gross, now you  
17    want to vomit. I've eaten half this nasty Snicker bar  
18    that tasted fine but turns out the other half is covered  
19    in mold, that's what Mr. Grove wants you to do with Mr.  
20    Bruce's testimony. He doesn't like part of it, but he  
21    really likes the other part. Eat this bad half of the  
22    moldy Snicker bar, eat this half of it and forget about  
23    that mold. He would cut that off and throw it away.  
24    Don't eat that the moldy Snicker bar. Larry Bruce came up  
25    here and told the truth.

1           Let's talk a little bit about the law. And just  
2 like Mr. Grove said don't listen to what I say on the law,  
3 the judge tells you something different, he's right.  
4 Mr. Scott is charged with murder. He killed a man with  
5 malice aforethought. The judge will tell you that malice  
6 can just be a split second. The second you decide I've  
7 had enough of this. Doesn't have to be planned over a  
8 week or months. It can be that long in deciding I've had  
9 enough he's going down. That's malice aforethought. Self  
10 defense I have a burden of showing this wasn't self  
11 defense. In addition, I've already talked about distance  
12 whatnot. Some of the elements of self defense are fear of  
13 great bodily death or injury, fear of death or great  
14 bodily injury. Only testimony we've heard at all, that  
15 Mr. Scott was scared, threatened anything like that was  
16 from his own statement to law enforcement that night. And  
17 he said, yeah, I felt scared. He didn't say this man was  
18 about to kill me. He charged me like a bull that was in  
19 the process of taking a screwdriver in one hand and a  
20 knife in the other hand and killed me. He was two feet  
21 away from me. No, no, I'm scared. And the defense wants  
22 you to think that is fear of death. You know, I am  
23 scared. What else? He didn't bring this on himself.  
24 What did Crystal Hanna say? She said they were talking  
25 and they decided to meet. What else did Larry Bruce say?

1 Remember that moldy candy bar, part of that moldy part was  
2 Larry Bruce said Sunny called me that night and said I got  
3 Steve Springs coming over to the house, either I want us  
4 to beat him up or I want you to beat him up, that's also  
5 what Larry Bruce said. That implies to me that Sunny knew  
6 Steve was coming to the house. And Sunny had some idea  
7 what he was going to do to him when he got to the house.  
8 He brought this at least in part on himself, the trouble,  
9 but he ended the trouble.

10 So what are we left with. We know where the  
11 screwdriver came from. We know where the knife came from.  
12 Even Mr. Grove admits Sunny's first statement on those who  
13 knows what he meant. But we have good testimony George  
14 Watson and from Larry Bruce on where those two items came  
15 from. An unarmed man standing back here in a man's yard.  
16 And he's shoot like a dog. He's murdered and he falls  
17 over and lays there for 46 minutes. Now, we know from  
18 Dr. Presnell that this could have maybe happened in an  
19 emergency room and couldn't help him. Nobody knew that  
20 that night. Sunny Scott didn't know that. Sunny Scott  
21 didn't say based on where I shot him even if this was an  
22 emergency room, he's already dead. So, I guess, I'll just  
23 go have a beer and watch wrestling. No, no, Sunny went  
24 and told George he's still alive I may have to shoot him  
25 again. But he passed before he had to shoot him again.



1 And he laid there 46 minutes until the police were called.  
2 And laid some more before his body is eventually rolled  
3 over. Forensic saw a gunshot wound and he heard what  
4 happened to him from there. If I touch a stove, I'm going  
5 to get burned. I play with a knife, I will get cut.  
6 Sunny Scott doesn't burn, he doesn't cut you. He belly  
7 shoots you and let you bleed and wheeze to death in his  
8 front yard for 46 minutes. He murders you. That's why I  
9 ask when you go back in that jury room, you mark that  
10 verdict form guilty. Thank you very much.

11 THE COURT: Mr. Ozment.

12 Ladies and gentlemen, we're going to take a  
13 recess. One of the things you're going to do back in your  
14 jury room is the clerk is going to take your lunch order,  
15 that will take about five minutes or so. Then you'll come  
16 back out and I'll give you the charge on the law. You may  
17 not yet. You may not yet begin to discuss the case, that  
18 time is coming shortly probably within the next 30 minutes  
19 or so, but do not begin discussing the case yet. Thank  
20 you.

21 (WHEREUPON, the jury retire to the jury room.)

22 THE COURT: Okay. You can come look and take a  
23 look at the verdict form. Anything before we recess from  
24 the State?

25 MR. OZMENT: No, Your Honor.

1 THE COURT: Defendant.

2 MR. GROVE: No, Your Honor.

3 THE COURT: We'll take about five or ten  
4 minutes'.

5 (WHEREUPON, a short break was taken.)

6 THE COURT: Mr. Grove, is the State ready for  
7 the charge?

8 MR. OZMENT: Your Honor, the State is ready.

9 THE COURT: I'm sorry, Mr. Ozment. I apologize.  
10 Mr. Grove, is the ready?

11 MR. GROVE: Yes, sir, Your Honor, we are.

12 THE COURT: You can bring in the jury.

13 (WHEREUPON, the jury came into open court.)

14 THE COURT: All right. Thank you. Ladies and  
15 gentlemen, I like to have your attention for the next 20  
16 minutes or so. I am going to give you what is called jury  
17 charge or charge on the law. Before I get into the gist  
18 of it, I wanted to let you know that I can guarantee you  
19 one primary thing and that is I'm going to repeat myself  
20 throughout the charge. That is typically not because I've  
21 lost my place or forgotten what to tell you. It's simply  
22 that the charge consistent of me explaining to you certain  
23 legal principles. And I will necessarily have to refer to  
24 those legal principles more than once because they do  
25 intertwine with one another. I'll be talking to you about

1 principles such as the presumption of innocence, the  
2 burden of proof beyond a reasonable doubt. I'll be  
3 talking to you about credibility of witnesses. I'll also  
4 be talking to you about direct and circumstantial  
5 evidence. And I will talk to you about the elements of  
6 the offense of murder. And I'll talk to you about self  
7 defense and possession of a weapon during the commission  
8 of a violent crime. Again, those principles do have  
9 certain components that do refer back to something else,  
10 so please forgive me if I do repeat myself. That is -- it  
11 is not my intention to overly emphasize one particular  
12 principle, but under the law I'm required to give you a  
13 correct and complete charge on the law. You will not have  
14 a written copy of this jury charge in the jury room with  
15 you. And what I like for you to do is just to pay very  
16 close attention. This is not an opportunity for you  
17 memorize these legal principles, but as I explain them to  
18 you, it will probably make a lot of sense and that alone  
19 may help you understand that as a whole.

20 Now, ladies and gentlemen, obviously during the  
21 course of this trial and you and I have had certain duties  
22 to perform. You know by now that you are the judges of  
23 the facts. I'm the judge of the law. One particular  
24 example of how that is very pertinent in this case is that  
25 the witnesses as I explain to you by design sit next to

1     you when they testify, that is because it is up to you and  
2     you alone to evaluate the witness testimony as to whether  
3     or not you believe it. So that's why courtrooms are  
4     designed to put witnesses next to the jury.

5             You will also notice that exhibits that are  
6     introduced are put into evidence and they will be back in  
7     the jury room for you because it matters what you think  
8     about those exhibits. Most of the exhibits -- I cannot  
9     think one exhibit in this case that I have actually even  
10    seen. And the reason for that is if there's no objection  
11    or issue as to admissibility, it doesn't matter if I've  
12    seen the exhibit or not. It doesn't matter what I think  
13    about the exhibits, that's your responsibility and your  
14    responsibility alone. So most of the exhibits that are  
15    over there, I have not even seen unless they were even  
16    actually shown to you and I happen to see that too. So  
17    that is one example of how you are the judges of the facts  
18    and I have no responsibility in that particular area.

19            Now, the defendant in this case is charged with  
20    two criminal offenses and your deliberations in the case  
21    will result in your foreperson's completion and signing of  
22    this verdict form. Your verdicts have to be unanimous,  
23    that means all of you have to agree. This is not going to  
24    be an 11 to one vote, ten to two, nine to three. It has  
25    to be absolutely unanimous. And you're not permitted to

1 return a verdict unless it is absolutely unanimous.

2 Now, the defendant is charged with the crime of  
3 murder and the crime of possession of a firearm during the  
4 commission of a violent crime. I'll explain to you in  
5 detail what the State will have had proven to you beyond a  
6 reasonable doubt in order for you to return guilty  
7 verdicts. The defendant has entered pleas of not guilty  
8 to both charges. He does not have to prove or disprove  
9 anything. The burden is solely on the State to prove the  
10 elements of the crimes charged beyond a reasonable doubt.

11 Now, the evidence as I mention to you at the  
12 beginning of the case comes in primarily three different  
13 ways. One is by testimony. You seen that firsthand, also  
14 exhibits. You've seen that firsthand. And sometimes by  
15 stipulation, that's when the two sides agree that a  
16 certain fact is true. If evidence has come in by way of  
17 testimony or exhibit, you can consider it. If I have  
18 instructed you to disregard some evidence that you have  
19 seen or heard or any comment made by a lawyer or by anyone  
20 else under the oath that you taken to follow the law, you  
21 have to disregard what I told you to disregard.

22 Now, the defendant does come into this courtroom  
23 clothe with the presumption of innocence and that  
24 presumption of innocence is I'll explain in more detail in  
25 a moment remains with the defendant unless and until you,

1 the jury, find from the evidence that the State has proven  
2 him guilty beyond a reasonable doubt.

3 Now, ladies and gentlemen, the verdict form  
4 again will reference the two charges and I'll go over that  
5 right now and in detail later. The first inquiry says as  
6 to the charge of murder: We, the jury, unanimously find  
7 the defendant and there are two choices not guilty and  
8 guilty. Number -- and then it says if you found him not  
9 guilty of murder, you stop and deliberate no further. And  
10 the foreperson would sign the verdict form, date it and  
11 tap on the door and let the bailiff know you reached a  
12 verdict. If you have found the defendant guilty of  
13 murder, then you go to question number two. And it says  
14 as to the charge of possession of a firearm during the  
15 commission of a violent crime: We, the jury, unanimously  
16 find the defendant again there are two choices not guilty  
17 and guilty.

18 Now, the fact that a person is arrested or  
19 charged or indicted or on trial for any criminal offense  
20 is not evidence of guilt. The -- as I mentioned, the  
21 defendant's pleas of not guilty put the burden on the  
22 State to prove the elements of the crime charged. The  
23 indictment is not evidence. It is simply the formal  
24 written instrument that walks the case into the courtroom.  
25 And as I mentioned in South Carolina, we do have the

1 indictment process, that's how cases where crimes are  
2 charged get into the courtroom.

3 Now, necessarily as you know in acting as the  
4 finders of fact, you must determine the credibility of the  
5 witnesses who have testified in this case. You can  
6 believe every word of what a witness has to say. You can  
7 disbelieve every word or you can believe parts and reject  
8 the rest, that's entirely up to you. Use your common  
9 sense, that's the only thing that you can do. And you can  
10 take things into account that include but are certainly  
11 not limited to how the witness appeared on the stand, was  
12 witness hesitant or straightforward when answering  
13 questions, what was that witnesses ability to know what he  
14 or she claims to know, does it make sense to you that they  
15 claim to know something that they claim to know. Also,  
16 you can take into account whether or not that witness'  
17 testimony been strengthened or weakened by other evidence  
18 that is in the record. Also, you can take into account  
19 whether or not the witness may have said something the  
20 same or different on a prior occasion. You can take into  
21 account whether or not that witness has a reason to give  
22 testimony that helps or hurts one side over the other. We  
23 call that bias or prejudice. Did that witness have a bias  
24 or prejudice in giving the testimony that he or she gave.  
25 You can believe one witness over many or many over one,

1     that is entirely up to you. And again evidence weighs  
2     with you if it convinces you of its truth and that  
3     includes testimony.

4             Now, as I mentioned a couple of times during the  
5     trial, typically when a witness testifies in a trial they  
6     cannot give opinions. There is an exception in the rules  
7     for people who are called expert witnesses. If somebody  
8     is qualified by education, training or experience in a  
9     particular art or science or profession, that witness can  
10    give opinions and the reasons for those opinions. You are  
11    not bound by the testimony of an expert just because it  
12    comes from someone who is labeled as an expert. If the  
13    expert's qualifications are not sufficient in your  
14    judgment or if the reasons given for the opinion are not  
15    sufficient in your judgment, you can disregard the experts  
16    opinion entirely if that's what you think is appropriate.  
17    In addition, you can and you need not accept the testimony  
18    of an expert just because it comes from an expert even  
19    though it might be uncontradicted.

20            Now, ladies and gentlemen, I mention to you the  
21    different ways that evidence comes in, that's testimony  
22    exhibits and so forth. Just to switch gears for a moment,  
23    there are generally two types of evidence that come in are  
24    generally presented during a trial. These are called  
25    direct evidence and circumstantial evidence. Direct



1 evidence is evidence that proves the existence of a fact  
2 directly and does not require deduction. Circumstantial  
3 evidence is proof of a chain of facts and circumstances  
4 that indicate the existence of a fact. Crimes may be  
5 proven by circumstantial evidence and the law makes  
6 absolutely no distinction between the weight or value to  
7 be given to either direct or circumstantial evidence.  
8 However to the extent the State relies on circumstantial  
9 evidence, all of the circumstances must be consistent with  
10 each other and when taken together point conclusively to  
11 guilt of the defendant beyond a reasonable doubt. If the  
12 circumstances merely portray the defendant's behavior as  
13 suspicious, the proof has failed the State has the burden  
14 of proving the defendant guilt beyond a reasonable doubt.  
15 And that burden rests with the State regardless of whether  
16 the State relies on direct evidence, circumstantial  
17 evidence or some combination of the two.

18 As I mention to you, the defendant has pled not  
19 guilty to the charges in the indictment and that plea puts  
20 the burden on the State to prove guilt beyond a reasonable  
21 doubt. A person who is charged with a criminal offense in  
22 South Carolina is never required to prove himself not  
23 guilty. It is never required to prove himself innocent.  
24 It's a very important rule of law that the defendant in  
25 any type of criminal trial no matter what the charge is

1 always presumed to be innocent of the crime for which the  
2 indictment was issued unless guilt is proven by evidence  
3 satisfying you of guilt beyond a reasonable doubt.

4           The presumption of innocence remains around the  
5 defendant shoulders or some describe it like a cloak of  
6 righteousness and robe or that cloak stays around his  
7 shoulders throughout the trial and even when you begin  
8 your deliberations. The presumption of innocence remains  
9 with the defendant until that robe is figuratively  
10 stripped away by evidence that satisfies you of guilt  
11 beyond a reasonable doubt. So those words the presumption  
12 of innocence, there's not a mere legal theory or a simple  
13 catch phrase that we toss around. The presumption of  
14 innocence is a substantial right to which every defendant  
15 is entitled unless and until a jury is satisfied of guilt  
16 beyond a reasonable doubt.

17           Now, ladies and gentlemen, I've used the words  
18 reasonable doubt. I would say probably 15 times already.  
19 So I am going to tell you now what is a reasonable doubt  
20 in the law. A reasonable doubt is the kind of doubt that  
21 would cause a reasonable person to hesitate to take  
22 action. Again, the State does have the burden of proving  
23 the defendant guilty beyond a reasonable doubt. Some of  
24 you may have been a juror in a civil case and you are told  
25 to imagine a set of scales that are even. And if a party

1 has the burden of proof in a civil case, it's by the  
2 greater weight of the evidence. And the party having the  
3 burden has to tip those scales ever so slightly in his or  
4 her favor.

5 Now, in a criminal cases, the State's proof must  
6 be more powerful than that. The State must present proof  
7 beyond a reasonable doubt. Proof beyond a reasonable  
8 doubt is proof that leaves you firmly convinced of the  
9 defendant's guilt.

10 Now, obviously there are very few things on this  
11 earth that we know with absolute certainty. And the law  
12 does not require the State to present proof that overcomes  
13 every possibly doubt, but the State does have to present  
14 proof that overcomes reasonable doubt. If based on your  
15 consideration of the evidence, you are firmly convinced  
16 that the defendant is guilty of the crime charged. You  
17 must find him guilty. If on the other hand, you believe  
18 based on your view of the evidence that there is a real  
19 possibility that the defendant is not guilty, you must  
20 give him the benefit of the doubt and find him not guilty.

21 Now, ladies and gentlemen, I further charge you  
22 that the evidence of good character may in and of itself  
23 create a doubt as to guilt and should be considered by  
24 you, the jury, along with all the other evidence in  
25 determining whether or not the defendant is guilty or not

1 guilty. The good character of the accused if proven may  
2 be taken into consideration by you in determining whether  
3 or not he is guilty of the crime charged. I further  
4 charge you, ladies and gentlemen, that a statement alleged  
5 to have been made by the defendant has been admitted into  
6 evidence in this case.

7           While the Court or I have determined that the  
8 State is admissible, I instruct you that you make the  
9 ultimate decision of whether or not the defendant made the  
10 statement. If the defendant did make the statement in  
11 your judgment, you must determine whether the statement  
12 was made by the defendant voluntarily and of his own  
13 freewill. And that means that the statement was not  
14 caused induced by pressure, force, fear, threat, coercion  
15 or intimidation or by hope or a promise of leniency or a  
16 reward of any kind. In determining whether or not the  
17 statement was voluntary, you should consider both the  
18 characteristics of the defendant and the details of the  
19 questioning. Some of the factors that you may consider  
20 are the age of the defendant, the defendant's education or  
21 lack of education. The defendant's mental ability or  
22 capacity. The defendant's intelligence. The defendant's  
23 background and environment. The place and length of  
24 detention. The nature of questioning and the advice or  
25 lack thereof to the defendant of his Constitutional Rights

1 including but not limited to the right to remain silent at  
2 any statement could be used against him in court. The  
3 right to have a lawyer present. And that if he could not  
4 afford a lawyer, one would be appointed to represent him  
5 without cost, that he could stop making a statement at any  
6 time. You carefully consider all the surrounding  
7 circumstances before you give any weight to an alleged  
8 statement of the defendant.

9 Now, the State has the burden of proving beyond  
10 a reasonable doubt that the alleged statement was  
11 voluntary. If you determine it was voluntary, you can  
12 give it the weight or any consideration that you think is  
13 proper. You must decide what weight, if any, should be  
14 given to the alleged statement. And if you determine that  
15 it was not the free and voluntary statement of the  
16 defendant, you should not consider the statement at all.

17 Now, ladies and gentlemen, I also instruct you  
18 and I emphasize to you that the fact that the defendant  
19 did not testify is not a factor to be considered by you in  
20 any way in your deliberations and in your consideration on  
21 the question of the guilt or non-guilt of the defendant.  
22 The fact that the defendant did not testify is not to be  
23 considered by you in any manner whatsoever, simply put you  
24 cannot think about it. You cannot talk about it and the  
25 fact that he did not testify is not to be considered by

1     you in any way in the course of your deliberations. And  
2     under your oath, I repeat that you're to draw no  
3     conclusions whatsoever from the fact that he did not  
4     testify.

5             Now, ladies and gentlemen, as I mentioned to  
6     you, the burden is always on the State to prove guilt  
7     beyond a reasonable doubt and the defendant is not  
8     required to prove anything.

9             All right. Ladies and gentlemen, I get more  
10    specific now. The defendant is charged with the offense  
11    of murder. I am going to talk to you about that now. The  
12    State must prove beyond a reasonable doubt that the  
13    defendant killed another person with malice aforethought.  
14    Malice in that respect is hatred, ill will or hostility  
15    towards another person. It's the intentional doing of a  
16    wrongful act without just cause or excuse and with an  
17    intent to inflict an injury or under circumstances that  
18    the law will infer an evil intent. Malice aforethought  
19    does not -- or the element of malice aforethought does not  
20    require that malice exist for any particular time before  
21    the act is committed, but malice must exist in the mind of  
22    the defendant just before and at the time the act is  
23    committed. So there has to be a combination of the  
24    previous evil intent and the act itself.

25            Now, malice aforethought may be expressed or

1     inferred. Those two terms expressed and inferred don't  
2     mean different kinds of malice, but simply the manner in  
3     which the malice may have been proven to exist. And  
4     that's either by direct evidence or by circumstantial  
5     evidence from the facts and circumstances which have been  
6     proven. Expressed malice is shown when a person speaks  
7     words, which express hatred or ill will for another or  
8     when the person prepared beforehand to do the act which  
9     was later accomplished. Now, ladies and gentlemen, malice  
10    may be inferred from conduct, facts and circumstances  
11    surrounding the events in question.

12                 Now, ladies and gentlemen, I am going to talk to  
13    you now about the principles of self defense. Self  
14    defense is a complete defense. And the State must  
15    disprove self defense beyond a reasonable doubt. The  
16    defendant does not have to prove self defense. Again, the  
17    State must disprove self defense. If you have a  
18    reasonable doubt of the defendant's guilt after  
19    considering all of the evidence including evidence of self  
20    defense, you must find the defendant not guilty. If on  
21    the other hand, you have no reasonable doubt of the  
22    defendant's guilt after considering all the evidence  
23    including evidence of self defense, then you must find the  
24    guilty.

25                 Now, the following or what I'm going to talk to

1     you about now are the elements of self defense. First the  
2     defendant must have been without fault in bringing on the  
3     difficulty. If the defendant's conduct was the type which  
4     was reasonably calculated to and did provoke a deadly  
5     assault, the defendant would be at fault in bringing on  
6     the difficulty and would not be entitled to acquittal  
7     based on self defense.

8             Now, that's the first element of self defense  
9     and that is the defendant must be without fault in  
10    bringing on the difficulty. Another element of self  
11    defense is that the defendant was actually in imminent  
12    danger of death or serious bodily injury or that defendant  
13    actually believed he was in eminent danger of death or  
14    serious bodily injury. If the defendant was actually in  
15    eminent danger, it must be that the circumstances would  
16    have warranted a person of ordinary firmness and courage  
17    to strike the fatal blow to prevent death or serious  
18    bodily injury. If the defendant believed he was in  
19    eminent danger of death or serious bodily injury, it must  
20    be that a reasonably prudent person of ordinary firmness  
21    and courage would have had the same belief. In deciding  
22    whether the defendant actually was or believed he was in  
23    eminent danger of death or serious bodily injury, you  
24    should consider all the facts and circumstances  
25    surrounding the events.



1           The defendant does not have to have actually  
2   been in danger. It is enough if the defendant believed he  
3   was in eminent danger and a reasonably prudent person of  
4   ordinary firmness and courage would have had the same  
5   belief. The defendant has the right to act on appearances  
6   even though the defendant's beliefs may have been  
7   mistaken. It is for you to decide whether the defendant's  
8   fear of eminent danger of death or serious bodily injury  
9   was reasonable and would have been felt by an ordinary  
10  person in the same or similar circumstances.

11           I further charge you, ladies and gentlemen, that  
12  the words of a victim accompanied by hostile acts may  
13  depending on the circumstances establish self defense.  
14  Evidence of prior difficulties between the defendant and  
15  the victim may be considered in deciding whether a threat  
16  existed, whether the defendant has a reason to believe the  
17  threat existed and how serious that threat might be.  
18  Threats made by a victim may be considered in determining  
19  whether a defendant actually was or believed he was in  
20  eminent danger. The intoxication of the victim may be  
21  considered in deciding whether the defendant's fear of  
22  death or bodily harm was reasonable.

23           Also, ladies and gentlemen, another element of  
24  self defense is that the defendant had no other probable  
25  way to avoid danger of death or serious bodily injury than

1 to act in the way that he did in this particular instance.  
2 You are to consider whether the defendant made a choice of  
3 ordinary -- you may consider whether the defendant made  
4 the choice a person of ordinary prudence in a similar  
5 position would have made. You are not to consider whether  
6 the defendant made the wisest or best choice, but instead  
7 whether or not he made a reasonable one under the  
8 circumstances.

9 I further charge you, ladies and gentlemen, that  
10 if the defendant is on his own premises, the defendant has  
11 no duty to retreat before acting in self defense.

12 Further, ladies and gentlemen, on the issue of  
13 self defense, a person cannot be required to make an exact  
14 calculation as to the degree or amount of force which may  
15 be needed to avoid death or serious bodily harm.  
16 Therefore, in self defense, the defendant has the right to  
17 use the force needed to avoid death or serious bodily harm  
18 and the force used does not have to be limited to the  
19 degree or amount of force used by the victim. The  
20 defendant has the right to use so much force as appeared  
21 to be reasonably necessary for complete self protection in  
22 which a person of ordinary reason and firmness would have  
23 believed to have been needed to prevent death or serious  
24 bodily harm to himself. Now, ladies and gentlemen, as I  
25 mention to you, that is the charge on the offense of

1 murder.

2 I'm now going to talk to you about the offense  
3 of possession of a firearm during the commission of a  
4 violent the crime. The defendant is charged with that  
5 offense. The State must prove beyond a reasonable doubt  
6 that the defendant was in possession of a firearm during  
7 the commission of a violent crime. A firearm is a gun,  
8 riffle, revolver, pistol or any weapon, which is design to  
9 or may be readily converted to expel a projectile.

10 Now, in order to find the defendant guilty of  
11 possession of a firearm during the commission of a violent  
12 crime, you must first find the defendant guilty of  
13 committing a violent crime. And I charge you, ladies and  
14 gentlemen, that murder is a violent crime.

15 Also, ladies and gentlemen, in order to prove  
16 guilt beyond a reasonable doubt whatever the crime might  
17 be, the State must also prove the element of criminal  
18 intent. Criminal intent is a mental state. It's a  
19 conscious wrongdoing. And criminal intent may be shown by  
20 direct evidence or it may be shown by circumstantial  
21 evidence. Now, there's no way that medical science can  
22 dissect a person's brain, look in the brain and determine  
23 what, if anything, that person intended to do at any given  
24 time. So the law says that criminal intent may be  
25 established by circumstances surrounding the situation.

1 If the State has not proven the element of criminal  
2 intent, the State will have failed to meet his burden of  
3 proof.

4 Now, ladies and gentlemen, you will have the  
5 evidence with you back in the courtroom. No other  
6 evidence is going to be provided to you other than your  
7 collective memory of the testimony and the exhibits that  
8 have been introduced. You will have a weapon marked as  
9 Exhibit 16, that is in that tall box. Do not take that  
10 out of the box. And do not unclip or cut the ties of the  
11 plastic ties that hold it to the box. Do not open the  
12 chamber. Do not manipulate the trigger or otherwise  
13 handle the weapon without my specific permission.

14 Now, ladies and gentlemen, I am not so much  
15 concerned with what your verdicts are going to be in this  
16 case, but I do want to make sure that you understand that  
17 your job in many respects is just beginning. The State of  
18 South Carolina and the defendant both expect and they  
19 certainly are entitled to a fair and impartial trial and  
20 that includes on your part giving all these issues to  
21 complete an honest discussion that they deserve. And your  
22 verdict or your deliberations should culminate in verdicts  
23 which speak the truth.

24 If you have any questions, madam forelady,  
25 during the course of your deliberations, they'll be a note

1 pad for you to write the question down. The law just --  
2 write the question out, sign it, date it, tap on the door  
3 and let the bailiff know that you have a question. She'll  
4 pass it to me. I'll share it with the lawyers. And the  
5 law dictates number one if I can respond and how I can  
6 respond. But any question that you have, I'll certainly  
7 be happy entertain. But again, no additional evidence is  
8 going to be introduced that has not already been  
9 introduced. If you have a question about any testimony,  
10 that's certainly arrangements can be made to have that  
11 played back for you. If you have a question about my jury  
12 charge, you can write that down and I will try to help you  
13 out that with that too.

14 Please keep in mind that your verdict has to be  
15 unanimous. Also keep in mind that if anyone needs to  
16 leave the jury room for any reason, first you have to get  
17 my permission. If you do that, please stop deliberations  
18 until everyone is back in the deliberation area. If  
19 someone excuses himself or herself to even use the  
20 restroom, please wait for that person to come back before  
21 you resume your deliberations.

22 You'll have several things in the jury room with  
23 you. Most importantly, your good common sense. That's  
24 what you use. You take your common sense view of the  
25 evidence, the law as I given it to you. You put those

1 things together and I'm confident that you'll reach  
2 verdicts that speak the truth.

3           Lunch will be here probably within the next 30  
4 minutes or so. And you can deliberate during the time  
5 that you eat lunch. If anybody has any concerns during  
6 the course of deliberations about anything in the outside  
7 world, relay those to your forelady. And she will relay  
8 those to me and we will try to accommodate you as best we  
9 can.

10           The next order of business will be for you to go  
11 to your jury room and I'm telling you can't start  
12 deliberating yet. And that is because these rules that we  
13 have require me ask the lawyers if I left anything out or  
14 said anything incorrectly. So if you would please go to  
15 your juror room and do not begin deliberating yet. One  
16 final thing some of you have taken notes. You can take  
17 those back into the jury room with you. Some are better  
18 note takers than others. I take notes not because I think  
19 something terribly important, but I write down times when  
20 somebody took the stand, when direct started, when cross  
21 started and so forth and what time an exhibit may have  
22 been introduced. I'm not writing anything down because I  
23 think its particularly important factually. I'm writing  
24 it down to have a time log.

25           Now, don't take from anything that I've said or

1     done during the course of the trial that make you think I  
2     favor one result over another. I don't. My rulings are  
3     based on the law and not on who I think should prevail.  
4     So please don't gather from anything that I've said or  
5     done that you should find in a certain way. All right.  
6     If you would please go to your jury room. If you took  
7     notes, you can take those back there with you. But your  
8     notes do not necessarily take precedence over someone's  
9     memory, who did not take notes, so everyone's input in the  
10    deliberations are very important whether you did or did  
11    not take notes. You can go to your jury room, ladies and  
12    gentlemen, but don't start talking yet.

13                   (WHEREUPON, the jury retire to the jury room.)

14           THE COURT: Any objections or additions from the  
15    State other than what you previously mentioned?

16           MR. OZMENT: No, Your Honor.

17           THE COURT: Any from the defendant?

18           MR. GROVE: Not already that I haven't been  
19    raised, Your Honor. I would renew my position on the  
20    State's burden of disproving self defense.

21           THE COURT: Okay. I think I did charge that  
22    twice.

23           MR. GROVE: You did. The each and every element  
24    obviously portion was obviously admitted. I'd renew on  
25    those grounds.

1           THE COURT: All right. That's respectfully  
2 denied. All right. What I typically do I think the law  
3 requires me to release the alternates.

4           MR. GROVE: Yes, Your Honor.

5           THE COURT: I don't hold them in separate rooms.  
6 Any objection to that?

7           MR. OZMENT: No, Your Honor.

8           MR. GROVE: None, Judge.

9           THE COURT: Would ask Mr. Jones and Ms. Riley to  
10 come out.

11          THE BAILIFF: Yes, sir.

12          THE COURT: In the mean time, could you  
13 gentlemen make sure all the exhibits are in order.

14          Investigator Hester, if you could confirm for me  
15 on the record that the firearm is disabled and not capable  
16 of being fired. Hand him that box.

17          Mr. Grove, would you come up and take a look at  
18 the exhibits. I think you had one exhibit. Is that  
19 correct?

20          MR. GROVE: I do, Judge.

21          (WHEREUPON, the two alternate jurors came into  
22 the courtroom.)

23          THE COURT: Mr. Jones and Ms. Riley, only 12 can  
24 deliberate. Frankly, it's a little bit unusual for one  
25 juror not at least fallen by the waist side by illness or



1 some responsibility that popped up, but in this case, it  
2 didn't happen. Since only 12 can deliberate, your  
3 services are concluded. Obviously, in this trial and also  
4 for the week. Do either of you need a work excuse? Do  
5 either of you have any questions?

6 (WHEREUPON, both alternate jurors responded in  
7 the negative by shaking of head.)

8 THE COURT: You can leave or stay whichever you  
9 like. You can talk about the case all that you want after  
10 today, but don't talk about it within the courthouse as  
11 you're leaving that will do two things. It will keep the  
12 pressure off you. And it will keep things on an even keel  
13 as far as all the participants are concerned. So if would  
14 like to stay, you can certainly remain and wait for the  
15 verdict or you can go on about your business. Any  
16 questions?

17 (WHEREUPON, no response.)

18 THE COURT: Thank you. She did order lunch for  
19 you if you want to wait for that. You can do that. If  
20 you do want your lunch, just let her no. If you don't,  
21 just tell her the same thing.

22 (WHEREUPON, alternates are dismissed.)

23 THE COURT: Anything before I release the jury  
24 to deliberate?

25 MR. OZMENT: No, Your Honor. All the evidence

1 looks to be in order by the State.

2 THE COURT: Investigator Hester, have you  
3 examined the weapon?

4 INVESTIGATOR HESTER: Yes, sir.

5 THE COURT: Is it capable of being fired?

6 INVESTIGATOR HESTER: No, sir.

7 THE COURT: Is there a trigger guard in it?

8 INVESTIGATOR HESTER: No, sir, it's zip tied  
9 back to the firearm.

10 THE COURT: All right. Okay. You have a copy  
11 of the verdict form.

12 THE BAILIFF: Judge, one of the jurors that says  
13 it's his son's birthday. He would like make a phone call  
14 to wish his son a happy birthday.

15 THE COURT: One of the jurors says it's his  
16 son's birthday and he would like to be excused to make a  
17 phone call to wish his son a happy birthday. Any  
18 objection from the State?

19 MR. OZMENT: No, Your Honor. I would ask that  
20 Ms. Olivia or somebody just go with him to make sure.

21 MR. GROVE: That will be fine.

22 THE BAILIFF: We have a phone in the other room.  
23 I usually take them back there and I stay there while they  
24 make the phone call.

25 THE COURT: I can instruct him when he comes out

1 not talk about the case with his son.

2 MR. OZMENT: That will be fine.

3 THE COURT: Just ask him to step out.

4 THE BAILIFF: Yes, sir.

5 THE COURT: And tell the jury not to begin  
6 deliberating yet until that juror rooms back.

7 THE BAILIFF: Okay.

8 (WHEREUPON, juror number 158 George Yiannikouros  
9 comes into the courtroom.)

10 THE COURT: It's your son's ?

11 JUROR: Yes,

12 THE COURT: You can go give him a phone call,  
13 just don't talk about the case, okay.

14 JUROR: No.

15 THE COURT: Thank you, sir. And tell them they  
16 can begin deliberating when the juror comes back in.

17 THE BAILIFF: Yes, sir.

18 THE COURT: We'll be at ease. I would like to  
19 say that I'm extremely impressed by the way the case was  
20 tried. I don't say that unless I mean it. I think that  
21 both sides knew -- know the rules. They know the  
22 procedure. I'm very pleased with how the case was tried  
23 both sides should be very satisfied. If you do want to be  
24 around when there is a verdict or a question, just be  
25 close at hand. Of course, the lawyers will not leave the

1 courthouse. Hopefully, they want go far beyond this  
2 floor, but I'll certainly wait a reasonable time for the  
3 audience if you will to be back for a question or verdict.  
4 But you may want to give someone a cell number so you can  
5 be called. Because I'm not going to keep the jury waiting  
6 terribly long.

7 (WHEREUPON, a pause in the proceedings.)

8 (WHEREUPON, the jury began deliberations at  
9 12:52.)

10 THE COURT: I just marked cross-examination  
11 Court's Exhibit 2, 3 and 4.

12 (WHEREUPON, Court's Exhibit Nos. 2, 3 and 4 were  
13 admitted into evidence.)

14 THE COURT: All right. I have three questions  
15 from the jury and no particular order. One says can we  
16 have copies of phone logs please, another one says copy of  
17 Scott's statement and third question can we have the self  
18 defense statute. First, let's address the question can we  
19 have copies of phone logs please. Mr. Ozment.

20 MR. OZMENT: Certainly, Your Honor, they've  
21 heard all the evidence. I would just ask that they be  
22 instructed that they have all the evidence in front of  
23 them what they're going to have or hear and that they  
24 please refer to that.

25 MR. GROVE: I can't really argue with that,

1 Judge. No phone logs have been entered into evidence to  
2 begin with.

3 THE COURT: Okay. All right. The next question  
4 I reference copy of Scott's statement.

5 MR. OZMENT: I think that would be the same  
6 answer, Your Honor.

7 MR. GROVE: I have no objection to that, Judge.  
8 Again, it's not in there, so they got all the evidence.

9 THE COURT: Obviously, they are asking for  
10 physical copies neither of which is in evidence. I will  
11 not unless both sides agree tell them that they can hear  
12 testimony pertaining to the phone logs or hear testimony  
13 referring to Scott's statement, but unless they  
14 specifically ask for that testimony, I don't intend to  
15 call any attention to it myself unless you all both agree.

16 MR. OZMENT: Your Honor, I would just say that  
17 if they ask for that, they can ask for that. But at this  
18 point, I'm going to say it's not in front of them.

19 MR. GROVE: I agree with, Your Honor. It sounds  
20 like they're looking for a physical copy of things don't  
21 exist.

22 THE COURT: Lastly, can we have the self-defense  
23 statute. First of all, it's not a statute. Second of  
24 all, I'm not going to give them just a photo copy of one  
25 part of the charge that would be improper. I will tell

1     them that in response to that question that they cannot  
2     have a copy of the self-defense law, but that if they want  
3     me to recharge them on the law of self defense, I'll do  
4     that. Any objection from the State?

5             MR. OZMENT: No, Your Honor.

6             MR. GROVE: No, Judge. Thank you.

7             THE COURT: You can bring out the jury.

8             (WHEREUPON, the jury came into the courtroom at  
9     2:06 p.m.)

10            THE COURT: Okay. Thank you for your questions,  
11     ladies and gentlemen, I'll cover those in no particular  
12     order. One question says can we have copies of phone logs  
13     please? The answer to that question is that you have  
14     physically in evidence the exhibits that were introduced.  
15     No other materials, no other physical materials such as  
16     copies of any phone logs are going to be introduced or  
17     provided to you.

18            Another question you have is copy of Scott's  
19     statement? Same answer to that question. As I mentioned  
20     to you earlier, all of the physical evidence in the way of  
21     exhibits is going to be introduced has been introduced and  
22     there will be no other additional items physically  
23     introduced for you.

24            The third question can we have the self-defense  
25     statute. I will not send back to the jury room a copy of

1 the self-defense law that I charged you. However, I can  
2 if you can like for me to recharge you on the law of self  
3 defense, if that's what like. Is that what you, ladies  
4 and gentlemen like?

5 FOREPERSON: Yes.

6 THE COURT: It will not be given to you in  
7 writing, but if you want your note pad, she can get that  
8 for you. Is there anyone else need their note pad? Is  
9 that what the jury want?

10 JUROR: Yes, sir.

11 THE COURT: Madam forelady is that what the jury  
12 wants?

13 FOREPERSON: Yes, sir.

14 THE COURT: Okay. Everybody have what they  
15 need? And I don't mean to alarm by locking the door,  
16 that's just customarily what's done during any part of a  
17 jury charge. All right. Ladies and gentlemen, I will  
18 recite to you or refer to you to the law of self defense.  
19 Self defense is a complete defense and the State must  
20 disprove self defense beyond a reasonable doubt. The  
21 defendant does not have to prove self defense. Rather,  
22 the State must disprove self defense. And you must -- if  
23 you do find that the State has not disproven self defense  
24 beyond a reasonable doubt, you must find the not guilty.  
25 If you have a reasonable doubt of the defendant's guilt

1 after considering all the evidence including evidence of  
2 self defense, you must find him not guilty. But if you  
3 have no reasonable doubt of the defendant's guilt after  
4 considering all evidence including evidence of self  
5 defense, you must find him guilty.

6 The following are the elements or components of  
7 self defense: First, the defendant must be without fault  
8 in bringing on the difficulty. If the defendant's conduct  
9 was the type which was reasonably calculated to and did  
10 provoke an assault, the defendant would be at fault in  
11 bringing on the difficulty and would not be entitled to a  
12 verdict of not guilty based on self defense. Another  
13 element of self defense is that the defendant was actually  
14 in imminent danger of death or seriously bodily injury or  
15 that the defendant actually believed he was in eminent  
16 danger of death or seriously bodily injury. If the  
17 defendant was actually in eminent danger, it must be that  
18 the circumstances would have warranted a person of  
19 ordinary firmness and courage to strike the fatal blow to  
20 prevent death or serious bodily injury. If the defendant  
21 believed he was in eminent danger of death or serious  
22 bodily injury, it must be shown that a reasonable doubt  
23 prudent person of ordinary firmness and courage would have  
24 had the same belief.

25 In deciding whether the defendant actually was



1 or believed he was in eminent danger of death or seriously  
2 bodily injury, you should consider all the facts and  
3 circumstances surrounding the events. The defendant does  
4 not have to have actually been in danger. It is enough  
5 if the defendant believed he was in eminent danger and  
6 that a reasonably prudent person of ordinary firmness and  
7 courage would have had the same belief.

8 The defendant has the right to act on  
9 appearances even though the defendant's beliefs may have  
10 been mistaken. It is for you to decide whether the  
11 defendant's fear of immediate danger of death or seriously  
12 bodily injury was reasonable and would have been felt by  
13 an ordinary person in the same situation.

14 The words of a victim accompanied by hostile  
15 acts may depending on the circumstances establish self  
16 defense. Evidence of prior difficulties between the  
17 defendant and the victim may be considered in deciding  
18 whether a threat existed and whether the defendant had a  
19 reason to believe that a threat existed and how serious  
20 the threat was. Threats made by the victim may be  
21 considered in determining whether the defendant actually  
22 was or believed he was in eminent danger. The  
23 intoxication of the victim may be considered in deciding  
24 whether the defendant's fear of death or bodily harm was  
25 reasonable.

1. Another element of self defense is that the  
2 defendant had no other probable way to avoid the danger of  
3 death or serious bodily injury than to act as the  
4 defendant did in this particular instance. You are to  
5 consider whether the defendant made a choice that a person  
6 of ordinary prudence in a similar position would have  
7 made. You are not to consider whether the defendant made  
8 the wisest choice or the best choice, but rather whether  
9 he made a reasonable one under the circumstances.

10 If the defendant was on his own premises, the  
11 defendant had no duty to retreat before acting in self  
12 defense. Further, a person cannot be required to make  
13 exact calculation as to the degree or amount of force  
14 which may be needed to avoid death or serious bodily  
15 injury. Therefore, in self defense, the defendant has the  
16 right to use the force needed to avoid death or seriously  
17 bodily harm. The force used does not have to be limited  
18 to the degree or amount of force used by the victim. The  
19 defendant has the right to use so much force as appeared  
20 to be necessary for complete self protection and which a  
21 person of ordinary reason and firmness would have believed  
22 to have been needed to prevent death or serious bodily  
23 injury. That does conclude the charge on self defense.  
24 If you have additional questions or want me to repeat that  
25 or any other portion of the charge, you can relay those

1 just like you have and I'll be happy to address them. And  
2 again, the law dictates and if and how I can respond to  
3 your questions. All right. Thank you.

4 (WHEREUPON, the jury retired to the jury room to  
5 continue deliberations at 2:15 p.m.)

6 THE COURT: All right. You can come up and take  
7 a look at those questions, Mr. Grove. You can show them  
8 to the defendant if you like.

9 At this time any exceptions from the State?

10 MR. OZMENT: No, Your Honor.

11 THE COURT: The defendant.

12 MR. GROVE: No, Judge, thank you.

13 THE COURT: Court's Exhibits two, three and  
14 four. We'll continue to wait. Perhaps, they'll have a  
15 question or a verdict some time this afternoon.

16 (WHEREUPON, court at ease awaiting a verdict.)

17 THE COURT: Mr. Grove, Mr. Ozment, why don't you  
18 all come up and get a copy -- I asked her to make copies  
19 of these two questions because they're a little bit  
20 involved. Question four because the other questions were  
21 one, two and three. Clarification on element one, if both  
22 parties are at fault in bringing on the difficulty, can  
23 self defense be claimed? Question five, for self defense  
24 elements do they all have to apply and then in parenthesis  
25 are they quote and close quote statements in close

1     parenthesis or does only one or some of the elements need  
2     to be met? Okay. State's input on question four?

3             MR. OZMENT: Your Honor ---

4             THE COURT: We know what the answer is, but how  
5     do you want me to ---

6             MR. OZMENT: I'm trying to think how best  
7     because obviously we read to them at this point the self  
8     defense charge twice. And they're still asking this  
9     question. And it is -- you are not -- the State's not  
10    proving a negative, but you are disproving a positive, I  
11    guess, is what you're doing if that makes sense.

12            THE COURT: Well, element number one is that the  
13    defendant cannot have been at fault in bringing on the  
14    difficulty. Contrary to Mr. Grove's interpretation of the  
15    Berkhart case in my mind if the State proves -- look at it  
16    one of two ways, if the State proves that the defendant  
17    brought on the difficulty or disproves that he did not,  
18    however you want to look at it, then self defense does not  
19    apply. I know Mr. Grove maintains that under Berkhart you  
20    have to disprove all of the elements of self defense and  
21    that cannot be possibly be the law. So how do you propose  
22    that I answer question four?

23            MR. OZMENT: Your Honor, perhaps having a  
24    general statement of the State's burden to disprove self  
25    defense beyond a reasonable doubt. And then I'm not sure

1 if this is in the current charge or any form of something  
2 to the effect. And we could be happy to take a minute and  
3 find an actual quote somewhere rather case, but something  
4 to the effect of if the State disproves self defense  
5 beyond a reasonable doubt, it cannot apply something to  
6 that effect.

7 THE COURT: Mr. Grove. You want to push forward  
8 with your Berkhart claim that they have to disprove all  
9 the elements I assume.

10 MR. GROVE: Again, Your Honor, I would obviously  
11 make note of that. Question five seems to fall right in  
12 line with my interpretation to Berkhart. Outside of that,  
13 you've charged them on the law. They have to prove self  
14 defense. They have to prove -- disprove self defense  
15 beyond a reasonable doubt. Aside from that, it becomes  
16 vicarious position to make comments on the facts of the  
17 particular case.

18 THE COURT: In my view, the answer to question  
19 four would be this see if I can walk through it in my real  
20 simple mind. The State has to disprove self defense which  
21 to me means the State has to prove that self defense does  
22 not apply. For self defense to apply, those elements have  
23 to be in existence. It use to be that you would say the  
24 following elements are required to establish self defense  
25 can't say that any more. Because that indicates burden

1     shifting to the defendant. But to go back to my  
2     progression, the State has to disprove self defense, so  
3     therefore the State has to prove it does not apply. For  
4     self defense to apply, those elements that I've charged  
5     them on have to apply. If anyone of those elements is not  
6     in existence, then the State has disproven self defense.  
7     That is a logical progression of what the law is and what  
8     the burden of proof is. However, I don't know if that's  
9     what I should tell the jury. I think what I should tell  
10    the jury is that to answer the question specifically if  
11    both parties are at fault in bringing on the difficulty  
12    can self defense be claimed. The very basic answer is no.  
13    But in this case, they've said can self defense be  
14    claimed. If I was on the jury, I would think of it the  
15    same way, but our Supreme Court has said that that's not  
16    they way you look at it. Not whether it can be claimed,  
17    but whether its been disproven. So if both parties are at  
18    fault in bringing on the difficulty, they may have  
19    necessarily concluded that the State has proven that the  
20    defendant played a part in bringing on the difficulty.  
21    I'm not going to talk them into a guilty verdict that  
22    seems to me to be where they're headed. I don't want to  
23    prompt it or push them in that way overtly or implicitly.  
24           MR. OZMENT: Your Honor, I'm just kind of  
25    talking out loud here, but I don't know if it would help

1 to take a step back. You can start your charge with the  
2 defendant in this case has claimed self defense or has put  
3 forth defense. Therefore, the burden's on the State to  
4 disprove self defense by a reasonable doubt and then  
5 essentially what you just said, but maybe -- I would have  
6 certainly no objection to taking a step back and  
7 clarifying that for them, that he has claimed it. And so  
8 therefore the burden's on the State to disprove it, that  
9 might clear up that.

10 THE COURT: Mr. Grove, anything else on that  
11 question?

12 MR. GROVE: I guess not, Your Honor. My  
13 position will be that they've been charged on the law.  
14 I'll leave it in your discretion as to a response.

15 THE COURT: Okay. Question five for self  
16 defense elements. Do they all have to apply or does only  
17 one or some of the elements need to be met? That's an  
18 easier question academically, but again how I tell the  
19 jury. In order for self defense to apply, there has to  
20 be -- all those elements must exist and the State must  
21 disprove self defense. An easy answer contrary to what  
22 you say is if the State disproves one of those, the State  
23 is disproving self defense. They kind of asked the  
24 question backwards but much clearer manner than our  
25 Supreme Court has required us to address it. I'm chasing

1 my tail. Okay, any input on question five?

2 MR. OZMENT: In some ways the same question as  
3 question four, but I think the same type language say the  
4 State must -- defendant's claim of self defense, therefore  
5 the State must disprove self defense. And in doing so, if  
6 the State has disproven any element of self defense beyond  
7 a reasonable doubt, the defendant's self defense claim is  
8 imperfect.

9 MR. GROVE: I stand on my previous objection.

10 THE COURT: Here's what I'm going to tell that,  
11 I'm going to answer question five first. I'm going to  
12 tell them that I've instructed them on the elements of  
13 self defense and that the State must disprove self  
14 defense. In order for self defense to apply, all of those  
15 elements must exist in the case. Again for self defense  
16 to be a defense, that is not say that the defendant has to  
17 prove it. The State has to disprove it. I worked my way  
18 into it in that fashion just listen carefully to my  
19 explanation. If it doesn't seem clear or if you think  
20 it's erroneous, you let me know. And I'll bring them back  
21 out and try again. All right.

22 MR. GROVE: Yes, Your Honor.

23 MR. OZMENT: That's fine with me, Your Honor.

24 MR. GROVE: Again, I maintain my objection. My  
25 other concern in the back of my mind and, I guess, this



1 isn't necessarily prudent because it's not one of their  
2 questions. There is certainly a possibility where they  
3 don't find the self defense applied, but they also don't  
4 find that a murder has been committed because the State  
5 hasn't met their burden on each of those elements. My  
6 concern one of them being if they decide that self defense  
7 does not apply, they will interpret that as a default  
8 murder conviction.

9 THE COURT: But I can't anticipate that.

10 MR. GROVE: I understand that you obviously  
11 can't address that unless it is a question. I maintain my  
12 previous objection, Your Honor. Thank you.

13 THE COURT: Okay. All right. Let me just look  
14 at it for just a moment. Anything else?

15 MR. GROVE: Is Your Honor going to recharge on  
16 bringing on the difficulty?

17 THE COURT: I'm going to -- I'm not going to  
18 recharge it except to say that you have asked if both  
19 parties are at fault in bringing on the difficulty can  
20 self defense be claimed. I'm going to tell them that, of  
21 course, another element or one of the elements of self  
22 defense is that the defendant must be without fault in  
23 bringing on the difficulty. I'm not going to recharge  
24 them on that whole paragraph, but I'm refer to that as an  
25 element because they've asked about it. So it's a

1 recharge take it however you think, but I am going to  
2 repeat that to them to put their question in context.

3 MR. GROVE: Thank you, Judge.

4 THE COURT: We ready?

5 MR. OZMENT: Yes, Your Honor.

6 THE COURT: You can bring in the jury.

7 (WHEREUPON, the jury came into open court at  
8 3:09 p.m.)

9 THE COURT: Okay. Ladies and gentlemen, I do  
10 have your last two or your next two questions. I'm going  
11 to refer to these or address these in reverse order. And  
12 perhaps it will clarify some things for you. And again,  
13 if my answers don't help you, don't hesitate to let me  
14 know. You got question five it says for self defense  
15 elements do they all have to apply. And you got in  
16 parenthesis are they and parenthesis excuse me -- in  
17 quotes statements. Then it says or does only one or some  
18 of the elements need to be met. And then question four  
19 if both parties are at fault in bringing on the  
20 difficulty, can self defense be claimed? As I mentioned  
21 to you in the charge on self defense, self defense is a  
22 complete defense. And the State must disprove it. The  
23 defendant need not prove it. For self defense to apply as  
24 I mentioned to you first of all, it must be that the  
25 defendant was without fault in bringing on the difficulty.

1 And the defendant was actually in eminent danger of death  
2 or serious bodily injury or actually believed he was. And  
3 that the defendant had no other probable way to avoid the  
4 danger of death or serious bodily injury than to act as he  
5 did. So those three things element number one and element  
6 number two and element number three in order for self  
7 defense to apply.

8 Your question as to if both parties are at fault  
9 in bringing on the difficulty, can self defense be  
10 claimed. The State in disproving self defense must prove  
11 that self defense does not apply. In order for self  
12 defense to apply, the defendant must have been with  
13 without fault in bringing on the difficulty. And the  
14 defendant was actually in eminent danger of death or  
15 serious bodily injury or reasonably believed he was or the  
16 defendant excuse me -- and the defendant had no  
17 probable -- other probable way to avoid the difficulty.  
18 Again, those three elements must be present in order for  
19 self defense to apply. And the State must disprove the  
20 defense of self defense. I believe that's the clearest  
21 way I can answer that question. And if you would please  
22 retire to your jury room. If can make it any clearer,  
23 I'll try do that, but I believe that answers your  
24 questions as clearly as I possibly can. All right.

25 (WHEREUPON, the jury retire to the jury room

1 3:13 p.m. to continue deliberations.)

2 THE COURT: Anything from the State? Any  
3 objections or additions from the State?

4 MR. OZMENT: No, Your Honor.

5 THE COURT: The defense.

6 MR. GROVE: Renew my previous objection.

7 THE COURT: I'm very tempted to answer question  
8 four with a simple no.

9 MR. OZMENT: For what it is worth from the look  
10 on the jurors faces, they appeared very confused still  
11 when they left the courtroom.

12 THE COURT: I agree. And again, it goes back  
13 Justice Pleicones' concurrence in the -- I guess, the  
14 Berkhart case. He says that instruction about the State  
15 having to disprove it is confusing and it requires the  
16 State to prove a negative or disprove a negative. It is  
17 cumbersome. I'm going to give some serious consideration  
18 if they come back with additional questions on it. If  
19 they ask question four again, I may just say the answer to  
20 that question, ladies and gentlemen, is no. Because that  
21 would presuppose they have concluded that the defendant as  
22 one to have parties was at fault in bringing on the  
23 difficulty. If the State has proven that he was, they  
24 have disproved one of the elements of self defense.  
25 Therefore, self defense can't apply.

1           MR. OZMENT: The State's position would be that  
2 would probably answer their question very accurately and  
3 clear up that confusion. We have no objection to that  
4 being given.

5           THE COURT: Anything else?

6           MR. GROVE: Not at this time, Your Honor.

7           THE COURT: You got question, you all just think  
8 about it.

9           (WHEREUPON, Court's Exhibit No. 5 was marked for  
10 the record.)

11          (WHEREUPON, court as ease awaiting a verdict.)

12          (WHEREUPON, Court's Exhibit No. 6 was marked for  
13 the record.)

14          THE COURT: You all want to take a look at this  
15 question. The question which is Court's Exhibit Number 6  
16 is please confirm the requirements for murder verdict i.e.  
17 malice aforethought. We do not need further explanation  
18 of self defense.

19          Any input from the State?

20          MR. OZMENT: Your Honor, I would just ask that  
21 you recharge the murder portion of your charge.

22          MR. GROVE: I don't see why that wouldn't be  
23 appropriate, Your Honor.

24          THE COURT: All right. What I'll do is give the  
25 charge on murder. Of course, I'll include the charge on

1 criminal intent, which is a requirement of proof as well.

2 MR. GROVE: Thank you, Your Honor.

3 THE COURT: Okay. You can bring in the jury.

4 (WHEREUPON, the jury came into open court at  
5 3:50 p.m.)

6 THE COURT: Okay. Ladies and gentlemen, I have  
7 your question, it says please confirm the requirements for  
8 murder verdict i.e. malice aforethought. Also says we do  
9 not need further explanation of self defense. What I will  
10 do is confirm or recharge to you the elements of the  
11 charge of murder, that the State must prove beyond a  
12 reasonable doubt. And I'll just start from the beginning  
13 of that charge. Of course, as you know, the defendant is  
14 charged with murder. The State must prove beyond a  
15 reasonable doubt that the defendant killed another person  
16 with malice aforethought. Malice is hatred, ill will, or  
17 hostility towards another person. It is the intentional  
18 doing of a wrongful act without just cause or excuse. And  
19 with an intent to inflict an injury or under circumstances  
20 that the law will infer an evil intent.

21 Malice aforethought does not require that malice  
22 exist for any particular time before the act is committed,  
23 but malice must exist in the mind of the defendant just  
24 before and at the time the act is committed. Therefore,  
25 there must be a combination of the previous evil intent

1 and the act itself. Malice aforethought or those two  
2 words may be expressed or inferred. These terms express  
3 and inferred do not mean different kinds of malice, but  
4 merely the manner in which malice may be proved to exist.  
5 And that is either by direct evidence or from  
6 circumstantial evidence derive from the facts and  
7 circumstances that are proved. Expressed malice can be  
8 shown when a person speaks words which express hatred or  
9 ill will for another or when the person prepared  
10 beforehand to do the act which was later accomplished.  
11 Malice may be inferred from conduct, facts and  
12 circumstances surrounding the events in question.

13 Now, further, ladies and gentlemen, one of  
14 elements of the crime of murder is the element of criminal  
15 intent. And as I mentioned to you earlier, criminal  
16 intent is an element of every crime and it is a mental  
17 State. It's a conscious wrongdoing. And it is up to you  
18 to determine what, if anything, the defendant intended to  
19 do based on circumstances shown to have existed.

20 I did you tell that criminal intent is always a  
21 matter that a jury must determine from the circumstances  
22 surrounding the situation. You can't proven intent or  
23 criminal intent to a mathematical certainty. You cannot  
24 dissect a person's brain and determine what, if anything,  
25 the defendant intended to do at any given time. So the

1 law says that criminal intent may be inferred from the  
2 circumstances shown to have existed and that is how you  
3 would make a determination as to whether or not the  
4 element requiring criminal intent has been proven to you  
5 beyond a reasonable doubt. Again, the elements of the  
6 crime of murder must be established by the State beyond a  
7 reasonable doubt. I believe that does conclude an answer  
8 to the question that you gave. And certainly if you have  
9 any additional questions, we'll certainly be happy to  
10 address those for you. Okay. Thank you.

11 (WHEREUPON, the jury retire to the jury room  
12 3:54 p.m to continue deliberations.)

13 THE COURT: Objection or additions from the  
14 State?

15 MR. OZMENT: No, Your Honor.

16 THE COURT: From the defendant?

17 MR. GROVE: No, Judge. Thank you.

18 (WHEREUPON, court at ease.)

19 THE COURT: I understand the jury has reached a  
20 verdict. Is the State ready?

21 MR. OZMENT: Yes, Your Honor.

22 THE COURT: The defendant ready?

23 MR. GROVE: Yes, Your Honor.

24 THE COURT: One instruction to everybody in the  
25 courtroom, the circumstances behind the events in question



1 and the overall scenario, I understand is extremely  
2 upsetting and understandably so. Having said that, if  
3 there is anyone in the audience who feels they are not  
4 able to remain completely silent when the verdict is read,  
5 I'll go ahead and let you leave the courtroom now. I do  
6 want any verbal or nonverbal outburst at all. And if you  
7 do -- if you feel like you can't comply with that, you can  
8 go ahead and go. I understand that the verdict is going  
9 to be very emotional and I understand that some reaction  
10 will be given but nothing verbal and nothing physical at  
11 all. All right. Anybody who feels they cannot follow  
12 that instruction you can go ahead and go now. All right.  
13 You can bring in the jury.

14 (WHEREUPON, the jury came into the courtroom at  
15 4:12 p.m. with a verdict.)

16 THE COURT: Okay. Madam forelady, I understand  
17 you have reached a verdict?

18 FOREPERSON: Yes, sir.

19 THE COURT: Is it unanimous?

20 FOREPERSON: Yes, sir.

21 THE COURT: You can hand the form to the clerk.  
22 Thank you. All right. You can publish the verdict.

23 Mr. Scott, please stand and face the jury.

24 THE CLERK: The State of South Carolina vs.  
25 Wayne A. Scott, Jr., indictment 2013-GS-21-0391. As to

1 the charge of murder, we, the jury, unanimously find the  
2 defendant guilty. As to the charge of possession of a  
3 fire arm during the commission of a violent crime, we, the  
4 jury, unanimously find the defendant guilty. I certify  
5 this to be an unanimous decision of the jury. Sign  
6 Michelle Hayes dated October 24th 2013. Members of the  
7 jury if this is your verdict, please raise your right  
8 hand?

9 (WHEREUPON, all jurors hands were raised.)

10 THE CLERK: That is every one, Judge.

11 THE COURT: All right. You can have seat, Mr.  
12 Scott.

13 Mr. Ozment, anything from the State before the  
14 jury is released?

15 MR. OZMENT: No, Your Honor.

16 THE COURT: Anything from the defendant before  
17 the jury is released?

18 MR. GROVE: No, Your Honor.

19 THE COURT: All right. Okay. Ladies and  
20 gentlemen, that does conclude your service in this case  
21 and obviously concludes your service for the week. We're  
22 going to now or in just few minutes, I'm going to discuss  
23 with the attorneys any particular motions they may have.  
24 And I'll give the defendant ten days to file those  
25 motions. We will also potentially go into the sentencing

1 (WHEREUPON, the jury was dismissed.)

2 (WHEREUPON, a bench conference was held in the  
3 presence of the jury, but out of the hearing of the  
4 jury.)

5 THE COURT: We're back on the record. The jury  
6 having returned a verdict of guilty, I'll now proceed the  
7 State's prepared to the sentencing portion of the trial.  
8 Mr. Ozment, I'll be glad to hear from you. If law  
9 enforcement desires and from anyone in Mr. Springs family,  
10 I'm not going to limit it to anyone in particular. The  
11 only thing that I will request is that if anyone has any  
12 comments to make that they make the comments to me. And  
13 if there's anything that anyone wants to say to the  
14 defendant, my preference is you direct your comments to  
15 me. Okay.

16 Anything, Mr. Ozment?

17 MR. OZMENT: Yes, Your Honor. Obviously, the  
18 jury has spoken. The State would ask that Your Honor  
19 sentence accordingly. As far as a record, Mr. Scott has a  
20 simple possession in '84, a DUI in '89, unlawful weapon  
21 in 2000, a manufacturing marijuana in 2002, a breach of  
22 peace in 2009 and a simple assault in 2012. Obviously, he  
23 would be also considered a convicted felon for federal  
24 purposes of carrying a firearm. Obviously, a firearm was  
25 involved in this case, that would concern the State

1 greatly. I do know that several members of the victim's  
2 family are here and would like to address the Court at the  
3 appropriate time. I don't think law enforcement has  
4 anything specific to say other than to say obviously they  
5 would ask that justice be served with your verdict excuse  
6 me -- with your sentence as it was with the verdict.

7 THE COURT: Okay. Who would like to talk first?  
8 I just need your name first of all and then I'll be glad  
9 to hear from you.

10 JANICE SPRINGS: My name is Janice Springs. I'm  
11 Steve Springs' wife. My life has been ripped apart because  
12 of this. Nobody will ever know the endurance that I went  
13 through. The change I've had to pick up and move. I've  
14 lost my husband, I buried him. I lost a stepson that I  
15 cared so much about. I had to tell my own grandson,  
16 Steve's step grandchild looked at me and he says, Momma,  
17 where is my Poppa Steve at. I said, Baby, I said you see  
18 that star up there. I said that's where Poppa Steve is  
19 at.

20 THE COURT: Yes, ma'am, your name.

21 KAREN CARPENTER: My name is Karen Carpenter.

22 THE COURT: Carpenter?

23 KAREN CARPENTER: Carpenter. Steven was my  
24 brother. I have mine wrote.

25 THE COURT: Yes, ma'am.

1           KAREN CARPENTER: Please bear with me. Steven  
2 Bruce Springs born August 29th 1962, stolen from us on  
3 September 24th 2012. Our family stands before you today  
4 to ask for the only thing that we can ask for and that is  
5 justice. We know you cannot give us what we truly desire  
6 or want and need is Steven's life back. Our lives were  
7 forever changed on that date and sadly it will be in our  
8 hearts and minds forever.

9           Let me recount this past year for my family. We  
10 learned of my brother's death via phone call on Monday,  
11 September 24th at 10:04 p.m. My family had to travel 350  
12 miles from Stanton, Virginia to Florence knowing minimal  
13 details about the tragedy that claimed my brother's life.  
14 Prior to burying Steven, we attended a bond hearing for  
15 Wayne Scott, the accused killer for a weapons charge on  
16 Wednesday, September 26th. That evening we had visitation  
17 at the funeral home where we had an overwhelming crowd to  
18 show up and pay respects for our lost. All night long we  
19 were blessed to hear amazing stories of what a wonderful  
20 man Steven was from family, friends and colleagues.

21           We buried Steven on Thursday, September 27th,  
22 where again the funeral many stood to share memories of  
23 Steven and all the kind deeds he had done for many people  
24 from all walks of life. These four days will never be  
25 forgotten for any of us. We have now survived our first

1 year without Steven. A year of emotions, of sadness and  
2 loneliness, anger and bitterness, pain and despair.

3 Our first holiday without Steven was  
4 Thanksgiving. There was a feeling of gloom amongst us all  
5 Each of us tiptoed around each other as we were all  
6 feeling the same pain but trying to stay strong for each  
7 other. As the night ended, we went our separate ways,  
8 tears flowed from us all. The next holiday was Christmas.  
9 This was an extremely hard holidays as this is momma's  
10 favorite time of year. Christmas Eve we did our ritual of  
11 piling into one vehicle to go look at Christmas lights.  
12 We recanted stories of our memories of Steven bringing  
13 tears and stirring up many emotions of sadness over our  
14 lost. On Christmas day, we opened gifts as usually. My  
15 daddy got my momma a locket that we put a picture of  
16 Steven in. My momma broke down as we all did. Her  
17 sadness and grief seems to be much more than ours. Before  
18 dinner that evening, we all wrote love notes. We did a  
19 ballon launch in honor of Steven. This will be the only  
20 way he can be apart of our family traditions at Christmas.  
21 Then came New Year's Eve no phone call from Steven at  
22 midnight to wish us happy new year. Again, the feelings  
23 of gloom and despair, anger and sadness with a bucket of  
24 tears ended our evening not exactly how to start out a new  
25 year.

1                   March brought another bond hearing for Wayne  
2   Scott. My family traveled again from Virginia to South  
3   Carolina with hopes of bond being denied for the accused  
4   killer. For me, it was the first panic attack I'd ever  
5   experienced. I thought my heart was going to pound out of  
6   my chest as Wayne Scott stood so smug thinking he would  
7   get out on bond. Thank God justice prevailed and he was  
8   kept behind bars. I, myself, left the courtroom feeling  
9   nauseous and like my body was going to collapse.

10                  Our next holiday was Easter, which rolled around  
11   without Steven. He missed out on our yearly dieing of egg  
12   dieing festivities and annual Easter egg hut. There were  
13   no stupid bunny jokes to laugh at this year. Once again,  
14   dinner time brought on a solemn and sober atmosphere as we  
15   missed Steven's presence.

16                  May would bring another change for our family.  
17   Adam, Steven's son, would move to Virginia to live with my  
18   parents. Keep in mind, my parent are 67 and 72. Now,  
19   raising a 19 year old. We all know times have changed and  
20   what an undertaking this is for my parents and a lifestyle  
21   stile change for Adam. Don't get me wrong, we're all  
22   grateful to have him but not at the expense of losing  
23   Steven. You see Adam has no means to incomes with the  
24   lost of Steven, the family business was closed.

25                  Life in Virginia is different and Adam is

1 starting to adjust with many changes he has experienced in  
2 the last eight months.

3 June would bring my daughter's graduation from  
4 high school. Steven made his presence known by bring a  
5 thunderstorm and a downpour of rain just hours before her  
6 party. As we dried everything off for the party, we all  
7 know Steven was just laughing from heaven at us. As much  
8 as the pain it was to clean up from the rain, it was  
9 actually a comfort to know he was watching over us.  
10 Morgan, my daughter, stated she was glad Uncle Steve could  
11 make it to the party.to.

12 Our family vacation was in July, our annual  
13 beach trip to Nags Head. The one week of every year that  
14 we spent together. We arrived on Sunday, got the call on  
15 Monday morning that the next bond hearing for Wayne Scott  
16 would be that Friday. This changed the whole tone of our  
17 vocation. We had the thoughts of the bond hearing  
18 lingering in our minds all week. And again, my parents  
19 and my brother-in-law would travel from Nags Head this  
20 time for the bond hearing.

21 Once there, they found out the bond hearing was  
22 canceled because the accused was pursuing the castle  
23 doctrine hearing would be scheduled for September. This  
24 brought total fear and anxiety to my whole family. We  
25 would walk on egg shells for two months. August th



1 Steven birthday, he would have been 51. Instead, we  
2 wished him happy first day in heaven. September 19th  
3 arrived, the day of the castle trial. A day of total  
4 heartbreak as the defense's side of the details of  
5 Steven's death were recanted. A day of tears. A day of  
6 more questions. We would leave feeling grateful that  
7 immunity was denied for the accuse.

8 This day closed with us picking up what  
9 belongings Steven's wife let us have. Steven was 51.  
10 Adam and my parents are left with two cardboard boxes of  
11 photos and small items and his guitar. It was just day of  
12 gloom for my family.

13 September 24th this marked one year of Steven  
14 Springs being gone. It was strange that at 10:10 p.m.  
15 each one of our individual families had vivid memories of  
16 what we had experienced at this time just one year prior.

17 Here we are today, my family sat through a  
18 murder trial. We have listened to testimony about Steven  
19 being shot, asking for help and being left to die. Wayne  
20 Scott intentionally killed my brother. If it wasn't  
21 intentional, he would have called 9-1-1 to try to save  
22 him. Instead, he ran like a quack coward from the scene.  
23 Steven is survived by his mother and father, a son, two  
24 sisters, a brother-in-law, two nieces and a nephew and his  
25 immediate family.

1           There is a tremendous void in all of our lives.  
2   This void affects each and every one of us each and every  
3   day. My mother and Adam had been impacted the most this  
4   void. Steven was my mother's first born. It was a  
5   special bond between Steven and my mom. I often tease my  
6   mom about Steven being the golden child, but my momma is  
7   not the same and she never will be. She was the strongest  
8   willed and determined woman I have ever known, but now she  
9   is broken.

10           This week and the week leading up this to this  
11   trial have taken such an emotional and physical toll on my  
12   momma. Her heart is in a continual broken state. She is  
13   extremely impatient and on edge all the time. Some one  
14   can mention Steven and it brings her to tears. She's an  
15   emotional train wreck.

16           I pray that this guilty verdict will bring some  
17   relief to my momma. As a child growing up, my brother use  
18   to get on my last nerve at times as brothers often do.  
19   Picking me up and poking me in the side. He had this  
20   silly habit of picking me and my sister up from floor with  
21   both of his arms wrapped around us giving us bear hugs.  
22   Sometimes this brought laughter other times annoyance. He  
23   did this even as we were adults. Steven and I were  
24   partners in crime at picking on Angie, our sister. I'm so  
25   very thankful for these memories, but I would give

1 anything to have Steven walk in this courtroom today and  
2 give me a big old bear hug.

3 As for Adam, most days you'll find him trying to  
4 hide his tears when something triggers the memory of  
5 Steven. My momma hears him crying during the night. He  
6 puts on a front like he is tough, but he is in constant  
7 struggle with this lost. He lost his father, his best  
8 friend and his mentor September a year ago. He moved away  
9 from his mother in May just trying to get a new start on  
10 life and away from the tragedy that lingers here in  
11 Florence for him. I knew normalcy is hopefully on the  
12 horizon when life settles after this trial.

13 So where we are now, still heart broken. This  
14 will be with us. We will live with this forever. Steven  
15 will be forever missed but forever loved. Still  
16 devastated, devastated at the lost of Steven. A man so  
17 full of life and live life to the moment. A life that  
18 would be taken away at the hands of Wayne Scott. Still  
19 lost, still sad, feelings I pray will ease as we put this  
20 trial behind us, still angry. How do you not hate a man  
21 who killed Steven. The man, my brother, that never met a  
22 stranger. I try to be mindful and respectful of how we  
23 were raised and how Steven would wants us to handle this  
24 situation. We have to put aside the anger and contempt we  
25 feel for Mr. Scott and try to move on and we will.

1 Snuffing out the life of a human being is a crime and just  
2 like any other crime, it has to be punished.

3 Having to make memories without our beloved  
4 Steven is a crime in and of itself. Trust me, we were  
5 punished every single day -- we are punished every single  
6 day we live without Steven. We are punished for a crime  
7 we had nothing to do with. What can be done to compensate  
8 for this incredible loss we suffer? Absolutely nothing.  
9 However, you can punish the man who committed the crime.  
10 While we feel sorry for the Scott family who has been  
11 affected by this horrendous act, he will still have  
12 conversations with his loved ones and he will still be  
13 able to see his family. Steven is lost forever. Today,  
14 my family would ask that you punish Mr. Scott for the  
15 crime he has committed. We respectfully ask that you put  
16 him behind bars for the maximum time the law will allow.  
17 We ask this on behalf of Steven, a son, a brother, and a  
18 father who was taken far too soon on September 24th 2012.

19 THE COURT: Thank you. Anyone else, Mr. Ozment?

20 MR. OZMENT: I think that's all.

21 THE COURT: Anything else from the State?

22 MR. OZMENT: Not at this time, Your Honor.

23 THE COURT: Mr. Grove.

24 MR. GROVE: Thank you, Your Honor. May I  
25 approach, Your Honor.

1 THE COURT: Yes, sir.

2 MR. GROVE: I've got with me sufficit to say a  
3 stack of letters of people who wanted to be here and  
4 weren't able to be here, that's actually those were  
5 prepared for a bond hearing sometime ago that wasn't held.  
6 I'd ask that you take a few moments and look through  
7 those. They have -- very good things to say about Sunny.  
8 It was -- before I -- I need to make sure what today's  
9 date is 396 days of credit is what I believe he's entitled  
10 to. He was obviously arrested September 24th of last  
11 year. September 23rd of this year would make 365 days.  
12 Then we've another month and a day on top of that. I'm  
13 doing that math in my head. If I can approach again, Your  
14 Honor, I've got some copies of certificates that Sunny's  
15 received while he has been in the detention center since  
16 September of last year. He hadn't been sitting there  
17 languishing over his situation. He's been trying to  
18 improve himself and put himself in the best situation he  
19 can. I certainly ask that you take note of that.

20 You've sat here, Your Honor, all week and heard  
21 this trial and you've heard the evidence and you heard the  
22 things the State has put, things the defense has put up.  
23 I'll ask my client not to speak at this point not because  
24 he doesn't have anything to say, but because I certainly  
25 intend on filing appeals. We disagreed with the verdict.

1 And we know that a record is being kept and obviously that  
2 would have consequences for him one way or the other. I  
3 haven't spoken to Gloria very much today. His wife is  
4 standing with him. She may like to address Your Honor at  
5 the appropriate time. We're looking at a mandatory  
6 minimum of 30 years. Sunny's 47 years old I believe.  
7 Thirty years is a long time. We'd ask that consider the  
8 minimum.

9 THE COURT: All right. Mrs. Scott, anything you  
10 like to say?

11 GLORIA SCOTT: I lost that day too. He work for  
12 me. I thought a lot of him. Since, this happen my  
13 grandchildren know where their granddad is. My daughter  
14 choose to tell them. They did come to church with me.  
15 One of the guys at church told me the other day my  
16 grandson had prayed in church to please just let his  
17 grandad come home. And he wrote a letter to the judge  
18 because he asked what all those letters were for. And I  
19 told him we were going to be giving them to the judge. So  
20 that he could read them and he would know how good of a  
21 person granddaddy was. And he wrote one and he wrote says  
22 Jay, please let my granddaddy come home, Judge. I didn't  
23 put in with those letters.

24 THE COURT: Thank you, ma'am.

25 Anything else, Mr. Grove?

1           MR. GROVE: I think that will be all, Your  
2 Honor.

3           THE COURT: You all can have a seat and I'll  
4 read these. I'll just stay right here and read these.  
5 You folks can stay there if you like or you can go back to  
6 your seats.

7           (WHEREUPON, a pause in the proceedings.)

8           THE COURT: Yes, sir, you can stay seated for  
9 just a moment. Before it slips my mind, I want to make  
10 sure that law enforcement officers in here will escort  
11 members of both families out separately. I don't know who  
12 all of the folks are to my right seated behind prosecutors  
13 table, but I will tell you that I certainly don't expect  
14 and nor does law enforcement expect any difficulty in  
15 these hallways or in these elevators, in the lobby or  
16 anywhere else on the courthouse property.

17           I also will tell you that in many instances  
18 after a verdict -- in this type of case whatever the  
19 verdict might be, there is sometimes some hereafter  
20 spilled out into the community. And it would do everyone  
21 very well to keep in mind that if you do fall into that  
22 situation, you will be dealt with very swiftly by the law.  
23 So just steer clear of one another. Let's everyone be  
24 calm even though you may disagree with the verdict,  
25 disagree with the sentence whatever you may disagree with.

1 You have to put it aside or there will be some hereafter  
2 on that.

3 All right. Mr. Scott, you please stand. As I  
4 mentioned earlier the case in my opinion was tried  
5 extremely well by both attorneys, very well prepared,  
6 organized and the case was put in front of the jury in a  
7 very orderly fashion. The jury had a tough job. A very  
8 tough job.

9 The claim of self defense was certainly valid or  
10 else I wouldn't have let it go to the jury. The jury did  
11 speak. The jury had several questions about self defense  
12 and they answered the question that the State had  
13 disproven that defense beyond a reasonable doubt. My  
14 sentence is what I think is appropriate under the  
15 circumstances. Nobody can say whether it is the perfect  
16 sentence nobody knows. The Lord only knows whether or not  
17 this sentence is appropriate.

18 Under the murder statute, you're facing a  
19 minimum of 30 years to a maximum life in prison. In my  
20 view, a just sentence is that you be committed to the  
21 South Carolina Department of Corrections for the balance  
22 of your natural life. Concurrently with that, you will  
23 receive a sentence of five years for possession of a  
24 weapon during the commission of a violent crime. All too  
25 often this day my guns, I guess, since guns were invented,



1 people deal out their frustrations with open end of a gun  
2 instead of talking about it like men should do. So those  
3 are the two sentences. I'll mark on sentencing sheet that  
4 he'll get credit for the time he has served. That will  
5 conclude these proceedings.

6 I will ask the deputies to confer with one  
7 another. And in my view, the two families if you will  
8 should leave the courthouse property separately. If you  
9 would in your judgment post somebody outside in the  
10 parking lot to make sure that everything peace is  
11 maintained. All right. Thank you.

12 END OF REQUESTED TRANSCRIPT  
13  
14  
15  
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18  
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21  
22  
23  
24  
25

WITNESSES

William Hester

Florence County Sheriff

E. L. Clements, III

ARREST WARRANT NUMBER

2012A2110200379

2012A2110200380

ACTION OF GRAND JURY

TRUE BILL

*Carroll Murphy*  
Foreperson of Grand Jury

Date: 3/28/13

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2013-GS-21-00391

The State of South Carolina

County of

FLORENCE

COURT OF GENERAL SESSIONS

TERM

2013

THE STATE

vs.

WAYNE ALBEON SCOTT, JR.

Indictment for

MURDER

AND

POSSESSION OF WEAPON DURING  
COMMISSION OF VIOLENT CRIME

CERTIFIED A TRUE COPY  
Clerk of Court, P & G, S  
FLORENCE COUNTY, S.C.  
*Carroll Murphy*

FILED

2013 MAR 28 PM 1:07

CONNIE REEL-SHEARIN  
CLERK OF COURT  
FLORENCE COUNTY, SC

STATE OF SOUTH CAROLINA )

INDICTMENT FOR

COUNTY OF FLORENCE )

MURDER, AND POSSESSION OF WEAPON DURING  
COMMISSION OF VIOLENT CRIME

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

**COUNT ONE- MURDER**

CDR: 0116 16-03-0010, 0020, 16-01-0060

That WAYNE ALBEON SCOTT, JR. did in Florence County on or about September 24, 2012, feloniously, willfully and with malice aforethought kill one Steve B. Springs, by means of shooting him with a rifle, and that the said Steve B. Springs did die as a proximate result thereof; in violation of Sections 16-03-0010, 0020, and 16-01-0060, S.C. Code of Laws, 1976, as amended.

**COUNT TWO-**

CDR: 0549 16-23-0490

That WAYNE ALBEON SCOTT, JR. did in Florence County on or about September 24, 2012, was in possession of a firearm, or did visibly display what appeared to be a firearm, or visibly displayed a knife, to wit: a rifle, during the commission of a violent crime, to wit: Murder; in violation of Section 16-23-0490, S.C Code of Laws, 1976, as amended.

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



E.L. Clements, III  
TWELFTH CIRCUIT SOLICITOR

NOTICE OF INTENT TO APPEAL  
THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS  
APPEAL FROM FLORENCE COUNTY

THE HONORABLE GEORGE C. JAMES, JR., PRESIDING JUDGE

NO. 2013-GS-21-00391

The State of South Carolina,

Respondent.

against

Wayne Albeon Scott, Jr.,

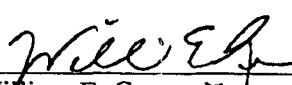
Appellant.

---

NOTICE OF INTENT TO APPEAL

---

Wayne Albeon Scott, Jr., appeals from his convictions of Murder, and Possession of a Weapon During Violent Crime and the sentences imposed on October 24, 2013 in the Court of General Sessions for Florence County, South Carolina.

  
\_\_\_\_\_  
William E. Grove  
Assistant Public Defender  
Box N, City-County Complex  
Florence, South Carolina 29501  
(843) 665-3055

Attorney for Appellant

November 1, 2013

Other Counsel of Record

Matthew R. Ozment  
Assistant Solicitor  
Twelfth Judicial Circuit  
Box Q, City-County Complex  
Florence, South Carolina 29501  
(843) 665-3091

**RECEIVED**

NOV 04 2013

**SC Court of Appeals**

STATE OF SOUTH CAROLINA ) IN THE COURT OF GENERAL SESSIONS  
 ) INDICTMENT NO.: 2013-GS-21-00391  
 COUNTY OF FLORENCE )

The State of South Carolina, )

Versus )

Wayne Albeon Scott, Jr., )

Appellant. )

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 1st of November, 2013, he caused to serve a copy of the Notice of Intent to Appeal by hand delivering a copy of same, addressed as follows:

Matthew R. Ozment, Esquire  
 Office of Solicitor  
 Box Q, City-County Complex  
 180 N. Irby Street  
 Florence, South Carolina 29501

*William E. Grove*

William E. Grove  
 Assistant Public Defender  
 Twelfth Judicial Circuit

SWORN TO and subscribed before me  
 This 1ST day of November, 2013.

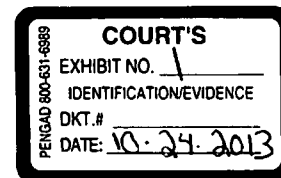
*Phemola H. James*  
 NOTARY PUBLIC IN AND FOR SC  
 My Commission Expires: 4/15/2018

RECEIVED  
 NOV 04 2013  
 SC Court of Appeals

**DEFENDANT'S REQUEST TO CHARGE #1****BURDEN OF PROVING SELF DEFENSE**

SELF-DEFENSE HAS BEEN RAISED IN THIS CASE. I CHARGE YOU THAT IN DECIDING WHETHER THE DEFENDANT IS GUILTY OR NOT GUILTY, THE STATE HAS THE BURDEN OF PROVING BEYOND A REASONABLE DOUBT THAT THE DEFENDANT DID NOT ACT IN SELF-DEFENSE. IN OTHER WORDS, IF YOU HAVE A REASONABLE DOUBT ABOUT WHETHER THE DEFENDANT WAS ACTING IN SELF DEFENSE, YOU ARE TO RESOLVE THAT DOUBT IN FAVOR OF THE DEFENDANT AND FIND HIM NOT GUILTY.

*State v. Burkhardt*, 350 S.C. 252, 565 S.E.2d 298 (2002)



**DEFENDANT'S REQUEST TO CHARGE #2****APPEARANCES TO DEFENDANT**

A DEFENDANT NEED NOT PROVE THAT HE ACTUALLY WAS IN DANGER OF LOSS OF LIFE OR SERIOUS BODILY INJURY, BUT ONLY THAT HE BELIEVED HE WAS IN IMMINENT DANGER, BECAUSE THE DEFENDANT HAS THE RIGHT TO ACT ON APPEARANCES. IF UNDER THE CIRCUMSTANCES AS THEY APPEARED TO HIM, HE BELIEVED HE WAS IN SUCH DANGER AND A REASONABLE PRUDENT MAN OF ORDINARY FIRMNESS AND COURAGE WOULD HAVE ENTERTAINED THE SAME BELIEF THEN HE HAS ACTED IN SELF-DEFENSE AND YOU SHOULD FIND HIM NOT GUILTY. IN CONSIDERING WHETHER THE DEFENDANT PROPERLY ACTED UPON APPEARANCES, YOU MAY CONSIDER WHETHER THE DECEASED HAD THREATENED EITHER THE DEFENDANT OR OTHERS DURING THE EVENING AND WHETHER THE DECEASED APPEARED TO BE UNDER THE INFLUENCE OF EITHER ALCOHOL OR DRUGS. IN THE FINAL ANALYSIS, YOU ARE NOT TO DECIDE WHETHER THE DEFENDANT MADE THE WISEST OR BEST CHOICE, BUT WHETHER HE MADE A REASONABLE CHOICE UNDER THE CIRCUMSTANCES AS THEY APPEARED TO HIM.

*State v. Jackson*, 277 S.C. 271, 87 S.E.2d 681, 684-685 (1955)

## DEFENDANT'S REQUEST TO CHARGE #3

**APPEARANCES – PERSPECTIVE OF DEFENDANT**

IN THE CONSIDERATION OF WHETHER SELF-DEFENSE IS APPLICABLE HEREIN, YOU SHOULD TRY AS NEAR AS YOU CAN TO PUT YOURSELF IN THE DEFENDANT'S SITUATION AT THE TIME OF THE SHOOTING. YOU SHOULD CONSIDER THE CIRCUMSTANCES BY WHICH HE WAS SURROUNDED, AND TAKE INTO CONSIDERATION THE PERSON WITH WHOM HE WAS DEALING AND ALL OF THE FACTS WHICH SURROUNDED HIM, AS YOU OBTAINED THE SAME FROM THE TESTIMONY, AND AS NEAR AS YOU CAN, VIEW THE SITUATION FROM THE DEFENDANT'S STANDPOINT. UNLESS THE STATE SHOWS THAT A PERSON OF ORDINARY REASON, COOLNESS AND PRUDENCE WOULD NOT HAVE ACTED AS DEFENDANT DID UNDER THE CIRCUMSTANCES THAT SURROUNDED HIM AT THE TIME OF THE SHOOTING THEN YOU SHOULD FIND THE DEFENDANT NOT GUILTY. YOU ARE NOT TO DETERMINE IF THE DEFENDANT MADE THE WISEST CHOICE POSSIBLE, BUT ONLY A REASONABLE ONE UNDER THE CIRCUMSTANCES AS HE PERCEIVED THEM.

*State v. Rash*, 182 S.C. 42, 48-49, 188 S.E. 435 (1936)



**DEFENDANT'S REQUEST TO CHARGE #3****WORDS AND HOSTILE ACTS**

I FURTHER CHARGE YOU THAT IN DETERMINING WHETHER THE DEFENDANT ACTED IN SELF DEFENSE, THAT WORDS ACCOMPANIED BY HOSTILE ACTS MAY ALONE BE SUFFICIENT TO ESTABLISH THAT THE DEFENDANT ACTED IN SELF DEFENSE.

*State v. Harvey*, 220 S.C. 506, 68 S.E.2d 409 (1951)

**DEFENDANT'S REQUEST TO CHARGE #4****BURDEN OF PROVING SELF DEFENSE**

SELF DEFENSE HAS BEEN RAISED IN THIS CASE. I CHARGE YOU THAT IN DECIDING WHETHER THE DEFENDANT IS GUILTY OR NOT GUILTY, THE STATE HAS THE BURDEN OF PROVING BEYOND A REASONABLE DOUBT THAT EACH OF THE FOUR FACTORS OF SELF DEFENSE IS NOT PRESENT IN THIS CASE. IF THE STATE HAS FAILED TO PROVE TO YOUR SATISFACTION THAT <sup>each</sup> ~~ANY ONE~~ OF THE FOUR FACTORS OF SELF DEFENSE HAVE NOT BEEN PROVEN THEN YOU ARE TO FIND THE DEFENDANT NOT GUILTY. IN OTHER WORDS, IF YOU HAVE A REASONABLE DOUBT ABOUT WHETHER THE DEFENDANT WAS ACTING IN SELF DEFENSE AS TO ANY ONE FACTOR OF SELF DEFENSE, YOU ARE TO RESOLVE THAT DOUBT IN FAVOR OF THE DEFENDANT AND FIND HIM NOT GUILTY.

*State v. Burkhardt*, 350 S.C. 252, 565 S.E.2d 298 (2002)

DEFENDANT'S REQUEST TO CHARGE #5

**DEFENDANT NOT REQUIRED TO MAKE BEST CHOICE**

IN DETERMINING IF THE STATE HAS FAILED TO NEGATE SELF DEFENSE,  
YOU ARE TO CONSIDER WHETHER THE DEFENDANT MADE A CHOICE A PERSON  
OF ORDINARY PRUDENCE PLACED IN A LIKE POSITION WOULD HAVE MADE.  
YOU ARE NOT TO CONSIDER WHETHER THE DEFENDANT MADE THE WISEST OR  
BEST CHOICE, BUT A REASONABLE ONE UNDER THE CIRCUMSTANCES.

**DEFENDANT'S REQUEST TO CHARGE #6****DUTY TO RETREAT**

WHEN A PERSON IS ON THEIR OWN PROPERTY OR PROPERTY OVER WHICH THEY HAVE CONTROL DUE TO A LEASE OR RENTAL AGREEMENT, THEN THAT PERSON HAS NO DUTY TO RETREAT FROM THAT PROPERTY.

**DEFENDANT'S REQUEST TO CHARGE #7****REPUTATION OF GOOD CHARACTER**

EVIDENCE MAY HAVE BEEN INTRODUCED OF THE DEFENDANT'S GOOD CHARACTER AND REPUTATION FOR BEING NON-VIOLENT. I CHARGE YOU THAT SUCH EVIDENCE IS ADMISSIBLE AND MAY BE CONSIDERED BY YOU IN ARRIVING AT YOUR VERDICT. I FURTHER CHARGE YOU THAT SUCH EVIDENCE ALONE IS SUFFICIENT TO ACQUIT THE DEFENDANT OF THE CHARGES.

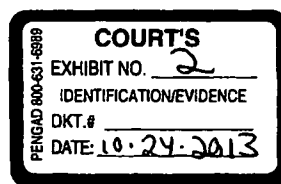
*State v. Harrison*, 343 S.C. 165, 539 S.E.2d 71 (Ct. App. 2001)

470

Can we have copies of phone logs, please?

10-24-13

13:55



Michelle Hayes

21 Can we have the self defense statute 471.

~~+2-28~~

10-24-13

13:55

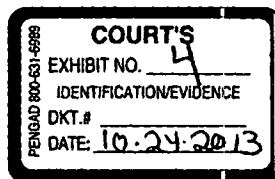
|                         |                         |
|-------------------------|-------------------------|
| PENGAD 800-631-6689     | <b>COURT'S</b>          |
|                         | EXHIBIT NO. <u>3</u>    |
|                         | IDENTIFICATION/EVIDENCE |
|                         | DKT.#                   |
| DATE: <u>10-24-2013</u> |                         |

Michelle Hays

472 Copy of Scott's statement

10-24-13

13:57



ML Hayes



Q4) Clarification on element 1

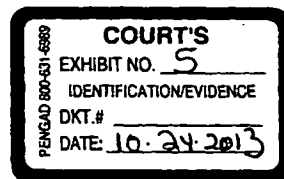
473

IF both parties are at fault in bringing on difficulty, can self defense be claimed?

Q5) For Self Defense Elements:

Do they (all) have to apply (~~are~~ they "and" statements)?

or Does only one or some of the elements need to be met.



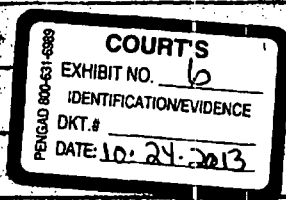
McLaurer 2:54

10-24-13

15:45

Please confirm the requirements  
for murder verdict. (e) malice, forethought...

We do not need further explanation  
of self defense.



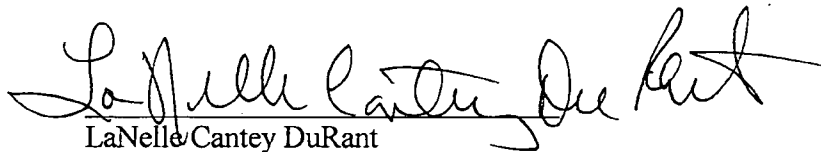
M L Hayes

3:45

## 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."

March 31<sup>st</sup>, 2015



LaNelle Cantey DuRant  
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