

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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SC Court of Appeals

APPEAL FROM FLORENCE COUNTY
General Sessions Court

William Seals, Circuit Court Judge

Case No. 2014-000849

The State,

Respondent,

v.

Deron Jardell Myers,

Appellant.

RECORD ON APPEAL

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WITNESSES

Alvin Worsley Florence County Sheriff

John C Jeperfinger

ARREST WARRANT NUMBER

2013A2110400059 2013A2110400060

2013A2110200416

ACTION OF GRAND JURY

TRUE BILL

Caroline Murphy
Foreperson of Grand Jury
Date: 8/29/13

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2013-GS-21-01167

The State of South Carolina

County of

FLORENCE

COURT OF GENERAL SESSIONS

SEPTEMBER TERM 2013

THE STATE

vs.

DERON JARDELL MYERS

Indictment for

**ATTEMPTED MURDER
(TWO COUNTS)**

AND

**POSSESSION OF A WEAPON DURING THE
COMMISSION OF A VIOLENT CRIME**

2013 AUG 29 AM 11:07
CONNIE REEL-SHEARIN
COSP & GS
FLORENCE COUNTY, SC

FILED

STATE OF SOUTH CAROLINA)
)
COUNTY OF FLORENCE)

INDICTMENT FOR
ATTEMPTED MURDER
(TWO COUNTS)
AND
POSSESSION OF A WEAPON DURING THE
COMMISSION OF A VIOLENT CRIME

At a Court of General Sessions, convened on AUGUST 29, 2013 the Grand Jurors of FLORENCE County present upon their oath:

COUNT ONE- ATTEMPTED MURDER

That DERON JARDELL MYERS did in Florence County, on or about April 7, 2013, with malice aforethought attempt to murder, Michael Taylor by shooting him in both legs with a handgun, causing great bodily injury and substantial risk of death; in violation of Section 16-03-0029, S.C. Code of Laws, 1976, as amended.

COUNT TWO- ATTEMPTED MURDER

That DERON JARDELL MYERS did in Florence County, on or about April 7, 2013, with malice aforethought attempt to murder, Brandon Markies Holmes by shooting him in the right foot with a handgun, causing great bodily injury and substantial risk of death; in violation of Section 16-03-0029, S.C. Code of Laws, 1976, as amended.

COUNT THREE - POSSESSION OF A WEAPON DURING THE
COMMISSION OF A VIOLENT CRIME

That DERON JARDELL MYERS did in Florence County, on or about April 7, 2013, possess a firearm, or visibly display what appeared to be a firearm, or visibly displayed a knife, during the commission or attempted commission of a violent crime to wit: Attempted 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

STATE OF SOUTH CAROLINA) GENERAL SESSIONS COURT
COUNTY OF FLORENCE)

STATE OF SOUTH CAROLINA)

STATE,)

v.)

TRANSCRIPT OF RECORD
13-GS-21-1167

DERON J. MYERS,)

DEFENDANT.)

April 14, 2014
Florence, South Carolina

BEFORE :

THE HONORABLE WILLIAM SEALS, JUDGE;
AND JURY

APPEARANCES:

JOHN C. JEPERTINGER, ESQ.
Assistant Solicitor

RICHARD STROBEL, ESQ.
Attorney for Defendant

FRANCES BAKIS-RAY, RPR
Circuit Court Reporter
Typed for Keshia Reed

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EXHIBITS

STATE'S:

12	No.	Description	I.D./EVD.
13	1	Photo	1/21
	2	Photo	45/45
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1 (WHEREUPON, State's Exhibit No. 1 was
2 marked for identification only.)

3 MR. JEPERTINGER: If it please the Court,
4 Your Honor, the State would call Deron Myers on
5 2013-1167, charging the accused with two counts
6 of attempted murder and one count of possession
7 of a weapon during a crime of violence.

8 THE COURT: All right, Mr. Strobel, are
9 you ready to proceed?

10 MR. STROBEL: We are.

11 THE COURT: Is your client present? Is
12 your client present here in court?

13 MR. STROBEL: No, sir, he's not present.

14 THE COURT: Did you provide him notice to
15 attend his trial?

16 MR. STROBEL: I did.

17 THE COURT: All right. Do you have a
18 letter to that effect that we could make a part
19 of the record?

20 MR. STROBEL: He was here this morning,
21 Your Honor. We all talked to him. He was in my
22 office this morning.

23 THE COURT: Then that will work. And
24 also for the record I have a copy of the bond
25 that the solicitor gave me that the defendant

1 signed where he acknowledged, specifically he
2 said: I understand I have the right to be
3 present, should I fail to attend the trial, the
4 trial will proceed in my absence. And if the
5 bailiff will go out and announce his name three
6 times to see if he answers.

7 (Pause.)

8 THE BAILIFF: He didn't answer, Your
9 Honor.

10 THE COURT: All right. For the record I
11 find, hereby find the defendant in this case had
12 notice to be present at trial and was warned that
13 he would be tried in his absence should he fail
14 to attend. Furthermore, the Court hereby finds
15 that the defendant is absent from court even
16 though he was given the notices that we would go
17 forward without him.

18 All right, members of the jury panel,
19 we're getting ready to draw a jury for a
20 particular case; and I need you to remember that
21 you are under oath and if any of these questions
22 apply to you I need for you to respond. The
23 first case that we're trying is a case where the
24 State of South Carolina alleges that a Deron
25 Jardel Myers did in Florence County on or about

1 April 7, 2013, with malice aforethought to murder
2 Michael Taylor by shooting him. The State also
3 alleges that Deron Myers did in Florence County
4 on or about April 7, 2013, with malice
5 aforethought attempt to murder Brandon Holmes and
6 that Deron Jardel Myers did in Florence County on
7 or about April 7, 2013, possess a firearm or
8 display what appeared to be a firearm during the
9 commission or attempted commission of a violent
10 crime. Therefore, the defendant has simply been
11 charged with attempted murder two counts and one
12 count of possession of a weapon during the
13 commission of a violent crime. Now, in this
14 regard has any member of the jury panel heard
15 anything about this case, talked to anybody about
16 this case, read anything about this case, if you
17 have any knowledge, no matter how insignificant
18 you think it is, about this case please stand.

19 (There was no response.)

20 THE COURT: All right, for the record no
21 one stood. Would the victims -- is a Michael
22 Taylor in the courtroom?

23 MR. JEPERTINGER: Yes.

24 If you could please stand, face the jury.

25 THE COURT: You may be seated. Would you

1 turn and face the jury panel. All right. You
2 may be seated.

3 All right. And Mr. Brandon Holmes, would
4 you stand, turn and face the jury panel please.
5 All right, you may be seated.

6 Is any member of the jury panel related
7 by blood or marriage or has a close, personal, or
8 social relationship with either of these
9 individuals, if so please stand? If you would,
10 come on up here please, sir.

11 (Prospective juror approached the Bench for
12 an on-the-record discussion.)

13 PROSPECTIVE JUROR: Thomas McDowell, 101.

14 THE COURT: All right, and how do you
15 know Mr. Michael Taylor?

16 PROSPECTIVE JUROR: Mr. Taylor's father
17 and I are real good friends, and I be over at his
18 house all the time. And like I say, I been
19 knowing him ever since high school.

20 THE COURT: And that's regarding Michael
21 Taylor?

22 PROSPECTIVE JUROR: Yes.

23 THE COURT: Taking that into account if
24 you were selected to serve on the jury in this
25 case could you be fair and impartial not only to

1 Defense but the State as well?

2 PROSPECTIVE JUROR: Yes.

3 THE COURT: Would you be fair and
4 impartial to both sides?

5 PROSPECTIVE JUROR: Yes, sir.

6 THE COURT: Thank you. If you'll just
7 have a seat.

8 (End of Bench discussion.)

9 THE COURT: And the defendant in this case
10 is a Mr. Deron Jardel Myers. In that regard is
11 any member of the jury panel related by blood or
12 marriage or has a close, personal, or social
13 relationship with the defendant in this case, if
14 so please stand?

15 (There was no response.)

16 THE COURT: All right. Good, no one
17 stood. Solicitor, if you can stand, introduce
18 yourself and any members of your staff.

19 MR. JEPERTINGER: My name is John
20 Jepertinger, I'm the deputy solicitor of the
21 Twelfth Judicial Circuit. That means I prosecute
22 cases both in Florence and in Marion across the
23 river. Sitting with me is my -- I call my second
24 boss -- this is my assistant Donna Knight.

25 THE COURT: Is any member of the jury

1 panel related by blood or marriage or has a
2 close, personal or social relationship with the
3 solicitor, if so please stand?

4 Your name and your number please, sir.

5 PROSPECTIVE JUROR: Number 36, Robert
6 Crawford (ph).

7 THE COURT: How does that apply to you?

8 PROSPECTIVE JUROR: Friends through
9 church.

10 THE COURT: Taking that into account, if
11 you were selected to serve could you be fair and
12 impartial not only to the State but to the
13 Defense as well?

14 PROSPECTIVE JUROR: I think I could.

15 THE COURT: I need to know yes or no.

16 PROSPECTIVE JUROR: Yes, sir.

17 THE COURT: Would you be fair and
18 impartial to both sides?

19 PROSPECTIVE JUROR: I will.

20 THE COURT: Thank you. You may be
21 seated. Anybody else?

22 (There was no response.)

23 THE COURT: All right, Mr. Strobel, if
24 you'd stand and introduce yourself.

25 MR. STROBEL: I'm Richard Strobel and

1 I've been practicing law here in Florence for 45
2 years.

3 THE COURT: All right. Is any member of
4 the jury panel related by blood or marriage or
5 has a close, personal, or social relationship
6 with Mr. Strobel or has been represented by him
7 at any point, if so please stand?

8 (There was no response.)

9 THE COURT: For the record no one stood.
10 The witnesses in this case will be a Mr. Keith
11 Worsley, Brian Proffitt, Jay Watson, William
12 Odom, Dave Merritt, Chris Owens, Andrew
13 Clendenin, all of those are with the Florence
14 County Sheriff's Office. Also there will be a
15 Mr. Michael Taylor, Brandon Holmes, Jerode
16 McFadden, and Eric Taylor.

17 Thank you. You may be seated.

18 In this regard, is any member related by
19 blood or marriage or close, personal, or social
20 relationship with any of these witnesses, if so
21 please stand?

22 Your name?

23 PROSPECTIVE JUROR: Regina Graham, 62. I
24 think I worked with Chris' wife for about five
25 years. him being *in high school.

1 THE COURT: All right, taking that into
2 account could you be fair and impartial not only
3 to the State but the Defense as well?

4 PROSPECTIVE JUROR: Yes.

5 THE COURT: Would you be fair and
6 impartial to both sides?

7 PROSPECTIVE JUROR: Yes.

8 THE COURT: Thank you. Anybody else?

9 (There was no response.)

10 THE COURT: All right, no one else stood.
11 Is any member of the jury panel related by blood
12 or marriage to any law enforcement officer, if so
13 please stand?

14 All right, your name and your number.

15 PROSPECTIVE JUROR: Ronnie Fulton, Juror
16 54.

17 THE COURT: All right. And how does that
18 apply to you?

19 PROSPECTIVE JUROR: My father, he's a
20 deputy sheriff for Florence County.

21 THE COURT: Well, taking that into
22 account, if you were selected to serve as a juror
23 in this case could you be fair and impartial not
24 only to the State, but the Defense as well?

25 PROSPECTIVE JUROR: Yes, sir.

1 THE COURT: Would you be fair and
2 impartial to both sides?

3 PROSPECTIVE JUROR: Yes, sir.

4 THE COURT: Thank you. Anybody else?

5 (There was no response.)

6 THE COURT: Is any member of the jury
7 panel aware of any bias or prejudice for or
8 against the State of South Carolina in this case,
9 if so please stand?

10 (There was no response.)

11 THE COURT: All right, no one stood. Has
12 any member of the jury panel formed an opinion as
13 to the guilt or innocence of the defendant in
14 this case, Mr. Deron Jardel Myers, if so please
15 stand?

16 (There was no response.)

17 THE COURT: All right, no one stood. Is
18 there any member jury panel who is member of
19 contributor of or any group which has as its
20 primary concern the promotion of law enforcement
21 or victim rights. These groups would include,
22 certainly not limited to MADD, SADD or CAVE,
23 Citizens Against Violent Crimes, if so, please
24 stand?

25 (There was no response.)

1 THE COURT: All right, no one stood. Has
2 any member of the jury panel or any member of
3 your immediate family ever been involved in a
4 crime of personal violence? This could be
5 including, but not limited to, criminal sexual
6 conduct, assault and battery of a high and
7 aggravated nature, assault and battery with
8 intent to kill, murder, manslaughter, kidnapping,
9 armed robbery, etc., etc. Now if you or any
10 member of your immediate family have ever been a
11 victim or a defendant in a crime such as these
12 just mentioned or anything similar to these
13 please stand? Come on up.

14 (Prospective juror approached the Bench for
15 an on-the-record discussion.)

16 THE COURT: All right, come on up. One
17 more time for the record, your name and your
18 number.

19 PROSPECTIVE JUROR: Thomas McDowell, 101.

20 THE COURT: How does that apply to you?

21 PROSPECTIVE JUROR: In '87 I had a
22 restraining order on a guy, and we got into it
23 and I shot him.

24 THE COURT: Did you get charged with
25 anything?

1 PROSPECTIVE JUROR: No, sir, he was
2 habitual offender and a troublemaker; and like I
3 said, I had a restraining order on him.

4 THE COURT: I understand. Taking that
5 into account, if you were selected to serve on
6 the jury in this case could you be fair and
7 impartial not only to the State, but the Defense
8 as well?

9 PROSPECTIVE JUROR: Yes, sir.

10 THE COURT: Would you be fair and
11 impartial to both sides?

12 PROSPECTIVE JUROR: Yes, sir.

13 THE COURT: Good. Thank you. I
14 appreciate you coming forward.

15 (End of Bench discussion.)

16 (Prospective juror approached the Bench
17 for an on-the-record discussion.)

18 THE COURT: What's your name and number?

19 PROSPECTIVE JUROR: Number 110.

20 THE COURT: 110. All right.

21 PROSPECTIVE JUROR: I was a victim of CDV
22 high and aggravated nature.

23 THE COURT: Taking that into account, if
24 you were selected to serve on a jury could you be
25 fair and impartial, not only to the State but the

1 Defense as well?

2 PROSPECTIVE JUROR: Yes, sir.

3 THE COURT: Would you be fair and
4 impartial to both sides?

5 PROSPECTIVE JUROR: Yes, sir.

6 THE COURT: Thank you.

7 (End of Bench discussion.)

8 (Prospective juror approached the Bench
9 for an on-the-record discussion.)

10 THE COURT: Give me your name and your
11 number.

12 PROSPECTIVE JUROR: Isaiah Brown, number
13 17.

14 THE COURT: 17. And how does that
15 question apply?

16 PROSPECTIVE JUROR: I have a stepson. I
17 think he was a victim of armed robbery.

18 THE COURT: Taking this into account, if
19 you were selected on the jury in this case could
20 you be fair and impartial not only to the State,
21 but the Defense as well?

22 PROSPECTIVE JUROR: Yes, sir.

23 THE COURT: Would you be fair and
24 impartial to both sides?

25 PROSPECTIVE JUROR: Yes.

1 MR. JEPERTINGER: Said he was a victim of
2 armed robbery?

3 PROSPECTIVE JUROR: Yes, sir.

4 THE COURT: Stepson. Thank you.

5 (End of Bench discussion.)

6 (Prospective juror approached the Bench
7 for an on-the-record discussion.)

8 THE COURT: All right, Miss Nettles.

9 PROSPECTIVE JUROR: 111, Sara Nettles. My
10 brother Wade, he was tried but not convicted of
11 murder, probably about ten years ago.

12 THE COURT: All right. Taking that into
13 account, if you were selected to serve on the
14 jury in this case could you be fair and impartial
15 not only to the State, but the Defense as well?

16 PROSPECTIVE JUROR: Yes, sir.

17 THE COURT: Would you be fair and
18 impartial to both sides?

19 PROSPECTIVE JUROR: Yes.

20 THE COURT: Thank you. You may have a
21 seat.

22 (End of Bench discussion.)

23 MR. JEPERTINGER: Your Honor, while we're
24 up here, it's my understanding it's only five and
25 five; is that correct?

1 THE COURT: Five and five.

2 MR. JEPERTINGER: I think it's five and
3 five because even under the old law assault and
4 battery with intent to kill can only get five.

5 (Prospective juror approached the Bench
6 for an on-the-record discussion.)

7 THE COURT: Go ahead and give me your
8 name.

9 PROSPECTIVE JUROR: 105.

10 THE COURT: All right, Dianne Middleton.
11 How does that question apply to you?

12 PROSPECTIVE JUROR: My nephew is doing
13 time for robbery.

14 THE COURT: Your nephew is doing time for
15 robbery? Is that what you said?

16 PROSPECTIVE JUROR: Uh-huh.

17 THE COURT: All right. Well, taking that
18 into account, if you were selected to serve on
19 the jury in this case could you be fair and
20 impartial not only to the State, but the Defense
21 as well?

22 PROSPECTIVE JUROR: Yes, sir.

23 THE COURT: Would you be fair and
24 impartial to both sides?

25 PROSPECTIVE JUROR: Yes, sir.

1 THE COURT: Thank you.

2 (End of Bench discussion.)

3 THE COURT: Is there any member of the
4 jury panel who knows of any reason whatsoever why
5 they could not give the parties in this case a
6 fair and impartial trial, if so, please stand.

7 (There was no response.)

8 THE COURT: No one stood. Has any member
9 of the jury panel or any member of your family
10 ever been prosecuted by this Solicitor or any
11 member of the Solicitor's office regardless of
12 whether the case was dismissed or not, if so,
13 please stand?

14 (There was no response.)

15 THE COURT: All right, no one stood.
16 Anything further from the State?

17 MR. JEPERTINGER: No, sir.

18 THE COURT: Anything further from the
19 Defense?

20 MR. STROBEL: No, sir.

21 THE COURT: All right. I'll find the
22 jury panel qualified for this case.

23 All right, Ms. Clerk, if we'll have a
24 jury of twelve and one alternate.

25 THE CLERK: Members of the jury, as I

1 call your name, if you will, come to the side
2 railing. Come to the microphone and face the
3 back of the courtroom.

4 40, Quentin Daniels (black male.) What
5 say the State?

6 MR. JEPERTINGER: Please present the
7 juror.

8 THE CLERK: What say Defendant?

9 MR. STROBEL: Swear the juror.

10 THE CLERK: Please have a seat in the
11 jury box, sir, right over there.

12 81, Teresa Jones (black female).

13 THE CLERK: What say the State?

14 MR. JEPERTINGER: Please present the
15 juror.

16 THE CLERK: What say Defendant?

17 MR. STROBEL: Swear the juror.

18 THE CLERK: Please have a seat in the
19 jury box, ma'am.

20 66, Jakita Harrison (black female). What
21 say
22 the State?

23 MR. JEPERTINGER: Please present the
24 juror.

25 THE CLERK: What say Defendant?

1 MR. STROBEL: Swear the juror.

2 THE CLERK: Please have a seat in the
3 jury box.

4 91, Amber Lee (white female). What say the
5 State?

6 MR. JEPERTINGER: Please present the
7 juror.

8 THE CLERK: What say Defendant?

9 MR. STROBEL: Swear the juror.

10 THE CLERK: Please have a seat in the
11 jury box.

12 125, Clara Robinson (white female).

13 THE CLERK: What say the State?

14 MR. JEPERTINGER: Please present the
15 juror.

16 THE CLERK: What say Defendant?

17 MR. STROBEL: Swear the juror.

18 THE CLERK: Please have a seat in the
19 jury box.

20 54, Rodney Fulton (black male). What say
21 the State?

22 MR. JEPERTINGER: Please present the
23 juror.

24 THE CLERK: What say Defendant?

25 MR. STROBEL: Swear the juror.

1 THE CLERK: Please have a seat in the
2 jury box.

3 61, Kathy Graham (white female). What say
4 the State?

5 MR. JEPERTINGER: Please present the
6 juror.

7 THE CLERK: What say Defendant?

8 MR. STROBEL: Swear the juror.

9 THE CLERK: Please have a seat in the
10 jury box.

11 109, James Myers (black male). What say
12 the State?

13 MR. JEPERTINGER: Beg the Court's
14 indulgence one second. Please present the juror.

15 THE CLERK: What say Defendant?

16 MR. STROBEL: Swear the juror.

17 THE CLERK: Please have a seat in the
18 jury box.

19 95, Miche Manogue-Gilbertson (white
20 female). What say the State?

21 MR. JEPERTINGER: Please present the
22 juror.

23 THE CLERK: What say Defendant?

24 MR. STROBEL: Swear the juror.

25 THE CLERK: Please have a seat in the

1 jury box.
2 123, Jennifer Riddle (white female).
3 What say the State?
4 MR. JEPERTINGER: Please present the
5 juror.
6 THE CLERK: What say Defendant?
7 MR. STROBEL: Swear the juror.
8 THE CLERK: Please have a seat in the
9 jury box.
10 101, Thomas McDowell, (black male).
11 THE CLERK: What say the State?
12 MR. JEPERTINGER: Please present the
13 juror.
14 THE CLERK: What say Defendant?
15 MR. STROBEL: Excuse the juror.
16 THE CLERK: You've been excused from this
17 trial only. You may return to your seat. You
18 can have a seat.
19 70, Tristan Hilliard (white male). What
20 say the State?
21 MR. JEPERTINGER: Please present the
22 juror.
23 THE CLERK: What say Defendant?
24 MR. STROBEL: Swear the juror.
25 THE CLERK: Please have a seat in the

1 jury box.

2 72, Viola Hough (black female). What say
3 the State?

4 MR. JEPERTINGER: We'd excuse her for
5 purposes of this trial only, Your Honor.

6 THE CLERK: You've been excused from this
7 trial only. You may return to your seat.

8 146, Victor Washington (black male).
9 What say the State?

10 MR. JEPERTINGER: We'd excuse this juror
11 for purposes of this only.

12 THE CLERK: You may return to your seat.

13 110, Kirsten Nelson (black female). What
14 say the State?

15 MR. JEPERTINGER: Please present the
16 juror.

17 THE CLERK: What say Defendant?

18 MR. STROBEL: Swear the juror.

19 THE CLERK: Please have a seat in the
20 jury box.

21 5, Yeadon Avant (white male). What say
22 the State?

23 MR. JEPERTINGER: Please present the
24 juror.

25 THE CLERK: What say Defendant?

1 MR. STROBEL: Swear the juror.

2 THE CLERK: Please have a seat in the
3 jury box.

4 THE COURT: Any objections to the jury or
5 the process from which they were drawn, from the
6 State?

7 MR. JEPERTINGER: Not from the State,
8 Your Honor.

9 THE COURT: What says the Defense?

10 MR. STROBEL: Nothing.

11 THE COURT: Is there anything we need to
12 take up?

13 MR. STROBEL: No.

14 MR. JEPERTINGER: No, Your Honor. I
15 would put on the record that State's Exhibit 1 is
16 in evidence without objection.

17 THE COURT: Is that correct from Defense?

18 MR. STROBEL: That's correct.

19 MR. JEPERTINGER: It is an aerial photo
20 of the crime scene.

21 THE COURT: State's Number 1 in evidence
22 without objection.

23 (WHEREUPON, State's Exhibit No. 1 was
24 admitted into evidence.)

25 THE COURT: Ms. Riddle, I'm gonna make

1 you the forelady of the jury. If you would, come
2 over here and take this first front seat, and if
3 you would switch with her.

4 All right, Ms. Clerk, if you will swear the
5 jury.

6 THE CLERK: Members of the jury, if you
7 will stand and raise your right hand.

8 (WHEREUPON, jury is sworn.)

9 THE COURT: Okay. Members of the jury,
10 we're getting ready to start this case; but
11 before we do, I want to go over a few things with
12 you in advance. The first thing I want to tell
13 you is that the State of South Carolina has the
14 burden of proof. They have to prove the
15 defendant guilty beyond a reasonable doubt. At
16 the end of this trial I will explain that to you
17 in much greater detail. Furthermore, I want to
18 explain to you what your role is and what my role
19 is and how they differ. You, the jury, are the
20 judge of the facts. You determine what the facts
21 of this case are -- not me, not my clerk, nobody
22 in the audience, not the court reporter, just
23 you. You ask yourselves, how do I do that? You
24 do that simply by looking at the evidence.

1 Evidence is made up of two things. It's made up
2 of the witnesses that come over here. They take
3 this stand right here. They're sworn in and they
4 testify. In that regard, you listen to the
5 witness. You judge their credibility. You judge
6 their believability. And I want you to
7 understand, you just use your common sense in
8 that regard and that you have the right and the
9 power to believe everything a witness tells you,
10 nothing a witness tells you, part of what a
11 witness tells you. You can believe one witness
12 against many or many against one. That's your
13 job. Furthermore, evidence is made up any
14 documents admitted into record as evidence.
15 That could be photographs. That could be weapons.
16 That could be posters like you see right down
17 here in front of me. You will look at those
18 things, documents submitted into the record, and
19 you will decide what the fact of this case are.

20 Now, in turn, I am the judge of the law.
21 I'm here to give the parties a fair trial, and
22 I'm here to instruct you on the law applicable to
23 this case, and I will do that in great detail at
24 the end of this trial. And in that regard, I
25 want you to understand that you have to accept

1 the law as I give it to you. If you have any
2 pre-conceived ideas as to what the law is or what
3 the law ought to be and it does not agree with
4 what I tell you the law is, you have to abandon
5 those preconceptions and accept the law as I give
6 it to you. And then, and only when I tell you to
7 begin your deliberations, you'll take your
8 findings of fact, you'll take the law as I give
9 it to you, put the two together and make a
10 decision therefrom.

11 Furthermore, I want you to understand
12 that at no point in time are you to start
13 discussing this case until I tell you to, and
14 that will be at the very, very end. The reason I
15 tell you that is because you need to hear
16 everything. You need to hear from the witnesses
17 and you need to hear from me before you start
18 deliberating. If you do any time prior to that
19 it would be premature because you do not have
20 everything you need to start making a decision.
21 So if you take a break, if you go back to the
22 jury room, don't talk about the trial until I
23 tell you to. Well, you ask yourselves, what can
24 I talk about? Talk about sports, talk about the
25 weather, introduce yourselves, anything else but

1 not this trial. Furthermore, if we take a break
2 for lunch or we're not done by the end of today
3 and you leave the courthouse, do not discuss the
4 case with anybody else. Furthermore, do not get
5 on the computer, do not google anybody's names,
6 do not look it up, do not investigate the case
7 in any form or fashion. It's very important that
8 you get everything you need right here in this
9 courthouse according to our laws, okay.

10 Furthermore, at any point in time if you
11 need a break or something comes up, just try to
12 wave your finger at me and I'll try to take a
13 break and make sure you're taken care of. Right
14 now I want you to just sit back, I want you to
15 relax, and I want you to pay attention to the
16 lawyers as they give their opening statements.

17 And I'll recognize the State for your
18 opening statement.

19 MR. JEPERTINGER: Good morning, ladies
20 and gentlemen of the jury. Once again, my name
21 is John Jepertinger. Yesterday -- actually this
22 weekend they had a big race over in Darlington.
23 And yesterday I went home from church and I
24 looked up in the sky and I saw a blimp, and you
25 don't see too many blimps. It just kind of stuck

1 out in my mind. And I began talking to a fellow
2 in the church parking lot, and we began
3 reminiscing about the famous Zeppelin, the
4 Hindenburg which happened to explode in 1937 in
5 Lakehurst, New Jersey and per, and I saw old film
6 reels of that occurrence, because a famous
7 reporter just screamed out, oh, the humanity and
8 the thing, whole thing was unexpected, unwanted,
9 and undeserved for the poor souls that lost their
10 lives back in May of 1937. Now, we're not
11 talking something as monumental as an explosion
12 and multiple loss of life. But for Michael
13 Taylor back during -- and Michael Taylor is the
14 gentlemen back in the checkered shirt. Back on
15 April 7th, 2013, he had something happen to him
16 that was unwanted, unexpected, and undeserved.
17 Let's go back to April 6. April 6, about ten in
18 the evening Michael gets a phone call from Eric
19 Taylor, the gentleman sitting right next to him
20 kind of in that gray shirt. Eric is going to be
21 the D.J. at a club in Coward called the Down Beat
22 Club. Eric and Michael are friends. He says,
23 why don't you come out, come out. He says, okay,
24 I think I will. Michael is holding a job; he has
25 a family. Told his wife, fiancée, that, look, I'm

1 gonna go to this club but I'll be back. He went
2 down C.W. Robinson Road to the intersection of
3 Karisma Road to the Down Beat Club, and I'll show
4 you exactly where it is. It's just a little
5 country club. Here's west C.W. Robinson Road
6 here. There's Karisma Road. And here's the club
7 right at the intersection. He got there probably
8 12, 12:15, the morning of April the 7th.
9 Michael, what'd you do at the club? Well,
10 surprisingly I had a few beers to drink, listen
11 to music, chilled with my friends, talk to them,
12 shot a little pool, got out on the dance floor,
13 danced a little bit. Did your fiance know about
14 it? No, she didn't know about that. Did you
15 have any fights with anybody? Didn't have words
16 with a soul. It was all chill; it was all good.
17 No problems. Drove up there in my vehicle not
18 expecting anything to happen. How long were you
19 there? About three hours. Were you drunk?
20 Nope, going home to my family. I get out in that
21 parking lot, Mr. Jepertinger, there's a fight
22 going on out in the parking lot; I'm not even
23 involved with it. They're going after each
24 other. The next thing I see is I see someone I
25 know, a female, square off with another woman in

1 that parking lot. I know one of those girls. I
2 walked over to her to grab her to say, come on,
3 get in your car and get out of here, it isn't
4 worth it. She was a friend. The next thing I
5 know it's a melee. I get knocked to the ground.
6 She gets knocked to the ground. There are people
7 on top of each other. I find myself struggling
8 with this guy on the ground. Now, mind you, I
9 just went to the club to have a good time. I
10 wasn't armed; I didn't have a knife. I didn't
11 have a chain. None of that. Eric comes out
12 there and tries to help me after he gets done
13 with his cleaning up after being a D.J. at the
14 club and he comes out and sees what's going on.
15 Separates his friend. Security guard comes out
16 who was working on the inside of the club, tells
17 everybody, go. I think it's over. Little did I
18 know at that point trouble was just waiting for
19 me and I didn't see it. I'm walking to my car.
20 Hey, yo. And who says, hey, yo to me? It's the
21 person identified initially to the officers when
22 they come see me in the hospital as Harry Myer's
23 cousin who Eric knew personally by name because
24 his girlfriend and Deron Myers' girlfriend are
25 very close. You'll hear about that relationship.

1 Knew exactly who it was. And what happened
2 after, hey, yo? The gun comes out and the
3 shooting begins. What I try to do, I try to run
4 but I get hit in the legs, and he keeps on
5 shooting and shooting and shooting. Brandon
6 Holmes comes, he's running and trying to help
7 Michael Taylor. He gets hit.

8 Now if you're looking for the blood and
9 guts and the gore of this case of life
10 threatening illnesses and shootings and getting
11 shot in the chest and the lungs and the liver, we
12 ain't got that here. These guys got shot in the
13 leg and the foot; but it's not the severity of
14 the injury that you're going to hear about in
15 this case. It is the shooting and shooting of
16 the gun which these four individuals either saw
17 or heard, including young Jerode here who has his
18 arms crossed, who kept seeing Deron Myers shoot
19 and shoot and shoot until the gun, the magazine,
20 held no more bullets and it went click, click,
21 click. And you'll hear from Eric Taylor, the
22 gentleman who's in the gray shirt saying when I
23 started hearing the gunshots I turned and I saw
24 Deron Myers run from the scene and jump into the
25 white Expedition and got the heck out of there.

1 This case is about two counts of
2 attempted murder, not severity of injuries, but
3 intent of malice in the heart of Mr. Strobel's
4 client Deron Myers. Just like that Zeppelin
5 exploding, it was unanticipated, unwanted, and
6 unexpected. Now, there is no common sense in why
7 people shoot one another, but in this case you
8 will hear the witnesses testify to what they saw
9 and what they heard and what they experienced.
10 And what the State will ask from you at the end
11 after the evidence comes in, is for you to give a
12 measure of common sense to what happened back on
13 April 7th, 2013, and to return a verdict of
14 guilty against one Deron Myers with the crimes he
15 committed on that day here in Florence County.
16 Thank you.

17 THE COURT: Mr. Strobel, if you'd like to
18 give an opening statement.

19 MR. STROBEL: May it please the Court.

20 THE COURT: Yes, sir.

21 MR. STROBEL: John Jepertinger, Madam
22 Forelady, ladies and gentlemen of the jury. Long
23 ago I, when I was a teenager I used to watch
24 movies on TV and that was the closest I ever got
25 to a courtroom or a jury trial is what I saw.

1 And in a lot of these pictures the verdict was
2 not guilty and the family would be out on the
3 steps of the courthouse and say, I know you
4 didn't do it, and be hugging them, everybody,
5 celebration. I didn't understand a lot longer
6 from that, and it's all wrong. That don't * not
7 guilty is not a verdict of innocence. Everything
8 you will hear comes from this table. They will
9 present all the evidence, all the testimony. You
10 are to consider the testimony that you hear from
11 this table, this chair. And it is not only the
12 evidence that you hear, but also the lack of
13 evidence that may give you a concern. As you're
14 walking along there may be a little skip in your
15 beat. That skip could be not only from what you
16 heard, but what you haven't heard. It's
17 important that you understand that you are not to
18 look at this table. He doesn't have to testify.
19 He doesn't have to bring forth any witnesses. He
20 doesn't have to cross-examine any witnesses
21 that's produced by this table, total silence,
22 because he does not have to prove he's innocent.
23 The burden of proof is solely upon the State to
24 say that he is guilty. And if they haven't
25 reached that point in what you heard or there is

1 concern with what you heard or the lack of
2 evidence or the evidence that you did hear was
3 not convincing to you to the point that you can
4 make a decision beyond a reasonable doubt, but
5 you'll never look at this table. I will be there
6 by myself probably. I don't have to say
7 anything. The burden is totally on the State.
8 He's either guilty or not guilty. There is no
9 verdict of innocent. Thank you.

10 THE COURT: Mr. Jepertinger, if you will
11 call your first witness.

12 MR. JEPERTINGER: We would call Michael
13 Taylor to the stand.

14 THE CLERK: If you will, sir, place your
15 left hand on the Bible, raise your right hand.
16 WHEREUPON,

17 MICHAEL D'ANGELO TAYLOR,
18 having been first duly sworn, testified as
19 follows:

20 THE CLERK: Please be seated right there
21 in the witness chair and state your full name for
22 the record.

23 THE WITNESS: Michael D'Angelo Taylor.

24 DIRECT EXAMINATION

25 BY MR. JEPERTINGER:

1 Q Okay. Mr. Taylor, I'm just gonna ask you to
2 keep your voice up so all the ladies and
3 gentlemen can hear you please.
4 A Okay.
5 Q. Where do you live, sir?
6 A. 2769 McKenzie Lane, Scranton, 29591.
7 Q Okay. Are you married or single or what's
8 the situation there?
9 A I'm engaged.
10 Q All right. Do you have any children?
11 A I got a six year old and one on the way.
12 Q And the six year old a boy or girl?
13 A A boy. He is a six year old boy.
14 Q Okay. Prior to April 7th, 2013, the day
15 that you got injured where were you working?
16 A Carter Manufacturing in Lake City.
17 Q What did you do?
18 A We make crates and pallets for farmers.
19 Q How long you work for Carter Manufacturing?
20 A About two-and-a-half years.
21 Q All right. Since you were shot have you
22 worked at Carter Manufacturing?
23 A No, sir, I haven't anywhere worked because I
24 couldn't stand, like, stand on my leg since I got
25 shot. My legs give out so.

1 Q All right. I want to take you back to April
2 the 6th, 2013. Where were you?

3 A On the 6th?

4 Q On the 6th, the day -- the evening before
5 you got shot?

6 A Okay. I was at home with my fiance with my
7 six year old. We was watching TV. About 10:30,
8 10:40 I got a call from my cousin Eric Taylor
9 that he was having a party at Down Beat in
10 Coward.

11 Q All right. And did you know where the Down
12 Beat Club was?

13 A Yes, sir, I have been there before.

14 Q And what was Eric Taylor's purpose on
15 calling, what was he gonna do?

16 A His purpose was he was the D.J. and he
17 wanted me to come. It was a party going on, and
18 he wanted me to come support him DJ'ing.

19 Q Okay. And did you decide to go or stay?

20 A I asked my fiance was it okay if I go out
21 for a while. She said, yeah, so I decided to go.

22 Q All right. And did you go immediately at
23 10:40 or 11:00, or what time did you go?

24 A No. I decided because she was like yes and
25 no at the same time so I waited like to 12,

1 12:30. She was like, go ahead, just come back,
2 you know, have a good time and come back.
3 Q You wanted to go?
4 A Yes, sir.
5 Q All right. But I guess like any good male
6 you got permission?
7 A Yea, I had to get permission.
8 Q All right. Did -- how were you going to get
9 there to the club?
10 A I was driving a 2009 Dodge Charger.
11 Q Whose car was this?
12 A It was my fiance's.
13 Q All right. And so were you going to pick up
14 anybody before you went to the club?
15 A No, I was driving by myself going to the
16 club and leave by myself.
17 Q Okay. Was the night of the 6th Saturday
18 night if you recall?
19 A The 6th? Naw, the 6th was Friday.
20 Q All right.
21 A It was Friday. 12, after 12 would have been
22 Saturday.
23 Q Would have been Saturday?
24 A Yea, after 12.
25 Q All right, I got you. So you head over to

1 the club by yourself?

2 A Yes, sir.

3 Q And what time did you get there?

4 A I'd say around 12:15, 12:20, sometime around
5 there.

6 Q Okay. And when you get there where do you
7 park?

8 A I parked in front of the door in front of
9 Down Beat facing toward the stop sign I backed up
10 in.

11 Q Okay. If I showed you State's Exhibit 1
12 would that help you explain your testimony some?

13 A Yes, sir.

14 Q May he come down off the stand to show the
15 jury a little bit. I'm gonna have you stand on
16 this side so your voice will carry towards the
17 court reporter. Okay, this is W.C.W. Robinson
18 Road?

19 A Yes, sir.

20 Q This is Karisma Road. Can you tell the
21 jury, the jurors, how you got there?

22 A I came down this road.

23 Q Okay. W.C.W. Robinson?

24 A W.C.W. Robinson. Turned in this lane right
25 here. This is Down Beat. And I parked, the door

1 -- this is the door and there's the door. But
2 this is the door everybody enter. That door is
3 closed. I parked my vehicle right here.
4 Q In front?
5 A In front of the door.
6 Q Okay. Was the front windshield facing the
7 club or away from the club?
8 A The windshield was facing towards -- there's
9 a stop sign right here and my driver window was
10 facing the front of the door.
11 Q So you were parked parallel ---
12 A Parallel park.
13 Q ---to the club?
14 A Yes, sir.
15 Q Very good. You can have a seat. All right.
16 Were there other vehicles out there?
17 A It was a crowd. It was like no, really no
18 parking.
19 Q All right. You got into the club?
20 A Yes, sir.
21 Q Okay. Did you -- before got into the club
22 did you linger outside?
23 A I went straight in the club.
24 Q Okay.
25 A I parked and went straight in the club.

1 Q Okay. When you got into the club tell the
2 ladies and gentlemen of the jury what did you do?

3 A When I got in the club I walked in. I
4 acknowledged myself to people that I know. Went
5 to the DJ, Eric, let him know I was in there.
6 During this time I danced a few. I went up to
7 the bar, got me a Bud Lite. Went back to Eric,
8 sat there for a second, watched him play. I went
9 to the restroom, came back, got another Bud Lite,
10 went to the pool table and sit there I know like
11 an hour, shot pool because for like an hour and a
12 half. Then I went back to the dance floor, sat
13 down for like another 30 minutes or so, got back
14 up, went to holler at Eric. And during this time
15 the crowd start getting thinner, people start
16 leaving. So I guess it like around 2, 2:40, 2:50
17 'cause Down Beat usually close at 3. So during
18 this time that's when I went to Eric again and
19 let him know I was about to decide to go back
20 home before my fiance start getting a little
21 worried about me.

22 Q Let me ask you this, how many beers did you
23 have while you were there?

24 A I had three at the most ---

25 Q Okay.

1 A ---because I know I had to drive all the way
2 back home.

3 Q Prior to getting to the club did you strap
4 on any sort of 9-millimeter, .45, .22, any sort
5 of ---

6 A No, sir, I don't own none of those, no need
7 because I was going to a party.

8 Q Did you have a knife?

9 A No, sir.

10 Q A blade or anything?

11 A No, sir, none at all.

12 Q Any type of weapon on you?

13 A No, sir.

14 Q While you were in the club did get into any
15 sort of argument or anything that could be
16 construed an argument?

17 A No, sir, I got along with everybody. No one
18 was fussing, fighting, not even, not a soul.

19 Q Okay. You knew some people at the club
20 besides Eric?

21 A Yes, sir.

22 Q Any words with them?

23 A No, sir, none at all.

24 Q Okay. So it's, what, about ten minutes to
25 3, 3:00?

1 A About ten minutes to 3. I went back there
2 let him know I was leaving. So as I came out the
3 door I was walking. I seen like a crowd of
4 people making noise so I'm like, that don't
5 concern me, I get in my car and leave or
6 whatever. So as I was leaving I look, I notice a
7 girl who live near from the same community I'm
8 from. Her and another girl were arguing; but the
9 girl she was arguing, it was like four or five
10 girls with her so I decided to take -- to get the
11 girl that I know, to get in her vehicle and let's
12 go. So during this time I'm telling her to
13 leave, like, everybody just, like, came together
14 and like start fighting hard. So me and the
15 girl, we fell on the ground.

16 Q Now who is the girl that you knew?

17 A Her name is Ashley.

18 Q Do you know Ashley -- does she have a last
19 name?

20 A Ashley Wilson. She fell on the ground. So
21 as Ashley fell on the ground -- well, we both
22 fell on the ground when the crowd came. And
23 during this time a dude was on me, like, hitting
24 me. So me and him got ---

25 Q Did you know who the dude was?

1 A No, at that time I did not know who he was.

2 So

3 at that time we tumbling on the ground we found,

4 and I guess ---

5 Q Well, let me ask you this, was it Deron

6 Myers, the defendant, the dude that was on top of

7 you?

8 A No, it wasn't. It wasn't Deron.

9 Q Not ---

10 A But I think it's -- it had to be one of his

11 cousin or his brother I think. I'm thinking it's

12 Harry Myer. I'm not sure.

13 Q You're not sure?

14 A I'm not sure. But I know it was someone

15 that kin to him.

16 Q All right. So, but it was not Deron?

17 A No, the person -- this dude didn't have

18 dreads.

19 Q We're gonna talk about Deron here in a

20 little bit, okay?

21 A Okay.

22 Q So you and this guy start tussling on the

23 ground?

24 A Tussling on the ground.

25 Q And how long does the tussling go on?

1 A I'll say three, four minutes.

2 Q Now when we talk about tussling, is it kind
3 of just wrestling? Were you gouging, biting,
4 sticking fingers in the eyeballs or ---

5 A It was hard down tussling, wrestling,
6 hitting, rolling, you know.

7 Q All right. Okay. And how long are you down
8 on the ground?

9 A About three or four minutes. Then that when
10 Eric came out there and the security guard 'cause
11 Eric still cleaning up getting his D.J. equipment
12 put up.

13 Q Okay.

14 A So they came and like start breaking up
15 everything, whatever, you know.

16 Q Including you?

17 A Yea. No, I was getting off the ground. Me
18 and the dude was still on the ground. The
19 security guard, like, broke up everything.

20 Q And then what happened with you?

21 A Then I got up. I was like, well, the
22 security guard here now, Eric, you good, you know
23 what I'm saying. Everybody was like, yea, you
24 good.

25 Q Now the guy you were tussling with, did he

1 have any words for you or anything?

2 A I didn't see him anymore. Like, when the
3 security guard came they break everything up.

4 Q Okay. So as far as you're concerned it's
5 over?

6 A It's over. I like, it's good, everything
7 good now. So that when I decide to walk to my
8 car. And when I got to the front of my hood of
9 my car, that when Deron Myers came from the side
10 of my car on the passenger side. I was at the
11 hood. And he was, like, hey yo, and I was like -
12 - and he pulled a gun. When he pulled a gun
13 that's when I decide to ran and he shot like
14 three or four rounds. And when he shot like the
15 last one I got on the side of my car my leg gave
16 out; that's how I know I was hit. Then when I
17 fell, he came -- he's coming, and Brandon Holmes
18 came to, like, grab me, not noticing Deron Myers
19 was still coming with the gun. So after he shot
20 me, he came on -- when I ran he came after me
21 again to shoot me some more.

22 Q Did he shoot you some more?

23 A He shot me one more time and shot Brandon
24 Holmes in the foot, and he kept shot'ing [sic]
25 till his bullets ran out.

1 Q How do you know the bullets ran out?

2 A "Cause you could hear the gun jamb. It
3 click, click, click.

4 Q And at that point what did do? Were you on
5 the ground?

6 A I was in pain then. It was like, it already
7 start hurting and I was like, yo', I'm shot. Now
8 when I looked at my leg I was bleeding. Then I
9 looked at my other leg, that was bleeding. And
10 then my foot was like -- my shoe, you could see
11 blood coming from my shoe, but I didn't know I
12 was shot in my foot also because I -- the blood
13 was coming so bad from my leg and my knee that I
14 didn't know, you know.

15 Q How many holes did you wind up having in
16 you?

17 A I got shot four times -- one, two, three,
18 four, five, six holes in my -- one in my left
19 leg, four in my right leg and one in my ankle.

20 Q We'll talk about the other individuals here
21 in a second, but did the ambulance come and get
22 you?

23 A Yes, sir, they told me -- it was, I think
24 she was a CNN or RNN. She was a girl -- I forgot
25 her name. She was out there, and I was trying to

1 get her, like, take me to the hospital but she
2 was like, don't move, lay down because the bullet
3 could be inside of you and they could travel, go
4 to your heart, it will give you leg poison,
5 whatever. So she wouldn't let me leave so I just
6 laid down till, you know, ---

7 Q The ambulance ---

8 A ---the ambulance arrived, yea.

9 Q And did they take you to McLeod Hospital?

10 A Yes, sir, they took me to McLeod Hospital.

11 Q All right.

12 MR. JEPERTINGER: I'd like to have these
13 marked as State's Exhibits 2 and 3.

14 (WHEREUPON, State's Exhibit Nos. 2 and 3
15 were marked for identification only.)

16 MR. STROBEL: No objection.

17 THE COURT: You moving State's Exhibit 2
18 and 3?

19 MR. JEPERTINGER: I'd like to move
20 State's Exhibit 2 and 3 into evidence.

21 THE COURT: State's 2 and 3 in evidence
22 without objection.

23 (WHEREUPON, State's Exhibits Nos. 2 and 3
24 were admitted into evidence.)

25 BY MR. JEPERTINGER:

1 Q I'd like to show you State's Exhibit 2 and

2 3. Can you tell us what these are please?

3 A That's me laying in the hospital.

4 Q And State's Exhibit 3?

5 A That's me got shot in my upper knee and
6 lower knee and right angle.

7 Q Did you have any injuries to the left leg?

8 A Yes, sir, I got shot in the left leg like a
9 graze, yes, sir. They just patch it up and...

10 MR. JEPERTINGER: I'd like to publish
11 State's Exhibit 2 and 3 to the jury.

12 THE COURT: Yes.

13 (WHEREUPON, a pause in the proceedings.)

14 BY MR. JEPERTINGER:

15 Q Okay. Now, after you'd been shot and before
16 the ambulance came, did you see the person that
17 shoot you?

18 A Yes, sir.

19 Q What did the individual do after he shot and
20 ran out of bullets as he was shooting at you?

21 A He ran to a road. It look like a truck. I
22 don't know what kind of truck it was, but he ran
23 and ---

24 Q Okay. Did you give this information to the
25 police officer?

1 A Yes, sir.

2 Q Did you speak to the police officer at the
3 hospital or on scene?

4 A on scene before?

5 A The police arrive first.

6 Q Did you know the individual by name that
7 shot you or by relationship that he had with
8 another individual?

9 A Another individual I know his name as D. J.
10 I didn't know him as Deron Jardel.

11 Q Did you identify anyone as Harry Myers'
12 cousin?

13 A Yes, sir, 'cause at that time there was --
14 they are brothers but I thought D.J. was Harry
15 Myers's cousins. I know they was related. I did
16 not know they were brothers.

17 Q Had ever been introduced to Deron Myers on a
18 previous occasion?

19 A Yes, sir, I have. I went there before the
20 Down Beat and Harry was like, this is my brother
21 Deron, this is my brother Phillip, this is my
22 cousin, this is my girlfriend. It was like
23 everyone, you know.

24 Q Did you have any idea where Deron worked at
25 the time?

1 A No, sir, I haven't know anything about
2 Deron.

3 Q But you had been introduced to him before?

4 A Yes, sir.

5 Q No question in your mind that it was Deron
6 Myers?

7 A No question at all.

8 Q All right. Other than saying what you told
9 the jury he said to you, had you had any words
10 with him whatsoever?

11 A Nope, none so ever. None so ever.

12 Q That's all the questions I have other than
13 this last one that I'm going to ask you. Is the
14 Down Beat Club located in Florence County?

15 A Yes, sir.

16 MR. JEPERTINGER: Thank you so much.
17 Please answer any questions that Mr. Strobel may
18 have.

19 THE COURT: Mr. Strobel.

20 CROSS-EXAMINATION

21 BY MR. STROBEL:

22 Q Okay. How far was Mr. Myers from you when
23 he was shooting at you you said?

24 A I'd say from here to that speaker.

25 Q The speaker?

1 A The speaker right here, right here where the
2 form at. The stand, where this stand at.

3 Q And he shot you four times in the leg?

4 A He shot me twice the first time. I ran. My
5 leg gave out and that when Brandon Holmes came to
6 grab me not knowing D.J. was st-- neither one
7 knowing that DJ was still coming and that when he
8 start shooting, striking me again and hitting
9 Brandon Holmes.

10 Q In the police report you said he was
11 standing over you?

12 A Sir?

13 Q Was he standing over you?

14 A No, sir, he was right, like, beside me.

15 Q Right beside you?

16 A Yes, sir.

17 Q And you got him charged with attempted
18 murder; is that correct?

19 MR. JEPERTINGER: I would object to that.
20 The victims in cases don't do the charges. The
21 State does the charges. I would object to the
22 form of the question and the relevancy.

23 THE COURT: Sustained.

24 BY MR. STROBEL:

25 Q Well, let me ask you this, did he say when

1 he was shooting you in the leg that I am here to
2 kill you?

3 A No, sir.

4 Q Was there any indication when he was
5 shooting you four times in the leg at that close
6 range that he was going to kill you?

7 A Yes, sir, because I ran for my life and he
8 trace behind me, like, when he shot me and I ran
9 and I gave out. He know he shot at me. He
10 should have ran.

11 Q Okay. So ---

12 A He shot me multiple times.

13 Q Well, we know that. I'm saying -- could you
14 stand up for a minute? You're pretty tall;
15 aren't you?

16 A Yes, sir.

17 Q And he shot you several times in the leg,
18 right?

19 A Yes, sir.

20 Q From this distance?

21 A Yes, sir.

22 Q And from that you gathered he was trying to
23 kill you?

24 A Yes, sir. When he ---

25 Q Do you shoot guns?

1 A No, sir.

2 Q Obviously not.

3 MR. STROBEL: That's all I have, Your
4 Honor.

5 THE COURT: Thank you. Any redirect?

6 MR. JEPERTINGER: No, sir.

7 THE COURT: You may step down.

8 Members of the jury, let's take a lunch
9 break. If you would, be back at 1:30 and we will
10 resume the trial. As I told you before, do not
11 discuss the case or investigate the case.
12 Everybody else remain seated until the jury is
13 excused.

14 (WHEREUPON, the jury is excused for a
15 lunch break.)

16 MR. JEPERTINGER: Your Honor, this would
17 be the appropriate time for the State to move for
18 a bench warrant against one Deron Myers on this
19 case for failure to appear for his trial, and I
20 would so move for bench warrant.

21 THE COURT: Mr. Strobel?

22 MR. STROBEL: No objection.

23 THE COURT: All right, bench warrant is
24 granted. See you at 1:30.

25 (WHEREUPON, a lunch break was taken.)

1 THE COURT: Is the State ready to
2 proceed?

3 MR. JEPERTINGER: Yes, Your Honor, and
4 let the record reflect after the lunch break that
5 the defendant is now present in the courtroom
6 with his defense attorney.

7 THE COURT: Good, thank you. Mr.
8 Strobels, you ready to proceed?

9 MR. STROBEL: I am, Your Honor.

10 THE COURT: You ready?

11 MR. STROBEL: Yeah, I just want to make a
12 statement.

13 THE COURT: All right.

14 MR. STROBEL: He tried to get into the
15 courtroom this morning with his family. Is that
16 correct?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: He said the bailiff told him
19 he was not allowed in this courtroom and sent him
20 to the 10th so he sat in the 10th the whole time.
21 Now, he and I have been friends forever and ever.
22 I don't know what the problem is; but at some
23 point something is going to need to be addressed.

24 THE COURT: All right.

25 THE CLERK: Judge, can I say something

1 about that?

2 THE COURT: Sure.

3 THE CLERK: Mr. Propps more than likely
4 told -- asked if he was a defendant, he probably
5 said yes. And he told him to go to the 10th
6 floor. He didn't ask if he was in this trial or
7 anything like that. I'm sure it was an honest
8 mistake. Thank you.

9 THE COURT: Other than that, any motions
10 of any kind?

11 MR. STROBEL: No, sir.

12 THE COURT: If you will go ahead and
13 bring out the jury.

14 (WHEREUPON, the jury was returned to the
15 courtroom.)

16 THE COURT: If you will call your next
17 witness.

18 MR. JEPERTINGER: Yes, sir. If it please
19 the Court, Your Honor, the State will call
20 Brandon Marquis Holmes.

21 THE CLERK: If you will, sir, come to the
22 Bible. Place your left hand on the Bible, raise
23 your right hand.

24 WHEREUPON,

25 **BRANDON HOLMES,**

1 having duly been sworn by the Clerk of Court,
2 testified as follows:

3 THE CLERK: Please be seated in the
4 witness chair and state your full name for the
5 record.

6 THE WITNESS: Brandon Marquis Holmes.

7 DIRECT EXAMINATION

8 BY MR. JEPERTINGER:

9 Q Brandon, where do you live?

10 A 595 South Hood Street, Olanta.

11 Q I'm gonna re-ask you that question. Listen,
12 I'm getting old and I'm having difficulty hearing
13 you. I can tell they're going to have
14 difficulty. Pull right up to this microphone,
15 pretend you're Johnny Cash or something, speak
16 right into that thing, okay?

17 A 595 South Hood Street, Olanta, South
18 Carolina.

19 Q Okay. And how long have you lived there?

20 A It was a while, about eight years.

21 Q All right. Who do you live there with?

22 A My mother and my other family members.

23 Q Very good. How old are you?

24 A Twenty-three.

25 Q All right. Are you currently employed?

- 1 A Yes, sir.
- 2 Q Where do you work?
- 3 A Dunnwright Services here in Florence.
- 4 Q All right. What does Dunnwright do?
- 5 A It's like construction work out of town.
- 6 Q What do you do for them?
- 7 A Like concrete work and we line like manholes
- 8 and stuff like that.
- 9 Q All right. How long have you been working
- 10 for that company?
- 11 A A year.
- 12 Q All right. In relationship to when this
- 13 incident happened when did you start that job?
- 14 A Like a week after this incident happened.
- 15 Q All right. A week afterward. Were you
- 16 working at the time of this incident?
- 17 A Yes, sir.
- 18 Q Where were you working?
- 19 A Honda of South Carolina.
- 20 Q Right.
- 21 A In Timmons ville.
- 22 Q And how long did you work for Honda?
- 23 A Seven months.
- 24 Q What were you doing for Honda?
- 25 A I was assembly line worker.

1 Q Was this a better opportunity for you at
2 Dunnwright?

3 A Yes, sir.

4 Q Now, I want to take you back to the evening
5 of April the 6th, early morning hours of April
6 the 7th, 2013. Do you recall that day?

7 A Yes, sir.

8 Q Okay. Did you have an occasion to go to the
9 Down Beat Club in Coward, South Carolina?

10 A Yes, sir.

11 Q Okay. About what time would you have gotten
12 to that club?

13 A It was about 1:30, maybe 2:00.

14 Q All right. Did you go from your residence
15 to Down Beat Club or had you been someplace else?

16 A I was someplace else.

17 Q All right. Do you remember where?

18 A Yes, sir, at a friend's.

19 Q And where did the friend live?

20 A Right there in Florence.

21 Q All right. Did go to the club with him or
22 by yourself?

23 A Me and a couple of my other friends.

24 Q How many other friends?

25 A My uncle and a cousin.

- 1 Q An uncle, cousin, and yourself?
- 2 A Yes, sir.
- 3 Q So there were three of you total?
- 4 A Yes, sir.
- 5 Q All right. Were you driving or were you a
- 6 passenger in the vehicle when you went to the
- 7 club?
- 8 A I was driving.
- 9 Q Okay. What type of car were you driving?
- 10 A A 2000 Nissan Maxima.
- 11 Q When you got to the club did you linger
- 12 around in the parking lot or did you go straight
- 13 into the club?
- 14 A I spoke to some people outside and then I
- 15 went in.
- 16 Q Were any of the people that you spoke to
- 17 some of the individuals involved in this
- 18 particular case?
- 19 A Yes, sir.
- 20 Q Who did you speak with on the outside of the
- 21 club?
- 22 A I spoke with Michael.
- 23 Q Michael Taylor.
- 24 A Uh-huh.
- 25 Q All right. Did you speak to him inside the

1 club or outside the club?

2 A Outside. Everything was -- by the time I
3 got there everything was basically clearing out.

4 Q Of the club?

5 A Yes, sir.

6 Q Okay. Did you ever make it inside the club?

7 A Yes, sir, I did.

8 Q For how long?

9 A Not long, no more than 30 minutes.

10 Q And when you say everything was basically
11 clearing out ---

12 A Yes, sir.

13 Q ---and you had a conversation with Michael
14 Taylor ---

15 A Yes, sir.

16 Q ---did you say that happened on the outside?

17 A Yes, sir.

18 Q While you were outside of the club did you
19 notice any other activity with other than the
20 people being involved any sort of fight or
21 anything like that?

22 A Just like little arguments and stuff like
23 that.

24 Q All right. While the arguments were going
25 on were you observing what was transpiring

1 between the people arguing, what happened?

2 A Yes, sir.

3 Q What happened?

4 A Just basically like a crowd of people just
5 fussing really.

6 Q After they started fussing what happened?

7 A A fight had broke out.

8 Q Okay. Did you know the individuals that
9 were involved in the fight?

10 A No, sir.

11 Q Okay. After the fight broke out between the
12 individuals did anything else happen with the
13 crown of people?

14 A No, sir. Security was really trying to
15 clear everybody out just let everybody know to go
16 home.

17 Q All right. Were you involved in any way ---

18 A No, sir.

19 Q ---in the fight in any way?

20 A No, sir.

21 Q All right. At that point did you have an
22 occasion to see Michael Taylor after security
23 told everybody to clear out?

24 A Yes, sir.

25 Q Okay. What was he doing?

1 A He was really just waiting to get out
2 because the cars was blocked in.

3 Q Okay. Did you happen to see the defendant
4 in this case, Deron Myers?

5 A No, sir.

6 Q All right. What did you notice then, what
7 happened then?

8 A It was just talking and then that when
9 everything went on, like, just started shooting.

10 Q Who started shooting?

11 A The defendant, sir.

12 Q Did you see him with a gun in his hand?

13 A No, sir, I didn't see, I heard it.

14 Q Once you heard it what happened after you
15 heard the gunshots?

16 A Well, I look over and I seen Michael. He
17 was going around the car and he went down. Then
18 I went to try to help him and then that when I
19 got shot.

20 Q Where did you get shot?

21 A In my foot.

22 MR. STROBEL: No objection.

23 THE COURT: Are you moving anything into

24 ---

25 MR. JEPERTINGER: Yes, I would like to

1 move State's -- there would be seven photographs
2 on four different sheets of paper into evidence.

3 THE COURT: That will be State's 4, 5, 6,
4 and 7?

5 MR. JEPERTINGER: Yes, sir.

6 THE COURT: State's 4, 5, 6, and 7 in
7 evidence without objection.

8 (WHEREUPON, State's Exhibits Nos. 4-7
9 were marked for identification and
10 admitted into evidence.)

11 BY MR. JEPERTINGER:

12 Q I'm going to show you State's Exhibit 4, 5,
13 6, and 7. Can you tell me what those are please.

14 A That's my foot.

15 Q All right.

16 A That's me laying in the bed. That's me also.

17 Q All right. In the hospital room?

18 A Yes, sir.

19 MR. JEPERTINGER: Move to publish these to
20 the jury please.

21 THE COURT: Sure.

22 BY MR. JEPERTINGER:

23 Q While they're looking at those photographs I
24 notice you're wearing a certain type of sneaker;
25 is that correct?

1 A Yes, sir.

2 Q And a sock?

3 A Yes, sir.

4 (WHEREUPON, State's Exhibits No. 8-A and
5 8-B weremarked for identification only.)

6 MR. STROBEL: No objection.

7 MR. JEPERTINGER: And they're contained
8 in a plastic bag, let the record reflect that.

9 THE COURT: Are you moving those into
10 evidence?

11 MR. JEPERTINGER: Yes, I would move them
12 into evidence.

13 THE COURT: 8-A and 8-B are into evidence
14 without objection.

15 (WHEREUPON, State Exhibit Nos. 8-A and 8-
16 B were admitted into evidence.)

17 BY MR. JEPERTINGER:

18 Q And I'm going to show you 8-A and 8-B. Were
19 these the shoes that you were wearing that
20 evening as well as your sock? And I'm getting a
21 glove, if you don't mind, for grabbing your sock,
22 if that's okay. I don't want to offend you.

23 A Yes, sir.

24 Q This is the sock you were wearing on that
25 day?

- 1 A Yes, sir.
- 2 Q Okay. And that came off the foot you were
3 shot at?
- 4 A Yes, sir.
- 5 Q And that stain in that hole ---
- 6 A Yes, sir
- 7 Q ---was that there before you went to the club
8 that evening?
- 9 A No, sir.
- 10 Q How did that stain and hole get there?
- 11 A Because from the gunshot wound.
- 12 Q The bullet that came in?
- 13 A Yes, sir.
- 14 Q And the small hole here in the material, is
15 that where the bullet entered your foot as well?
- 16 A Yes, sir.
- 17 Q In the shoe?
- 18 A Yes, sir.
- 19 Q All right. Now, you said that you didn't
20 see the shooting, but you rushed over. Did you
21 see anyone run away from you guys?
- 22 A Yes, sir.
- 23 Q Who would that have been?
- 24 A It was him running to the ---
- 25 Q When you say him?

1 A The defendant.

2 Q Okay. Did you see anything in his hand at

3 the time?

4 A No, sir.

5 Q Did you hear anything after he fired in

6 terms of what the gun may have been doing?

7 A The clicking, just the clicking noise.

8 Q After the shot?

9 A Yes, sir.

10 Q Approximate how many times did it click?

11 A I'm not sure, sir, to be honest.

12 Q But you did hear the clicking?

13 A Yes, sir.

14 Q After that did you know you were shot

15 immediately or did you figure that out later?

16 A No, I knew I was shot immediately.

17 Q Did you wait for an ambulance or did you

18 have someone take you to a hospital?

19 A My uncle drove me to the hospital.

20 Q The same uncle that drove you to the club

21 that evening?

22 A Yes, sir.

23 Q And let me ask you this, did you go to

24 McLeod or did you go to Lake City hospital?

25 A I went to Lake City.

- 1 Q Was it closer to you?
- 2 A Yes, sir.
- 3 Q And they treated you at the hospital that
- 4 evening, correct?
- 5 A Yes, sir.
- 6 Q Did you have to spend the night in the
- 7 hospital?
- 8 A No, sir.
- 9 Q Or the day?
- 10 A Yeah.
- 11 Q You didn't have to spend the day in the
- 12 hospital?
- 13 A Yes, sir.
- 14 Q Now, you tried -- are you telling the jury
- 15 that you tried to get to Michael?
- 16 A Yes, sir.
- 17 Q Did you see any weapon in Michael's hand?
- 18 A No, sir.
- 19 Q Did you see a knife in Michael's hand?
- 20 A No, sir.
- 21 Q Did you see any sort of weapon?
- 22 A No, sir.
- 23 Q Were you carrying any weapon that evening?
- 24 A No, sir.
- 25 Q Was -- had you seen Michael arguing with

1 Deron right before Deron shot him?

2 A No, sir.

3 Q Did -- were you arguing with Deron right
4 before he shot you?

5 A No, sir.

6 Q Do you have any idea why he may have shot
7 you

8 A No, sir.

9 Q Do you have any idea why he may have shot
10 Michael Taylor?

11 A I'm guessing it was from the incident where
12 he was trying to help break ---

13 MR. STROBEL: Your Honor, I'm afraid he's
14 leading the witness on all of that.

15 THE COURT: Sustained.

16 BY MR. JEPERTINGER:

17 Q Now, after you got shot how long was it
18 before law enforcement got there, or did you wait
19 till law enforcement?

20 A I didn't wait.

21 Q Did you speak with police afterwards?

22 A Yeah, the investigators came to the hospital
23 where I was.

24 Q Okay. And they're the ones that took the
25 photographs from you?

1 A Yes, sir.

2 Q Okay. And you told them what you knew, what
3 happened?

4 A Yes, sir.

5 Q Is that correct?

6 A Yes, sir.

7 Q All right. Thank you very much. Please
8 answer any questions that the defense attorney
9 may have.

10 A Yes, sir.

11 THE COURT: Mr. Strobel.

12 CROSS-EXAMINATION

13 BY MR. STROBEL:

14 Q Okay. Did you see him shoot him?

15 A No, sir.

16 Q Did you see Deron Myers shoot anybody?

17 A You say did I see him?

18 Q Yea. Did you see him?

19 A No, sir.

20 Q How close was the person that shot you from
21 where you were?

22 A My back was actually turned, sir.

23 Q Well, I didn't say that. How far were they
24 from you, or you just don't know?

25 A No, he was like at the back of the car like.

- 1 Q 10 feet, 15?
- 2 A About the length of the car.
- 3 Q Okay. The length of a car?
- 4 A Yea, like ---
- 5 Q When he shot you in the back or the foot or
- 6 whatever?
- 7 A Yes, sir.
- 8 Q Okay. Did he yell or she yell I'm gonna
- 9 kill you?
- 10 A No, sir.
- 11 Q What indication did you have that he was
- 12 trying to murder you?
- 13 A I got shot in the foot. I was saying nice.
- 14 Q You got shot in foot?
- 15 A Yes, sir.
- 16 Q Okay. Have you ever shot a pistol or a gun
- 17 before?
- 18 A Yes, sir, I have.
- 19 Q If someone, you're trying to kill a squirrel
- 20 you shoot down at the feet?
- 21 A No, sir.
- 22 Q Okay. But you didn't see any of this, did
- 23 you?
- 24 A I seen him run away.
- 25 Q You didn't see who shot him?

1 A I seen him run away.

2 Q Yeah, you saw him running away but did he
3 have anything in his hands?

4 A I didn't see anything in his hands.

5 Q Nothing?

6 MR. STROBEL: That's all. Thank you.

7 REDIRECT EXAMINATION

8 BY MR. JEPERTINGER:

9 Q Okay. When the gunshot -- when you got shot
10 in the foot was Michael Taylor standing up or was
11 he on the ground?

12 A He was on the ground.

13 Q And -- okay, he was on the ground at the
14 time?

15 A Yes, sir.

16 Q And you were running to help him?

17 A Yes, sir.

18 MR. JEPERTINGER: All right, thank you.
19 That's all I have.

20 THE COURT: Anything further?

21 MR. STROBEL: No, sir.

22 THE COURT: You may step down.

23 You may call your next witness.

24 MR. JEPERTINGER: I will call Jerode
25 McFadden to the stand.

1 THE CLERK: If you will, sir, place your
2 left on the Bible, raise your right hand.
3 WHEREUPON,

4 **Jerode McFadden,**
5 after having been duly sworn by the Clerk of
6 Court, testified as follows:

7 THE CLERK: Please be seated and state
8 your full name for the record.

9 DIRECT EXAMINATION

10 BY MR. JEPERTINGER:

11 Q Okay. Mr. McFadden, I'm gonna move this
12 object. Please sit up straight, and if you can
13 move the chair closer to the microphone. Tell
14 the jury where were you at on the early morning
15 hours of April the 7th of 2013?

16 A I was at home, then the club.

17 Q Okay, is that the Down Beat Club?

18 A Yes, sir.

19 Q Can you tell the ladies and gentlemen of the
20 jury what time you got there?

21 A About 11, about 11:30, 11:30, something like
22 that.

23 Q Okay. And how long did you stay there?

24 A Until it was over with.

25 Q Okay. When it was over with were people

1 leaving a little bit at a time?

2 A Yes, sir.

3 Q Okay. And were you on the inside of the

4 club most of that evening?

5 A Yes, sir.

6 Q Okay. When it was over with what did you

7 do?

8 A Went outside, get ready to leave.

9 Q Did you come there by yourself or alone?

10 A No, sir, I came there with somebody.

11 Q All right. Were you driving or they

12 driving?

13 A They was driving.

14 Q Okay, all right. Who did you come with?

15 A I went with my girlfriend.

16 Q Her name?

17 A Veronica, Veronica Grant.

18 Q Were there a lot of cars in the parking lot?

19 A Yes, sir.

20 Q Okay. Was anything unusual going on on the

21 outside of the club when you were trying to

22 leave?

23 A Yes, sir.

24 Q Tell the ladies and gentlemen of the jury

25 what was going on?

1 A It was a big argument going on with some
2 female and I guess that had lead to other people
3 arguing, a lot of bunch of people.
4 Q With just arguing like yelling back and
5 forth or was ---
6 A Yes, sir.
7 Q Okay. Did that argument get physical in any
8 way, shape, or form?
9 A Yes, sir.
10 Q Tell them what happened.
11 A I see where people like fighting around or
12 whatever.
13 Q Okay.
14 A And after that, whatever, I was trying to go
15 to the car.
16 Q Did somebody try to break up the physical
17 fight that was going on?
18 A Yeah, with the female, Michael.
19 Q All right. Did anybody from the club come
20 up to try to sush everybody away?
21 A Yes, the security guard.
22 Q Did the, I guess, the tussling or the
23 arguing of the fighting stop?
24 A Yeah, after when the dude came out to break
25 it up he came out to break everybody up.

1 Q All right. What were you doing while all
2 this was going on?

3 A Trying to get out the way.

4 Q All right. And when the guy came out of the
5 club to break stuff up what did you see then?

6 A As me going to the car I seen Michael and,
7 Michael and Brandon.

8 Q All right. Did you see anybody else?

9 A Yes, sir.

10 Q Who did you see?

11 A I see the defendant came. I see him
12 pointing a gun.

13 Q Who was he pointing a gun at?

14 A Michael.

15 Q Okay. How did you know -- did you know the
16 defendant?

17 A Something like that as -- not like that, but
18 I know him, you know how you just know somebody
19 by their name or whatever you know him.

20 Q Okay. No question in your mind it was the
21 defendant with the gun?

22 A Sir, say that again.

23 Q Was there any question in your mind that it
24 was Deron Myers?

25 A Yes, sir.

1 Q There is a question in your mind? Was it
2 Deron Myers or wasn't it Deron Myers with the
3 gun?

4 A It was him.

5 Q Okay. When he was pointing the gun did you
6 hear him say anything to Michael?

7 A No, sir.

8 Q What did you see then?

9 A I see him start shooting and then I seen
10 Michael fall and then I ran.

11 Q All right. And where did you run to?

12 A I run and jump in my old lady car.

13 Q Did you got -- you got out of there?

14 A Yes, sir.

15 Q All right. Did you come back to the scene?

16 A No, sir.

17 Q Did you call the police?

18 A No, sir.

19 Q Did you want to get involved?

20 A No, sir.

21 Q All right. Did -- how long from the time
22 that Deron was shooting at Michael did you wait
23 around, or did you run immediately?

24 A When I seen Michael fall I ran right then,
25 you know, try to hide because he was shooting.

- 1 Q How many times was he shooting?
- 2 A About four or five times, four or five
- 3 times, something like that.
- 4 Q Okay. After he shot about four or five
- 5 times in your opinion, is that when you got in
- 6 your old lady's car and left?
- 7 A Yes, sir.
- 8 Q All right. Did she leave with you?
- 9 A Yes, sir.
- 10 Q All right. Where did you go after that?
- 11 A Home.
- 12 Q Where were you living?
- 13 A Lake City.
- 14 Q All right. Did you have an opportunity to
- 15 speak to me later about what happened?
- 16 A Can you say that again.
- 17 Q All right. Did I call you ---
- 18 A Oh, no, sir.
- 19 Q Did you know Michael Taylor prior to this
- 20 incident?
- 21 A Yes, sir.
- 22 Q Where did you know Michael from?
- 23 A Around.
- 24 Q How about Brandon Marquis Holmes?
- 25 A Yes, sir.

1 Q All right. Did you know -- I think you told
2 the jury how you know Deron, correct?

3 A Yes, sir.

4 Q Know who he is?

5 A Yes, sir.

6 Q Had you ever met him before?

7 A Yes, sir.

8 Q Okay. Did you know any of his kin?

9 A Yes, sir.

10 Q Where did you know them from?

11 A From a little shop.

12 Q Which shop?

13 A I forgot the name of it, but I know they got
14 a little place, whatever, cans, stuff like that.

15 A junk yard, like a junk yard.

16 Q All right. Is it in Lake City area?

17 A Yes, sir.

18 Q All right, okay. Please answer any
19 questions Mr. Strobel may have for you.

20 THE COURT: Mr. Strobel.

21 CROSS-EXAMINATION

22 BY MR. STROBEL:

23 Q How long have you known Deron Myers?

24 A Not that long.

25 Q How long is that? Before this incident that

1 night?

2 A I mean, I already had know him, not like
3 that. I ain't never chill around him, nothing
4 like that.

5 Q Well, weeks, months?

6 A I say a month, two months, something like
7 that.

8 Q A month or two months?

9 A Something like that.

10 Q The first time you ever saw him? Is that
11 correct?

12 A That ain't the first time I ever seen him.

13 Q Okay. Tell me when you first saw him?

14 A I'm not really -- I mean, I can't really say
15 that.

16 Q Well, when you said a month or two months
17 does that mean that you went beyond seeing him,
18 that you actually shook hands and met and talked
19 with him?

20 A I speak to him when I see him when I go to
21 the shop try to get rid of something or whatever.

22 Q You see him when you go to the shop?

23 A Yes, sir.

24 Q Whose shop is that?

25 A I know it's from his people.

- 1 Q Okay. Had you ever seen him at this club
2 before?
- 3 A That been the first time.
- 4 Q First time you ever saw him there?
- 5 A Yes, sir.
- 6 Q And you saw him outside the club; is that
7 right?
- 8 A Yes, sir.
- 9 Q And what was he doing the first time you saw
10 him?
- 11 A Shooting at Michael.
- 12 Q You said earlier I believe that two girls
13 were fighting; is that correct?
- 14 A Yes, sir.
- 15 Q Had you know their names?
- 16 A I know one of them name.
- 17 Q What's that?
- 18 A Ashley.
- 19 Q What?
- 20 A Ashley.
- 21 Q One of the two girls in this paperwork looks
22 like a guy. Is that who it is?
- 23 A No, sir.
- 24 Q Is it the other one?
- 25 A Yes, sir.

- 1 Q Could you describe her to me?
- 2 A She is light skinned, short, and big
3 breasts.
- 4 Q That's the one that look like a boy?
- 5 A No, sir.
- 6 Q Well, I want you to describe the one that
7 looks like a boy?
- 8 A I mean, I don't know nothing, I don't know
9 nothing about that person. I really can't say
10 nothing.
- 11 Q Had you ever seen those two girls before?
- 12 A The one talking about I seen her before.
13 The other one, I don't know her or nothing.
- 14 Q How old are you?
- 15 A I'm 29.
- 16 Q 29. And where do you work?
- 17 A Adcycle (ph) in Lake City.
- 18 Q How far did you go in school?
- 19 A Twelve.
- 20 Q Finish school?
- 21 A Yes, sir.
- 22 Q Well, good. You didn't see anybody get
23 stabbed with a knife?
- 24 A No, sir.
- 25 Q Did you see the end product of somebody

1 getting stabbed?

2 A No, sir.

3 Q You didn't hear anybody say anything about
4 somebody being stabbed?

5 A No, sir.

6 Q No?

7 A No, sir.

8 Q The only thing you know about is just the
9 shooting?

10 A And the fighting.

11 Q And the fighting?

12 A Yes, sir.

13 Q So while the fighting and shooting was going
14 on how many people did you say was around you?

15 A It been a whole lot of people around me.

16 Q Huh?

17 A It been a whole lot of people around. Yes,
18 sir.

19 Q How do you describe a lot?

20 A Like there's a lot of people in this
21 courtroom.

22 Q As many people as in this courtroom was
23 around you?

24 A No, more than that.

25 Q Okay.

1 A It was more than that.

2 Q More than that?

3 A I mean, it was a lot or people around me; I
4 couldn't count the people.

5 Q There was at least two fights going on; is
6 that right?

7 A Yes, sir.

8 MR. STROBEL: That's all.

9 MR. JEPERTINGER: Nothing further, Your
10 Honor.

11 THE COURT: You can step down.

12 Go ahead and call your next witness.

13 MR. JEPERTINGER: I would call Eric
14 Taylor, Your Honor.

15 THE CLERK: Place your left hand on the
16 Bible, raise your right hand.

17 WHEREUPON,

18 **ERIC R. TAYLOR,**
19 after having been duly sworn by the Clerk,
20 testified as follows:

21 THE CLERK: Please be seated and state
22 your full name for the record.

23 THE WITNESS: Eric Rico Taylor.

24 DIRECT EXAMINATION

25 BY MR. JEPERTINGER:

1 Q Just keep your voice up, Mr. Taylor. Is that
2 okay?

3 A Yes, sir.

4 Q I'm going to take you back to late evening
5 of April 6th, early morning hours of April 7th.

6 Where were you going that evening?

7 A I had a party down at Down Beat that night
8 in Coward.

9 Q Okay. When you say you had a party what
10 does that specifically mean?

11 A Like, I rented out the club and I was having
12 a party.

13 Q Okay. What were you -- were you going to be
14 the host?

15 A I was a D.J. and the host.

16 Q All right. Did you call anybody in
17 particular the evening of April 6th to come and
18 enjoy the party?

19 A Yeah, my cousin Michael.

20 Q And did you tell him where the club was or
21 did he know?

22 A Oh, he had already knew where it was.

23 Q Okay. And had you ever hosted of DJ'd a
24 party at the Down Beat before?

25 A Yes, sir. I was more like the house D.J. on

1 Saturday.

2 Q Okay. And so did you get to see Michael
3 Taylor at the club that evening?

4 A Yes, sir, 'cause when he came in he always
5 come back tell me he there.

6 Q All right. Did you see him in any sort of
7 argument inside the club during your activity as
8 D.J. in the house?

9 A No, sir, I seen him dance and that's about
10 it.

11 Q How about Brandon Marquis Holmes, did you
12 see him?

13 A When he had came in he had came in and
14 talked to me too.

15 Q All right. And did you get to see him in
16 any particular argument with anybody?

17 A No, sir.

18 Q All right. How about the defendant in this
19 case, Deron Myers?

20 A Oh, no, sir, I seen him. He just was
21 sitting on the, standing on the wall over there.

22 Q Did he come speak to you at all?

23 A Yeah, over the speakers, and like he had his
24 hand up like 'cause he was over on the wall.

25 Q He had his hand up, what does that mean?

- 1 A Like speaking, like, hey.
- 2 Q Okay, just greeted you?
- 3 A Yes, sir.
- 4 Q Did you see him in any sort of argument with
- 5 Michael Taylor on his side of the club?
- 6 A No, sir.
- 7 Q All right. How about the last fellow that
- 8 justified, Jerode McFadden?
- 9 A No, sir.
- 10 Q Did see him in the club?
- 11 A Yes, sir.
- 12 Q All right. To use a kind of vernacular, was
- 13 everything chill that evening?
- 14 A Everything was good in club.
- 15 Q All right. About what time did the group
- 16 start breaking out?
- 17 A About 2:40 something because I was having a
- 18 contest and it was just there. The crowd been
- 19 thinning out.
- 20 Q Okay. And once everything -- what time did
- 21 the club close?
- 22 A About 3, 3:10, something like that.
- 23 Q So what do you do in trying to get the club
- 24 to close since it was your party?
- 25 A Start playing some slow music telling them I

1 see them next week if they come out.

2 Q Did you have a lot of equipment with you?

3 A I had my turntables and my laptop but we

4 usually leave the speakers in there, in the club.

5 Q How about the turntables?

6 A I took -- I was packing my stuff. I usually

7 take that home. I always take that home.

8 Q Okay. So did you do that to get all your

9 stuff together so start leaving?

10 A Yes, sir.

11 Q Okay. Turn off the lights and close the

12 door?

13 A Yeah, the owners usually cut off the light

14 and all that but I ---

15 Q Were the owners there that evening?

16 A Yes, sir.

17 Q And was there security there at the club

18 that evening?

19 A Yes, sir.

20 Q So you got all your stuff together?

21 A Yes, sir.

22 Q Then what did you do once you got your stuff

23 together?

24 A Then I -- after I got my stuff together I

25 heard like some commotion outside so I went

1 outside to see what it was, and I seen one group
2 was fussing with another. The girl was fussing
3 with another girl, and it was just a big mess and
4 trying to get everything situated.

5 Q Okay, what do you mean trying to get
6 everything situated?

7 A Like calm everything down, get everybody to
8 leave.

9 Q What happened then?

10 A Just these girls started fighting.

11 Q All right.

12 A And had the road and the van and it just
13 broke out.

14 Q Was it on C.W. Robinson Road right there at
15 Karisma, which one?

16 A It was right there at the ditch where the
17 road right there and where Karisma.

18 Q I'm gonna show you on State's Exhibit 1 so
19 you can point out to the jury where this
20 commotion was going on, this club?

21 A About right up in here. Up in here because
22 the van parked, blocked people from getting out.

23 Q Okay. And once they kept arguing what
24 happened?

25 A Then they had kind of broke up the girls.

1 Michael had broken up the girls and then, like, I
2 had went back into the club; and then when I came
3 back I seen Michael on the ground, him and Harry,
4 they been wrestling.

5 Q Harry Myer?

6 A Yes, sir.

7 Q What were they doing?

8 A Just tied up whenever and we were trying to
9 get them loose.

10 Q All right. And did go over there?

11 A Yes, sir, after -- when I was trying to get
12 them loose. After they got up we started to
13 leave and I was going to the truck.

14 Q Okay. Did you see any gun on Michael Taylor

15 A No, sir.

16 Q Did you see any knife on Michael Taylor?

17 A No, sir.

18 Q Did see any weapon on Michael Taylor?

19 A No, sir.

20 Q After you broke up Harry and Michael did
21 you, did you think it was all over?

22 A Yes, sir, because my momma had told us to go
23 ahead and just, and we was leaving.

24 Q Then what happened?

25 A I was walking like to the truck and I heard

1 some gunshots, and I sped up but I was right at -
2 -- I was parked at the ditch, right beside the
3 ditch.

4 Q What did you see after you heard the
5 gunshot?

6 A I heard the gunshots, then I heard Harry,
7 Harry told the D.J. come on, come on ---

8 MR. STROBEL: Object to what Harry said.

9 THE COURT: Sustained.

10 THE WITNESS: I ---

11 THE COURT: Hold on.

12 BY MR. JEPERTINGER:

13 Q You can't, first of all you can't say what
14 somebody ---

15 A Oh, okay.

16 Q All right. Let me ask you, first you used
17 the name D.J. Who's D.J.?

18 A Deron Myers.

19 Q Okay. I can ask you this, did you hear
20 someone say something to D.J.?

21 A Yes, sir.

22 Q Okay. Did you observe D.J. at that point?

23 A Yes, sir.

24 Q What did you observe about D.J.?

25 A He started running and had a gun in his

- 1 hand.
- 2 Q All right. And where did he run to?
- 3 A To a S.U.V.
- 4 Q Did you notice anybody else in that S.U.V.?
- 5 A No, sir.
- 6 Q All right. What did he do when he got
- 7 S.U.V.?
- 8 A Jump in and sped off.
- 9 Q Okay. What type of S.U.V was it, do you
- 10 recall?
- 11 A It was an Explorer, I think. Explorer.
- 12 Q Okay, what color?
- 13 A A white one.
- 14 Q All right. And did you see Harry?
- 15 A Yes, sir.
- 16 Q What did Harry Myers do?
- 17 A He just was running with him.
- 18 Q Okay. When he was running with him where
- 19 did he run to?
- 20 A To the white Explorer.
- 21 Q Did Harry get into the white Explorer?
- 22 A Yes, sir.
- 23 Q Where did Harry Myers get into?
- 24 A The back seat of the passenger side.
- 25 Q Back seat of the passenger. How about D.J.

1 or Deron Myers, where did he get to?

2 A The front seat. I mean, the front seat
3 passenger side.

4 Q And then the car took off?

5 A Yes, sir.

6 Q All right. And you did not see who the
7 driver was?

8 A No, sir.

9 Q All right. At that point did you leave or
10 did you stay?

11 A I had left because I didn't even know my
12 cousin had got shot at the time until I...

13 Q When did you find out that Michael, your
14 cousin, got shot?

15 A One of my friends had call my phone and told
16 me that he got shot but he was okay.

17 Q How about did you know that, anything about
18 Brandon Marquis Holmes?

19 A No, sir, I didn't find that out till I got
20 to Lake City.

21 Q All right. At that point did you call the
22 police about what you had seen?

23 A Oh, no, sir, because the police was already
24 down at the Down Beat.

25 Q All right. After you left where did you go?

1 A I went home in Lake City, but I had stop at
2 the Huddle House then they had told -- his --
3 Marq-- I mean, Brandon uncle had told me he got
4 shot.

5 Q Okay.

6 A And I had went to check on him.

7 Q Okay. You went to the Lake City Hospital?

8 A Yes, sir.

9 Q And did State's Exhibit 6 fairly and
10 accurately portray what you saw at the hospital?

11 A Yes, sir.

12 Q All right. Please answer any questions Mr.
13 Strobел might have.

14 A Yes, sir.

15 THE COURT: Mr. Strobел.

16 CROSS-EXAMINATION

17 BY MR. STROBEL:

18 Q When you saw the fight between the two
19 girls, did you see anybody get stabbed?

20 A No, sir.

21 Q Did you hear about anybody getting
22 stabbed?

23 A The same time I learned when Brandon got shot
24 at the hospital.

25 Q What?

1 A The same time whenever I went to the
2 hospital,
3 he was at the same hospital that Brandon was at.
4 That's when I found out.

5 Q He who?

6 A Philip, his brother Philip.

7 Q Philip had been stabbed?

8 A Yes, sir.

9 Q But you didn't see it?

10 A No, sir.

11 Q Okay. When these two individuals, one you
12 said was Deron, ran by you to the white vehicle,
13 was anybody else with him other than those two?

14 A I -- probably so but I don't know who.

15 Q Do you know what Philip looks like?

16 A Yes, sir.

17 Q How?

18 A He's ---

19 Q I said how.

20 Q Have you met him before?

21 A Yes, sir.

22 Q Did see him that night?

23 A At the van at the time, but not, other than
24 that, no, sir, after the club.

25 Q So when the two ran to the van he was

1 already there?

2 A No, I say it's not Philip. It's Harry, not

3 Philip.

4 Q Oh, did you see Philip?

5 A At the van after the club, yes, sir.

6 Q Well, that's what I mean. At the white van?

7 A No, sir, another van.

8 Q Another van?

9 A Yes, sir.

10 Q Okay. You didn't go over and talk to him?

11 A Oh, no, sir, they was in trying to get --

12 they been fussing and all that. I ain't got time

13 for nothing like that.

14 Q Thank you.

15 A Yes, sir.

16 THE COURT: All right. Redirect?

17 REDIRECT EXAMINATION

18 BY MR. JEPERTINGER:

19 Q I think you were gonna say you see Phillip

20 Myers in the courtroom?

21 A Yes, sir.

22 Q And is he in the audience?

23 A Yes, sir.

24 Q Okay. And you know him?

25 A Yes, sir.

1 Q And the van you're talking about was the one
2 that kind of right near the intersection?

3 A Yes, sir, that was blocking.

4 Q That was blocking?

5 A Yes, sir.

6 Q And is that where the fight that was going
7 on between women?

8 A Yes, sir.

9 Q All right. And the shooting that took place
10 ---

11 A Yes, sir.

12 Q ---was that near that van?

13 A No, sir, that was near Michael car.

14 Q Okay, all right. Thank you.

15 THE COURT: You may step down.

16 Call your next witness.

17 MR. JEPERTINGER: Your Honor, if we may
18 have a short break.

19 THE COURT: Members of the jury, if you
20 would, let's take a short break. Step into jury
21 room for about 15 minutes. We will be back in a
22 few minutes.

23 (WHEREUPON, the jury was removed from the
24 courtroom.)

25 THE COURT: Let's take about a 15 minute

1 break and we'll be back.

2 (WHEREUPON, a break was taken.)

3 THE COURT: Okay, bring in the jury.

4 (WHEREUPON, the jury was returned to the
5 courtroom.)

6 THE COURT: Okay. Call your next
7 witness.

8 MR. JEPERTINGER: May it please the
9 Court, the State would call Deputy Brian Proffitt
10 to the stand.

11 THE CLERK: If you will, sir, place your
12 left hand on the Bible and raise your right hand.
13 WHEREUPON,

14 **BRIAN PROFFITT,**
15 after first having been duly sworn by the Clerk,
16 testified as follows:

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

19 THE WITNESS: Brian Proffitt.

20 DIRECT EXAMINATION

21 BY MR. JEPERTINGER:

22 Q Okay. Deputy Proffitt, how long have you
23 worked with the sheriff's office?

24 A Five years.

25 Q Back on April of 2013 what were your

- 1 responsibilities with the sheriff's department?
- 2 A With the patrol division.
- 3 Q Just briefly can you tell me who was with
- 4 you on patrol division at that time?
- 5 A Working the lower end county with me was
- 6 Deputy Jay Watson and responded to the scene with
- 7 me also was Deputy William Odom.
- 8 Q And you do you specifically recall the call
- 9 that evening?
- 10 A Yes, sir, we were responding to a large
- 11 altercation at the club with shots fired.
- 12 Q Okay. And the club that we're talking about
- 13 is located where?
- 14 A It's at the corner of Karisma and C.W.
- 15 Robinson in Coward.
- 16 Q Coward, correct?
- 17 A Yes, sir.
- 18 Q When you got on scene what did you observe?
- 19 A When we got there, there was still some
- 20 people in the parking lot. I did observe a black
- 21 male subject laying on the ground. After
- 22 securing the scene, getting to speed, noticed he
- 23 had advised me had been shot in the leg when I
- 24 called for E.M.S.
- 25 Q All right. And the individual that you saw

1 shot was who?

2 A It was Mr. Taylor.

3 Q All right. Did -- when you walked up to the
4 body of -- not his corpse obviously because he's
5 living -- did you see any gun or knife on his
6 person?

7 A No, sir.

8 Q All right. Was he lying near a vehicle?

9 A He was a few feet away from a Dodge Charger
10 that was park in the roadway on Karisma.

11 (WHEREUPON, State Exhibit No. 9 was
12 marked for identification only.)

13 BY MR. JEPERTINGER:

14 Q And I'm gonna show you some photographs
15 here. I'm going to show you this State's Exhibit
16 9. Can you identify these photographs?

17 A Yes, sir, it's the Dodge Charger the night
18 of the incident that Mr. Taylor claimed that he
19 was the driver.

20 Q All right.

21 MR. STROBEL: No objection.

22 MR. JEPERTINGER: No objection, okay.

23 THE COURT: State's Exhibit Number 9 into
24 evidence without objection.

25 (WHEREUPON, State Exhibit No. 9 was

1 admitted into evidence.)

2 BY MR. JEPERTINGER:

3 Q Okay. Was the vehicle parked just where as

4 when you arrived on scene?

5 A Yes, sir.

6 Q Now I notice all these little cone deals

7 with number on them.

8 A Yes, sir.

9 Q Okay. Can you tell the ladies and gentlemen

10 of the jury what those cones are?

11 A There actually crime scene tags indicating

12 where evidence or places are located.

13 Q All right. And did you notice anything

14 specific that were around these tabs?

15 A They were actually spent bullet shells or

16 cartridges.

17 Q Okay. And would you inform anybody about

18 those objects that you saw there?

19 A We did. We also notify, notified our

20 supervisor along with the forensics, our crime

21 scene unit.

22 Q All right. And did they come up there?

23 A They did, sir.

24 Q Okay. Did you have a chance to speak with

25 Mr. Taylor on scene?

1 A I did, sir.

2 Q Okay. And did he provide any information to
3 you?

4 A He did.

5 MR. STROBEL: I object to anything he
6 might say, Your Honor.

7 MR. JEPERTINGER: Your Honor, I think
8 he's already testified. He's subject to
9 cross-examination.

10 THE COURT: Well, I think your question
11 was did he say anything to you, now what did he
12 say.

13 BY MR. JEPERTINGER:

14 Q Did he speak with you?

15 A He did.

16 Q What did he say to you?

17 A When we got there he had told me that when
18 I'd asked him who had shot him and he said it was
19 Harry Myer's cousin, that he was attempting to
20 break up an argument between two subjects, one
21 that he had known. And then as he was attempting
22 to leave that he was then shot.

23 Q All right. And were you present when E.M.S.
24 got on scene?

25 A Yes, sir, I was.

1 Q All right. And did they transport
2 Mr. Taylor to a hospital?

3 A They did, sir.

4 Q Did you later follow that ambulance to the
5 hospital or was that your involvement in the
6 case?

7 A I was still remaining on scene waiting for
8 forensics to arrive when Mr. Taylor was
9 transported.

10 Q Okay. Did you do anything particular to the
11 crime scene to preserve any of the things that
12 you found on the crime scene?

13 A Yes, sir. After we had secured the scene
14 I'd actually taken the crime scene tape that I
15 had and taped off the driveway from Karisma so
16 nobody could come in or leave.

17 Q You used the term secured the crime scene.
18 What does that mean for the ladies and gentlemen
19 of the jury?

20 A It's just making sure that there's nobody
21 else that can contaminate the scene or mess with
22 anything.

23 Q In simple language you're preventing people
24 from coming out and coming in?

25 A Yes, sir.

- 1 Q Specifically coming in?
- 2 A Yes, sir.
- 3 Q Right? When you got there how did you --
- 4 did you come there in your separate vehicles,
- 5 you, Odom, and Watson?
- 6 A Yes, sir.
- 7 Q Okay. Did, I guess you blockade that area
- 8 so no one could get into the scene?
- 9 A That's correct, sir.
- 10 Q And later you put up that yellow tape at the
- 11 crime scene that has the cross, whatever it has
- 12 on it?
- 13 A Yes, sir.
- 14 Q Okay. Did anyone come back to the scene to
- 15 try to talk to you or try to tell you what
- 16 happened other than what you got from Mr. Taylor?
- 17 A No, sir.
- 18 Q All right. Were you aware of anyone else
- 19 getting shot that evening?
- 20 A They did say that there was multiple
- 21 victims, but they had left in their own vehicle
- 22 before law enforcement had arrived.
- 23 Q All right. Did you wait until crime scene
- 24 got there?
- 25 A I did, sir.

1 Q And at that point what did you do?

2 A Once crime scene had arrived I advised them
3 as much information that I received, I passed it
4 along to them. We had observed spent shell
5 casings around the vehicle and pretty much just
6 stayed out the way.

7 Q And did you eventually leave?

8 A I did.

9 Q Did you wait for an on-scene investigator or
10 did you leave before the investigator got there?

11 A I believe I left before the investigator got
12 there.

13 Q Did you -- what condition was Mr. Taylor in
14 when you first saw him?

15 A Other than just pain but he was able talk to
16 me.

17 Q Did you notice any blood whatsoever?

18 A I did. Well, he had jeans on that night but
19 I could tell there was -- beside where, I guess,
20 the blood was running off his leg or stuck
21 through his jeans on the ground where he was
22 laying.

23 Q Thank you so much. Please answer any
24 questions Mr. Strobels may have.

25 A No problem.

1 THE COURT: Mr. Strobел.

2 CROSS-EXAMINATION

3 BY MR. STROBEL:

4 Q You said there were other victims.

5 A Yes.

6 Q How many other victims were there?

7 A That night they were given multiple victims,
8 meaning more than one, that had already left the
9 scene; but I don't remember -- they didn't give
10 me an exact number.

11 MR. STROBEL: That's all, Your
12 Honor.

13 THE COURT: You may step down.

14 THE WITNESS: Thank you, sir.

15 THE COURT: All right, next witness.

16 MR. JEPERTINGER: We call Deputy Jay
17 Watson to the stand. Also, if Deputy Proffitt
18 could be excused.

19 THE COURT: Any objection?

20 MR. STROBEL: No.

21 WHEREUPON,

22 **JEFFREY GRAY WATSON, JR.,**
23 after having been duly sworn by the Clerk,
24 testified as follows:

25 THE CLERK: Please be seated, state your

1 full name for the record.

2 THE WITNESS: Okay.

3 DIRECT EXAMINATION

4 BY MR. JEPERTINGER

5 Q Okay. Deputy Watson, how long have been
6 with the Sheriff's Office?

7 A Seventeen years.

8 Q All right. And what are your duties there?

9 A I work in the patrol division.

10 Q All right. And how long have you been with
11 patrol?

12 A Three-and-a-half years.

13 Q Back on April 7, 2013, were you on duty?

14 A Yes, I was.

15 Q Did you get a report to go out to a
16 particular location?

17 A Yes, I did. Deputy Proffitt and I were in
18 Coward when we received a shots fired call on
19 Karisma and C.W. Robinson.

20 Q All right. So did you head over there?

21 A Yes, sir.

22 Q What kind of scenery did you see?

23 A Deputy Odom turned in before we did on C.W.
24 Robinson. He pulled up first. The second
25 driveway is actually C.W. Robinson and blocked

1 it. I blocked the entrance to the Down Beat Club
2 itself. We started securing the outside area.
3 Deputy Proffitt went to the victim. There was a
4 black Charger where the victim was at. Other
5 than that, they were -- we, there were cars on
6 Karisma Road that we had to let out. We let that
7 out and didn't let anybody else in and waited on
8 E.M.S. Once we secured everybody and made sure
9 Deputy Proffitt had his victim, if any other
10 victims. We did search the area and make sure
11 that we didn't know about.

12 Q While you were searching the area to make
13 sure that there were no other victims that you
14 didn't know about, did you see anything that just
15 popped out at you?

16 A Shell casings around the Charger.

17 Q And did you just let them lie where they
18 were?

19 A No, sir. We marked them we could know where
20 they were at and kept people away from them until
21 forensics could mark them with the orange cone.

22 Q Okay. You waited for forensics to do that
23 or you did it yourself?

24 A No, sir. I took a notepad, little note
25 stickies and stuck around the ones that I had

1 found at the rear of the car, or rear side of the
2 car, until forensics came.

3 Q All right. And I'm showing you State's
4 Exhibit 9. I see one, two, three -- six separate
5 things behind the car, but with number 9. What
6 would number 9 indicate to you?

7 A Number 9 would indicate the ninth marker,
8 ninth shell casing that he found on the ground.

9 Q Okay. So there are other places here with
10 evidentiary evidence?

11 A Yes, sir.

12 Q Okay. And did you leave the shell casings
13 right there or just put the tabs right?

14 A I put the tabs right there.

15 Q Okay. So another officer could pick them
16 up; is that correct?

17 A Yes, sir.

18 Q And who would you want to do that?

19 A The forensic technician.

20 Q And did the forensic technician come out
21 there

22 A I had already departed the scene when the
23 forensic technician arrived.

24 Q Okay. What did you do after you had marked
25 the places where you found the shell casing?

1 A We -- there was another vehicle down the
2 road on Karisma Road that drove up. The
3 individual got out, tried to get into the crime
4 scene. She was transported. I charged her with
5 public disorderly conduct.

6 Q And after that what did you do?

7 A Went back on shift. I never went back to
8 the scene.

9 Q Thank you. Please answer any questions Mr.
10 Strobels may have.

11 MR. STROBEL: I have none.

12 THE COURT: All right. You may step
13 down.

14 MR. JEPERTINGER: I'd ask Deputy Watson
15 be excused.

16 THE COURT: Any objection?

17 MR. STROBEL: No.

18 MR. JEPERTINGER: We call Deputy William
19 Odom.

20 THE CLERK: Raise your right hand.

21 WHEREUPON,

22 **WILLIAM ODOM,**

23 after first having been duly sworn, testified as
24 follows:

25 THE CLERK: Please be seated, state your

1 full name for the record.

2 THE WITNESS: I'm Deputy William Odom.

3 DIRECT EXAMINATION

4 BY MR. JEPERTINGER:

5 Q Okay, all right. Deputy Odom, Can you tell
6 us how long you've been working for the Sheriff's
7 Office?

8 A Right at six years, sir.

9 Q All right. And did -- were you on patrol
10 last April, 2013?

11 A Yes, sir.

12 Q Okay. Did you receive a call to go out to
13 any particular location?

14 A Yes, sir. I work in the upper end which is
15 Florence. We got a call of a large fight with
16 shots fired. I was sent to pretty much back up
17 the lower end units, and I respond out to C.H.
18 Robinson and Karisma Road at a nightclub.

19 Q And when you got to the nightclub what did
20 you observe?

21 A The first thing I observed was we had a
22 slightly large crowd. They was surrounding the
23 victim. My first goal was to disburse the crowd
24 so we could secure the crime scene and actually
25 render aid to the victim, see where his injuries

1 was and get E.M.S. in too.

2 Q Did you get up to the victim?

3 A Yes, sir.

4 Q And what did you see?

5 A When I got up there the first thing I had to
6 do was disburse the crowd because we had
7 approximately 15 subjects, some being disorderly.
8 I think he was upset that his friend got shot and
9 he was hurt. So what I had to do was disburse
10 the crowd.

11 Q How'd you do that?

12 A Just basically tell them, you know, they had
13 to get out the crime scene. If not, we was gonna
14 have to start taking them to jail if they did
15 not listen to us. We had to secure the crime
16 scene. We had to get him some help. They
17 wasn't doing them no good if they, you know,
18 crowded around the victim and we couldn't help
19 him.

20 Q I understand.

21 A And I got everything, everybody out the
22 crime scene. At that time I think Deputy
23 Proffitt was able to get in and speak to the
24 victim, and I pretty much was checking his
25 wounds, noticed he had gun---

1 Q What did it look like to you?

2 A It looked like a gunshot wound to the leg.

3 Q All right. Did you open up the pants or
4 pull up the pants or do, touch him anywhere or --
5 -

6 A No, sir. What happened was, the crowd I
7 disbursed ---

8 Q Yeah.

9 A I had to actually leave the victim with
10 Deputy Proffitt. I had to actually go back. We
11 had some disorderly people still on scene. I had
12 to go back and deal with them, keep them out of
13 the crime scene, and pretty much getting them to
14 calm down. I was tied up doing that.

15 Q All right. Did you get them off crime
16 scene?

17 A Yes, sir. Oh, yes, sir.

18 Q All right. At that point once you dealt
19 with that, did you, did you come back to either
20 deal with the victim or do anything else?

21 A The second time I had to deal with the
22 crowd, they finally disbursed and the ones that
23 remained on scene was family. And they stayed.
24 And friends, they stayed on the outside
25 perimeter. They calmed down. So I went back, I

1 went back. I -- it was right beside a blue Dodge
2 Charger, seen some shell casings, and I overheard
3 Deputy Proffitt speaking to the victim.

4 Q I'm going to show you State's Exhibit 9. Is
5 that the charge we're talking about?

6 A Yes, sir.

7 Q All right. And go ahead.

8 A I overheard Deputy Proffitt speak to the
9 victim. I think central dispatch advised there
10 was possibly some other victims so I wanted some
11 information on the shooter so we could apprehend
12 him and maybe get on the radio, put out a bolo on
13 him. And all I heard he said ---

14 MR. STROBEL: Objection.

15 THE COURT: Sustained.

16 BY MR. JEPERTINGER:

17 Q Is it what has been testified to already?

18 A Yes, sir, he said it was ---

19 Q You can't -- you don't need to go -- we got
20 all that already. Once you got your information
21 did you -- what did you do in response to that
22 information?

23 A He was advised -- he knew the subject; it was
24 an acquaintance. It was said it was somebody's
25 cousin who said he was trying to break up the

1 fight.

2 Q We got all that.

3 A Yes, sir.

4 Q So once you got information what did you do

5 with that information?

6 A Sergeant Summersett said he was calling me

7 on the radio, asked me to give a call once the

8 scene was secured. I actually called my sergeant

9 to notify him of what was going on, what we had

10 on scene, suspect information, which we didn't

11 have much at the time.

12 Q Okay, and then what did you do?

13 A I actually at that time we had a lot of

14 calls backing up at the lower end of the county,

15 one domestic which sounded pretty bad. He told

16 me to actually go to answer that call.

17 Q So you wound up dealing with another issue

18 at some other place in this county?

19 A Yes, sir. I had to actually leave the

20 scene.

21 Q Okay. So were you present when E.M.S. got

22 there?

23 A They were just pulling up when I was

24 leaving.

25 Q Was crime scene there when you began to

1 leave?

2 A No, sir.

3 Q Okay, all right. Thank you so much. Please
4 answer any questions Mr. Strobel may have.

5 THE COURT: Mr. Strobel.

6 MR. STROBEL: No questions.

7 THE COURT: You may step down.

8 Call your next witness.

9 MR. JEPERTINGER: We'd call Christopher
10 Owens.

11 THE CLERK: Place your left hand on the
12 Bible, raise your right hand.

13 WHEREUPON,

14 CHRISTOPHER A. OWENS,
15 after having been duly sworn by the Clerk,
16 testified as follows:

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

19 THE WITNESS: Christopher Allen Owens.

20 DIRECT EXAMINATION

21 BY MR. JEPERTINGER:

22 Q Okay. Would you tell the ladies and
23 gentlemen of the jury who you work for?

24 A I'm sorry?

25 Q Who do you work for?

- 1 A Florence County Sheriff's Office.
- 2 Q How long have you been with the Florence
- 3 County Sheriff's Office?
- 4 A Seven years.
- 5 Q Okay. And what are your responsibilities
- 6 there currently?
- 7 A I work in the forensics crime scene
- 8 division.
- 9 Q How long have you worked for forensics crime
- 10 scene division?
- 11 A About a year-and-a-half.
- 12 Q Were you so employed back on April 7, 2013?
- 13 A I was.
- 14 Q Okay. Were you asked to go anywhere at that
- 15 particular evening?
- 16 A Yes, sir, I was notified to respond to the
- 17 Down Beat Club on Karisma Road in Coward.
- 18 Q Okay. And did you get to the Down Beat
- 19 Club?
- 20 A Yes, I did.
- 21 Q When you got on scene what, what was the
- 22 first thing you did?
- 23 A I got there about 4:15 a.m., and I met with
- 24 Deputy Brian Proffitt who was the responding
- 25 deputy and Corporal Andrew Clendenin who also

1 worked in crime scene.

2 Q All right. And what did you observe?

3 A I spoke with Deputy Proffitt just to kind of
4 get the particulars about what had occurred, and
5 after speaking with him kind of did a walk-thru
6 of the scene to see what kind of evidence was
7 present.

8 Q I guess the questions of whether the thing
9 happened on the inside or the club outside of the
10 club, would be the questions you would have
11 asked?

12 A Yes, sir.

13 Q And based on the information that you
14 garnered of everything happened on the outside I
15 was told happened in the parking lot outside.

16 Q So you walked around the scene as you said?

17 A Yes.

18 Q What did you observe when you walked around
19 the scene?

20 A I observed the gray in color Dodge Charger.
21 Around this Charger there I observed two blood
22 pools on the ground. They were adjacent to the
23 driver's side door. I also observed seven fired
24 nine millimeter casings, and I observed one fired
25 nine millimeter bullet lying on the ground on the

1 driver's side of the vehicle.

2 Q All right. I'm going to show you a series of
3 photographs in a second.

4 MR. JEPERTINGER: I want to have these
5 marked. I believe, Your Honor, there's going to
6 be 11 different series of photographs with pages
7 of photographs. And Your Honor, and I believe
8 it's without objection from the Defense.

9 THE COURT: Is that correct, Mr. Strobel?

10 MR. STROBEL: That's correct.

11 THE COURT: State's Exhibits 10, 11, 12,
12 13, 14, 15, 16, 17, and 18 is in the evidence
13 without objection.

14 (WHEREUPON, State Exhibit Nos. 10 through
15 18 were marked for identification and
16 admitted into evidence.)

17 MR. JEPERTINGER: I'm gonna ask the
18 witness if he can step down and explain
19 these to the jury.

20 BY MR. JEPERTINGER:

21 Q Okay. Can you show the ladies and gentlemen
22 of the jury what's on State's Exhibit 10?

23 A This is the Dodge Charger that I was
24 referring to in my earlier testimony. These are
25 yellow, what we refer to as tower markers with

1 numbers that identify pieces of evidence.

2 Q All right. State's Exhibit 11?

3 A Again, this is pictures from the driver's
4 side area of the car of the Dodge Charger along
5 with other, more tower markers marking pieces of
6 evidence.

7 Q Okay. State's Exhibit 12?

8 A This is the same Dodge Charger, tower marker
9 number 5, which was located under the rear bumper
10 and tower markers 4, 6, 7, and 9 located at the
11 rear of the vehicle.

12 Q Okay. And I show you State's Exhibit 13. If
13 it's repetitive just let me know that.

14 A It's another view just showing a larger area
15 where you could see more of the tower markers
16 from different angles. It's the same as earlier.

17 Q State's Exhibit 8?

18 A In the top portion it's some of the same
19 tower markers we've seen in earlier pictures.
20 The bottom is an additional tower marker which is
21 marker 8.

22 Q All right. State's Exhibit 15 and I said
23 State's Exhibit 8 but that should have been
24 State's Exhibit 14. Let the record reflect that.
25 State's Exhibit 15.

1 A This is another front view and passenger
2 side of the vehicle with a location of the tower
3 markers.

4 Q State's Exhibit 16?

5 A Tower marker number 1 in the bottom photo is
6 identifying two blood pools that were on the
7 ground, and the top portion is the -- another
8 picture of the vehicle from the front passenger
9 side.

10 Q State's Exhibit 17?

11 A Tower markers 2 and 3. Tower marker 2 is
12 the unfired bullet. Tower marker number 3 is a
13 spent shell casing.

14 Q State's Exhibit 18?

15 A Tower markers 4 and 5, both are spent shell
16 casings.

17 (WHEREUPON, State Exhibit Nos. 19 and 20
18 were marked for identification only.)

19 BY MR. JEPERTINGER:

20 Q Likewise for State's Exhibit 19 and 20?

21 A Yes.

22 Q And what are they?

23 A They are spent shell casings marked 6
24 through 9.

25 Q And at that point when you saw these spent

1 shell casings what did you do with them?

2 A Once I walked around and observed the spent
3 shell casings, that's when I placed the yellow
4 tower markers down to mark them for digital
5 photography. Once my photography was completed I
6 collected them for evidence.

7 Q Okay.

8 MR. JEPERTINGER: Now let's mark this.

9 (WHEREUPON, State Exhibit No. 21 was
10 marked for identification only.)

11 BY MR. JEPERTINGER:

12 Q Now I'm gonna show State's Exhibit 21 that's
13 in evidence without objection. Can you tell the
14 ladies and gentlemen of the jury what those
15 things are.

16 A These are shell casings from, that I
17 collected from the scene. Would you like for me
18 to take them all out?

19 Q Yes, please.

20 A And also the unfired Remington nine
21 millimeter shell ---

22 Q Now, let me ask ---

23 A Sorry.

24 Q Go ahead. How many spent shell casings do
25 you have?

- 1 A Seven.
- 2 Q How many live rounds you got?
- 3 A One.
- 4 Q All right. And what caliber gun would those
5 spent shell casings and live rounds come from?
- 6 A A 9-millimeter handgun -- well, a 9-
7 millimeter gun.
- 8 Q All right. You kind of said handgun, then
9 you just said gun?
- 10 A Yes.
- 11 Q Would it come from a semiautomatic pistol or
12 a revolver?
- 13 A It would have come from a semiautomatic.
- 14 Q Do they make revolvers in nine millimeters?
- 15 A Yes, sir -- well, no, sir, they do not.
- 16 Q Okay. Let me get my question again. Do
17 they make revolvers that fire 9-millimeters?
- 18 A I couldn't tell you.
- 19 Q You don't know?
- 20 A I'm not a gun guy.
- 21 Q All right. Let me ask you this, when a
22 semiautomatic pistol is fired, do the shell
23 casings stay in the magazine, or are they
24 expelled from the gun?
- 25 A They are expelled from the gun.

1 Q When a revolver fires a bullet, do the shell
2 casings remain in the revolver, or is it
3 expelled from the gun?

4 A They remain inside the cylinder.

5 Q Okay. Now, is there ever an occasion where
6 a 9-millimeter handgun can, if you're aware, and
7 just ask me if you know, can I guess, misfire and
8 a bullet be expelled without firing?

9 A yes, sir.

10 Q And the bullet you found was what caliber
11 again?

12 A It was 9-millimeter.

13 Q And the shell casings?

14 A 9-millimeter.

15 Q Okay. Was the ambulance on scene when you
16 got there?

17 A No, sir.

18 Q Had they left already or were you there when
19 you they got there?

20 A They had left prior to my arrival.

21 Q All right. Were you given any weapons of
22 any sort at the crime scene by any of the
23 officers who have already just testified?

24 A No, sir.

25 Q Were you ever given any weapons by anyone

1 involved with this case?

2 A No, sir.

3 Q Did you go to the hospital at McLeod?

4 A Yes, I did.

5 Q Okay. And who did you see there?

6 A I met with the victim Michael Taylor at
7 McLeod Hospital.

8 Q All right. I show you State's Exhibit 2 and
9 3. Is that consistent with what you saw at the
10 hospital?

11 A Yes.

12 Q All right. In terms of the shell casings
13 did you try to develop any latent prints from
14 them?

15 A Corporal Andrew Clendenin processed the
16 shell casings.

17 Q All right. And would the processing also
18 include trying to do the latent prints?

19 A Yes, that's correct.

20 Q Thank you very much. Please answer any
21 questions that the Defense attorney may have for
22 you.

23 THE COURT: All right.

24 CROSS-EXAMINATION

25 BY MR. STROBEL:

1 Q Did you recover any fingerprints from the
2 casings?

3 A I didn't do the fingerprints on the shell
4 casings.

5 Q Who did?

6 A Corporal Clendenin did.

7 Q And which one is he?

8 A He's the one with the orange shirt.

9 Q And he did the fingerprints?

10 A Yes, sir.

11 Q How about DNA?

12 A I didn't process the shell casings at all.

13 Q Thank you.

14 THE COURT: All right.

15 MR. JEPERTINGER: No further questions.

16 You may step down.

17 THE COURT: Call your next witness.

18 MR. JEPERTINGER: Judge, the Clerk
19 stepped out. You're going to have to swear the
20 witness.

21 THE COURT: Okay.

22 WHEREUPON,

23 **ANDREW R. CLENDENIN,**
24 after having been duly sworn by the Court,
25 testified as follows:

1 THE COURT: Have a seat and state your
2 name for the record.

3 THE WITNESS: Andrew Robert Clendenin.

4 MR. JEPERTINGER: Okay.

5 DIRECT EXAMINATION

6 BY MR. JEPERTINGER:

7 Q Okay. Can you tell us where you work?

8 A I work for the Florence County Sheriff's
9 Office.

10 Q And can you tell us what you do there?

11 A I am a crime scene technician.

12 Q And how long have you been a crime scene
13 technician?

14 A For the last eight years.

15 Q And can you just -- I know everyone watches
16 C.S.I., but can you tell them what crime scene
17 techs do in real life, part of your
18 responsibilities?

19 A We process anything from blood stain to
20 collection of D.N.A., collection of gunshot
21 residue, latent print examinations, and also
22 development and also marijuana cases. We also
23 test marijuana in our lab.

24 Q All right. Back on April 7, 2013, were you
25 called out to any particular location?

1 A Yes, I was.

2 Q Where did you go?

3 A I went to the location known as the Down

4 Beat.

5 Q All right. And when you got there who was

6 on scene?

7 A I met with Deputy Brian Proffitt and also

8 Corporal Chris Owens.

9 Q Was the victim Michael Taylor still on

10 scene?

11 A No victims were left on the scene when I

12 arrived.

13 Q All right. Were you informed anything about

14 E.M.S. or anything like that?

15 A I was advised that one victim had been

16 transferred by E.M.S. to the hospital, McLeod

17 Hospital. The rest was gone to the hospital by

18 POB, which personal vehicle.

19 Q All right. At that stage on scene what did

20 you observe?

21 A I'm sorry?

22 Q What did you observe when you were on scene?

23 A I observed the yellow crime scene tape that

24 marked off the front of the building, also the

25 gray Dodge Charger and the shell casings laying

1 on the ground along with two blood pools.

2 Q Were the tire markers up around already?

3 A No, they're not.

4 Q All right. So do you call for Deputy Chris

5 Owens to come out there and assist you?

6 A Yes, we -- I assisted him during the

7 investigation.

8 Q Okay. And who took the photographs that

9 we've just looked at?

10 A That was Corporal Chris Owens.

11 Q Okay. And in terms of recovery of the shell

12 casings that are listed in State's Exhibit 21,

13 who picked those up?

14 A Corporal Chris Owens also collected those.

15 Q Okay. And what did you do with State's

16 Exhibit 21 once you got back to ---

17 A Once I got back I did collect them and carry

18 them to the lab and process them for latent

19 prints.

20 Q Okay. And did you find anything that you --

21 -

22 A No, I did not.

23 Q Is that unusual?

24 A It's not unusual.

25 Q Okay. Based -- and I'm gonna ask a

1 question. He said he's not a gun guy. Are you
2 familiar with any 9-millimeter revolvers?

3 A Yes, I am.

4 Q So there are 9-millimeter revolvers?

5 A They're not 9-millimeter revolvers. There
6 is 9-millimeter handguns and also shell fire
7 machine guns.

8 Q In this case, what happens if you are
9 familiar with it, what happens when you run out
10 of bullets in a magazine?

11 A The cylinder locks back and that is the end
12 of the weapon. It does no longer fire anymore.
13 It just continues to just run the trigger dry.

14 Q How about if you keep pulling the trigger?

15 A You would hear just the sound of the trigger
16 hitting the empty chamber.

17 Q A clicking sound?

18 A A clicking sound.

19 Q Okay, all right. That's all the questions I
20 have. Please answer any questions Mr. Strobelt
21 may have for you.

22 THE COURT: Yes, sir.

23 CROSS-EXAMINATION

24 BY MR. STROBEL:

25 Q You say you found no fingerprints?

1 A I did not find any prints.

2 Q Check for D.N.A.?

3 A No, I did not.

4 MR. STROBEL: That's all.

5 THE COURT: You may step down.

6 THE COURT: Call your next witness.

7 MR. JEPERTINGER: Beg the Court's

8 indulgence one second. That will be the State's

9 case.

10 THE COURT: Why don't y'all come up here

11 and let's talk about scheduling.

12 (WHEREUPON, Counsel approached the

13 Bench for an off-the-record discussion.)

14 THE COURT: Members of the jury, we're

15 going to take a break at this time. You are

16 excused for the night. As I told you before, do

17 not discuss the case, do not investigate the

18 case. I'll see you back at 9:30 in the morning.

19 Everybody else remain seated while the jury is

20 excused.

21 (WHEREUPON, the jury was removed from

22 the court room and excused for the day and the

23 following proceedings commenced in open court.)

24 THE COURT: Any motions?

25 MR. STROBEL: Your Honor, the Defense

1 would make a motion for directed verdict of not
2 guilty and that the State has not produced
3 sufficient evidence for this matter to go
4 forward.

5 THE COURT: Would you like to respond to
6 that?

7 MR. JEPERTINGER: Yes, Your Honor. I
8 think in this case, Your Honor, there's been
9 ample testimony from Michael Taylor that this
10 gentleman was shooting at him, Your Honor, and
11 there were other witnesses who say he shot at
12 Michael Taylor, Your Honor. I would point out
13 also, Your Honor, under a theory of general
14 intent, not specific intent, which I think in
15 these type cases statements, Foust, F-O-U-S-T, a
16 case tried here in this very courtroom, that in
17 order to prove at that time assault and battery
18 with intent to kill all you have to show is a
19 general intent, not a specific intent, Your
20 Honor; that that would also suffice under a
21 doctrine, I guess, also transferred intent the
22 count against Brandon Marquis Holmes, Your Honor,
23 as he's being -- he got struck while apparently
24 he was either shooting at Holmes or Taylor, Your
25 Honor. Therefore, that would be my rebuttal to

1 his motion.

2 THE COURT: All right. I'm gonna
3 respectfully deny that motion. Any other
4 motions?

5 MR. STROBEL: Yes, sir. I wasn't quite
6 sure whether you did issue a bench warrant this
7 morning or not; but based upon the fact he was on
8 the tenth floor waiting and the person who yelled
9 out in the hall certainly didn't yell out on the
10 tenth, I would ask the bench warrant be lifted.
11 And further, because he has been, always been
12 attentive to me, that he be allowed to remain on
13 bond for the night.

14 MR. JEPERTINGER: Your Honor, I would ask
15 that his bond be revoked. We've gone over the
16 testimony in this case. We've gone past the
17 State's side, the State's rested, Your Honor.
18 Bond should be extinguished at this point, Your
19 Honor. Irrespective of the bench warrant, I
20 would say lift the bench warrant but I also say
21 revoke the bond.

22 THE COURT: All right, I'm gonna lift the
23 bench warrant but we're gonna hold him during the
24 pendency of this action.

25 Why don't we go over his constitutional

1 right to remain silent at this time if that's
2 okay with you.

3 MR. STROBEL: That's okay.

4 THE COURT: Mr. Myers, I want you to
5 understand that this is your trial, and if you
6 would like to testify you can. You can come over
7 here and take the witness stand. You can be
8 sworn in and you can testify in any way you and
9 your lawyer see fit. It is important to
10 understand that you may be cross-examined on any
11 and all, furthermore, if you have criminal record
12 that involves dishonestly or false statements or
13 it involves crimes that carry punishment more
14 than one year and the Court determines that the
15 probative value of admitting that record into
16 evidence outweighs its prejudicial effect, then
17 your criminal record will be introduced to attack
18 your credibility. Do you understand that?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: All right. Furthermore, I
21 want you to understand, however, that you do not
22 have to testify. You have the constitutional
23 right to remain silent. And if you chose to
24 exercise that right I want you to understand that
25 I will tell that jury they cannot use that

1 against you in any way. I will tell the jury the
2 fact that you did not testify is to have
3 absolutely no prejudice against you. I would
4 even tell the jury they cannot discuss that fact
5 in the jury room. Now do you understand the fact
6 your constitutional right to remain silent?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: All right. Have you
9 discussed with your lawyer whether or not you
10 want to testify in your case?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: And what is your decision?

13 THE DEFENDANT: No, sir.

14 THE COURT: Okay. You do not wish to
15 testify. Is that what you're telling me?

16 THE DEFENDANT: (No response.)

17 THE COURT: Did you say you do not wish
18 to testify?

19 THE DEFENDANT: No, sir.

20 THE COURT: All right. Thank you very
21 much.

22 THE COURT: I find for the record that he
23 made that decision freely and intelligently made
24 with the advice of competent counsel. All right,
25 sounds good. I'll see everybody back at 9:30 in

1 the morning.

2 MR. STROBEL: Thank you, Your Honor.

3 MR. JEPERTINGER: Your Honor, I would ask
4 if Mr. Strobel knows of anybody else he may call,
5 Your Honor, that he provide dates of birth and
6 social security numbers so we can run appropriate
7 wrap sheets.

8 THE COURT: Okay, we'll do that. Do
9 y'all have any objection if I charge the jury
10 before?

11 MR. STROBEL: I've never seen it done
12 before, sounds interesting; I want to see that.

13 THE COURT: Sounds good. We will go over
14 that and the verdict form. Thank you. Have a
15 good night.

16 (WHEREUPON, the proceedings were
17 concluded for the day to be reconvened on
18 April 15, 2014.)

19 MR. JEPERTINGER: Your Honor, if Mr.
20 Strobel is going to put up any kind of defense I
21 would like to know so we can run the N.C.I.C.s of
22 his witnesses.

23 THE COURT: That will be fine. There he
24 is right there, if you want to ask him.

25 MR. JEPERTINGER: Well, I'd like to put

1 it on the record if he's going to put up a
2 defense.

3 THE COURT: How about it, Mr. Strobел,
4 are you going to put up any witnesses?

5 MR. STROBEL: Certainly.

6 THE COURT: You need to give him the
7 names ---

8 MR. JEPERTINGER: Dates of birth and
9 social security numbers.

10 THE COURT: Dates of birth and social
11 security numbers.

12 MR. STROBEL: Nicky Jackson.

13 What's your date of birth?

14 MS. JACKSON: 9-2-84. Social, ###-##-
15 ####.

16 MR. JEPERTINGER: Is that it?

17 MR. STROBEL: That's it. No, we're gonna
18 call Phillip Myers.

19 What's your date of birth?

20 MR. PHILIP MYERS: 12-7-85.

21 MR. STROBEL: Social security?

22 MR. PHILIP MYERS: ###-##-####.

23 MR. STROBEL: That's it.

24 THE COURT: If you will come on up here
25 and take a look at the charge, Mr. Strobел.

1 (Attorneys approached the Bench.)

2 MR. STROBEL: Looks okay to me.

3 MR. JEPERTINGER: I do have a problem
4 with some of the language please.

5 THE COURT: What objections do you have
6 to it, John, if any?

7 MR. JEPERTINGER: At the bottom of 18,
8 Your Honor, when you are talking about
9 transferred intent you use the old language of
10 assault and battery with intent to kill, which is
11 of course no longer the law because we have
12 attempted murder degrees of assault.

13 THE COURT: Where are we talking about,
14 the bottom of 18?

15 MR. JEPERTINGER: Uh-huh.

16 THE COURT: What do we need to correct on
17 that?

18 MR. JEPERTINGER: The language of assault
19 and battery with intent to kill which would be
20 improper in there. It's be guilty of attempted
21 murder.

22 THE COURT: Yeah, let's plug that in
23 there. That's the only correction you have to
24 make?

25 MR. JEPERTINGER: I think so. The other

1 thing -- and this would be premature because I
2 don't know what the Defense is going to testify
3 to, Your Honor.

4 MR. STROBEL: No problem.

5 MR. JEPERTINGER: The -- as I stated,
6 this will be, is premature because I have no
7 earthly idea what the defendant, defense
8 witnesses are going to testify to, Your Honor.

9 THE COURT: Right.

10 MR. JEPERTINGER: But I know under State
11 versus Belcher, which I have a copy of, that in
12 most cases where self-defense is raised or some
13 mitigating factor is raised, we're not allowed to
14 ask the Court to charge on malice being inferred
15 by the use of a deadly weapon.

16 THE COURT: Is self-defense an issue?

17 MR. STROBEL: No.

18 THE COURT: Okay, it's not an issue.

19 MR. JEPERTINGER: Okay. If it is not an
20 issue I would ask that the malice being inferred
21 from the use of a deadly weapon charge be
22 charged. If the Belcher prescriptions ---

23 THE COURT: I think it's in there.

24 MR. JEPERTINGER: I would say, but I
25 don't think it states that malice may be inferred

1 by the use of a deadly weapon.

2 THE COURT: Malice may be inferred from
3 conduct showing a total disregard for human life.

4 MR. JEPERTINGER: I would specifically
5 ask that malice be inferred from the use of
6 deadly weapon because I do not think that Belcher
7 prescription will fall ---

8 THE COURT: Come back here, let's talk
9 about it.

10 MR. JEPERTINGER: Let me get the cases.
11 In Belcher they obviously did away with self-
12 defense was raised ---

13 THE COURT: Malice may be inferred from
14 conduct showing the total disregard of human life
15 or may be inferred from the use of a deadly
16 weapon.

17 MR. JEPERTINGER: Yes, sir.

18 THE COURT: You okay with that?

19 MR. STROBEL: Uh-huh.

20 THE COURT: Okay, no problem. What else?

21 MR. JEPERTINGER: And I stuck the Defense
22 witnesses lack of record, but the N.C.I.C. on the
23 defense table.

24 THE COURT: Is that okay with you?

25 MR. STROBEL: That's good.

1 THE COURT: Thank you. For the record,
2 does the State have any objection to the charge
3 that you have just reviewed and the verdict form
4 that you have just reviewed?

5 MR. JEPERTINGER: No, sir.

6 THE COURT: How about you?

7 MR. STROBEL: No, sir.

8 THE COURT: Okay. If you'll go ahead and
9 bring out the jury.

10 (WHEREUPON, the jury was returned to the
11 courtroom and the following proceedings
12 commenced in open court.)

13 THE COURT: The Defense is recognized to
14 call your first witness.

15 MR. STROBEL: We call Nicky Jackson.

16 THE CLERK: If you will, ma'am, place
17 your left hand on the Bible, raise your right.
18 WHEREUPON,

19 **Nicky R. Jackson,**
20 after first having been duly sworn, testified as
21 follows:

22 THE CLERK: Have a seat in the witness
23 chair and state your full name for the record.

24 THE WITNESS: Nicky Renee Jackson.

25 DIRECT EXAMINATION

- 1 BY MR. STROBEL:
- 2 Q Ms. Jackson, how old are you?
- 3 A 29.
- 4 Q And where do you live?
- 5 A I stay now at 57 Old Georgetown Road in
- 6 Coward, South Carolina.
- 7 Q Do you have a family there?
- 8 A Yes, sir.
- 9 Q How many children do you have?
- 10 A Three children.
- 11 Q Three children?
- 12 A Yes, sir.
- 13 Q Are you employed anywhere?
- 14 A Yes, sir.
- 15 Q Okay. And where is that?
- 16 A Lake City Sonic.
- 17 Q Lake City what?
- 18 A Sonic Drive-In
- 19 Q Oh, Sonic Drive-In.
- 20 A Yes, sir.
- 21 Q And what do you do there?
- 22 A I'm a car hop, more like a waitress.
- 23 Q You're a what?
- 24 A Car hop. I serve food.
- 25 Q Oh, you're the ones on the roller skates?

- 1 A Yes, sir.
- 2 Q Okay. Did you have the opportunity on the
3 night in question to go to Down Beat Club?
- 4 A Yes, sir.
- 5 Q And what time did you arrive?
- 6 A Between 9:30 and 10'clock.
- 7 Q Okay. And did go with anybody?
- 8 A Yes, sir.
- 9 Q And who is that?
- 10 A My brother and sister.
- 11 Q Brother and sister?
- 12 A Yes, sir.
- 13 Q And did y'all sit at a table?
- 14 A Yes, sir.
- 15 Q Okay. Now we heard quite a bit about some
16 ruckus and different things going on just prior
17 to closing at 3 a.m. in morning; is that right?
- 18 A Yes, sir.
- 19 Q Did you happen to go outside around that
20 time?
- 21 A Yes, sir.
- 22 Q And I had heard that there two women that
23 were arguing or fighting or whatever. Did you
24 see that?
- 25 A Yes, sir.

- 1 Q Do you know either one of those two ladies?
- 2 A No, sir.
- 3 Q Okay. What do you describe to be took place
- 4 with that fight?
- 5 A They was arguing at first. Next thing you
- 6 know it was a big fight. They started fighting.
- 7 Q The two girls?
- 8 A Yes, sir.
- 9 Q Okay. And did anybody break that fight up?
- 10 A Yes, sir.
- 11 Q And who was that?
- 12 A Phillip Myers.
- 13 Q Yes, sir.
- 14 Q Who is that?
- 15 A That's the defendant brother.
- 16 Q What?
- 17 A That's the defendant brother. He's out in
- 18 the audience.
- 19 Q Is that Philip Myers?
- 20 A Yes, sir.
- 21 Q The one with the shirt I reckon?
- 22 A Yes, sir.
- 23 Q ECO, whatever that is. And he broke up the
- 24 fight between the two girls?
- 25 A Yes, sir.

- 1 Q And that's the brother to the defendant?
- 2 A Yes, sir.
- 3 Q And what happened during the break-up?
- 4 A It was after the break-up it was started, it
- 5 was another fight between two guys and it was one
- 6 his ---
- 7 Q Hold up. So after that fight was broken ip
- 8 between the two girls two guys got in a fight?
- 9 A Yes, sir.
- 10 Q And who are they?
- 11 A It was Philip Myers and a guy they call
- 12 Horse.
- 13 Q Horse?
- 14 A Yes, sir.
- 15 Q And what happened between the fight Philip
- 16 and Horse?
- 17 A It was Harry and Horse.
- 18 Q I'm sorry.
- 19 A It was Harry Myers and Horse.
- 20 Q Harry Myers, I apologize. And that's
- 21 another brother?
- 22 A Yes, sir.
- 23 Q Harry?
- 24 A Yes, sir.
- 25 Q And what happened during that fight?

1 A They started, they scuffled, they fall on
2 the ground. Then I seen Deron, that's the
3 defendant, went over there try to break it up.

4 Q This guy?

5 A Yes, sir, the defendant, try to go break it
6 up. That's when I seen Michael Taylor came and
7 grabbed him, the defendant ---

8 Q Michael Taylor?

9 A Yes, sir.

10 Q The fellow there?

11 A Yes, sir.

12 Q Okay. And he grabbed who?

13 A Deron Myers by his hair and was beating him
14 in his head.

15 Q So he grabbed his long hair here and started
16 pulling on it?

17 A Yes, sir.

18 Q Okay. Do you know him?

19 A Yes, sir.

20 Q How long have you been knowing him?

21 A I've known him for a while 'cause he's like
22 the main gang leader around.

23 Q A gang leader?

24 A Yes, 'sir.

25 Q And he grabbed Deron by the hair and pulled

1 him back?

2 A Yes, sir.

3 Q From the fight?

4 A He was beating him in his head.

5 Q He was beating him?

6 A Derón in the head, yes, sir, that's what I

7 saw.

8 Q Okay. And what happened after that?

9 A After that that's when I seen Philip Myers

10 came and he was trying to stop it also.

11 Q Philip Myers?

12 A Yes, sir.

13 Q So brother was coming to help another

14 brother?

15 A Yes, sir.

16 Q And he -- and the other brother was on the

17 ground?

18 A Trying to help the other brother from the

19 guy beating on him.

20 Q So three Myers'?

21 A Yes.

22 Q Okay. And when Philip came over to help his

23 brother what happened?

24 A Philip -- Michael Taylor then hit Philip

25 Myers in the face. He was punching.

1 Q Who?
2 A Michael Taylor punched Philip Myers.
3 Q Okay. That's Michael Taylor there?
4 A Yes, sir.
5 Q He hit who?
6 A Philip Myers.
7 Q Philip Myers, here?
8 A Yes, sir.
9 Q And then what happened?
10 A After that, that, you know, that scuffle,
11 then Philip got back up after he'd been hit. I
12 seen a blade was pulled by Michael Taylor.
13 Q Wait, wait, wait, what is a blade?
14 A A knife.
15 Q Oh, a knife?
16 A Yes, sir.
17 Q Okay. And who pulled the knife?
18 A Michael Taylor.
19 Q That fellow right there?
20 A Yes, sir.
21 Q The gang leader?
22 A Yes, sir.
23 Q What kind of knife was it? Can you describe
24 it?
25 A A kitchen knife I guess. It was a kitchen

1 knife, and it had ---
2 Q A kitchen knife?
3 A Yes, sir.
4 Q And what did he do, if anything, with the
5 kitchen knife?
6 A All I know Phillip got stabbed twice.
7 Q This fellow got stabbed twice?
8 A Yes, sir.
9 Q By who?
10 A By Michael Taylor.
11 Q You sure of that?
12 A Yes, sir.
13 Q And then what did Phillip Myers do after
14 being stabbed twice?
15 A He pulled out his gun and started shooting.
16 Q You mean --
17 A Yes.
18 Q ---this fellow started shooting?
19 A Yes, sir.
20 Q Okay. And who did he hit, if anybody?
21 A I don't know if he hit anybody; I ran.
22 Q You ran?
23 A Yes, sir. I ran from my vehicle.
24 Q How many shots did you fired?
25 A I heard several shots.

1 Q Several?

2 A Yes, sir.

3 Q And you went home then?

4 A I went to the babysitter house so I dropped
5 my kids off at on Lynch Road and picked my kids,
6 and then we left and went home.

7 Q Okay. And what happened after you got home?

8 A Everybody, you know, we went to bed till
9 that next morning I seen more people came
10 knocking at my door. I was in bed ---

11 Q Who?

12 A Jerode McFadden.

13 Q Jerode McFadden?

14 A Yes, sir.

15 Q And they call him Monk? What do they call
16 him?

17 A I don't know what they call Jerode McFadden.

18 Q And what happened?

19 A Then it was him -- I guess one of my kids
20 let him in my house -- we was in bed -- and let
21 him, he barge in my house and went through all my
22 rooms in the house. I guess he was coming for
23 revenge; I don't know. I was scared 'cause I had
24 to go to work. I was terrified. So I jumped up
25 and there was more guys outside of my house.

1 Q Was it like a gang of people?

2 A It was like five other people, guys outside
3 my house.

4 Q Okay. And they went through all the rooms
5 in your home?

6 A Just Jerode McFadden.

7 Q Okay. But you're absolutely positive that
8 you saw this man doing the shooting?

9 A Yes, sir.

10 Q Do you know where Deron Myers was during the
11 shooting?

12 A No, sir.

13 Q You know, this is most important, and you
14 are telling me this is the absolute truth with
15 what you saw?

16 A Yes, sir.

17 MR. STROBEL: That's all.

18 CROSS-EXAMINATION

19 BY MR. JEPERTINGER:

20 Q Nicky, who is your boyfriend?

21 A I don't have a boyfriend. I have a friend.

22 Q Okay. Who's your friend?

23 A Deron Myers.

24 Q Okay. And Does Deron live with you?

25 A No, sir.

- 1 Q Has he ever lived with you?
- 2 A He stay a couple of nights.
- 3 Q Do you have any children by him?
- 4 A No, sir.
- 5 Q All right. And you wouldn't want anything
- 6 bad to happen to Deron in this case at all, would
- 7 you?
- 8 A No, 'cause that's a friend.
- 9 Q Okay. Of course, I think what you testified
- 10 to is that you saw Deron Myers try to break up a
- 11 fight between Horse -- do you know what Horse's
- 12 real name is?
- 13 A I do not.
- 14 Q And Harry, correct, Myers?
- 15 A Yes.
- 16 Q All right. And then Michael Taylor just
- 17 jumped into it, correct?
- 18 A Yes, sir.
- 19 Q And started beating Deron, correct?
- 20 A Yes.
- 21 Q And then he took a -- Philip tried to get,
- 22 jump into it you're telling us, correct?
- 23 A Yes, and tried to stop it.
- 24 Q And Michael pulled out a blade and stabbed
- 25 Philip; is that correct?

- 1 A Yes, sir.
- 2 Q And you saw all that?
- 3 A Yes, sir.
- 4 Q All right. And then at some point you're
- 5 saying Philip pulled out a gun and shot Deron?
- 6 A Not Deron.
- 7 Q And -- excuse me, Michael.
- 8 A Yes, sir.
- 9 Q And Brandon Marquis Holmes?
- 10 A Yes, sir, I guess so.
- 11 Q And what did Brandon do during this
- 12 incident?
- 13 A I don't know 'cause after the shooting, I
- 14 heard shooting and I ran.
- 15 Q All right. So you don't know -- he wasn't
- 16 involved in any of this fight?
- 17 A No.
- 18 Q Now, so you saw a guy stabbed and another
- 19 guy beaten?
- 20 A Yes, sir.
- 21 Q Correct?
- 22 A Yes, sir.
- 23 Q And did you have a cell phone that evening?
- 24 A Yes, sir.
- 25 Q Okay. So immediately you got on the phone

1 and called 911 to say a friend of your brother
2 was just stabbed, correct?

3 A No, I did not.

4 Q And the next morning -- well, let me ask you
5 this, Philip was taken to Lake City Hospital;
6 wasn't he?

7 A Yes, sir.

8 Q You went up and spoke with the investigator
9 who went to speak to Philip Myers, Investigator
10 Worsley here, correct?

11 A No, sir.

12 Q Did not at all?

13 A No, sir.

14 Q This thing happened back on April 7, 2013
15 with the State charging Deron Myers with shooting
16 of Michael Taylor and Brandon Holmes and you --
17 have you ever called me to tell me ---

18 A No, sir.

19 Q ---you are prosecuting the wrong guy? Didn't
20 do that.

21 A No.

22 Q Did you call Alvin Worsley to say, look
23 guys, you have arrested the wrong guy?

24 A No, sir.

25 Q You were aware that Deron was arrested back

1 in September of last year?

2 A Yes.

3 Q And at the point of arrest you didn't say he
4 didn't shoot anybody. You didn't tell the cops
5 that?

6 A No, 'cause I was at work.

7 Q All that time, all right. When you say
8 Jerode McFadden came to your house the next day
9 and walked in and you said I guess his posse was
10 on the outside of the house but he went through
11 your house, you didn't call the cops and say,
12 hey, a man is burglarizing my house, coming into
13 my house without permission, you didn't say that,
14 did you?

15 A No.

16 Q Didn't think that was important?

17 A No, because I know him.

18 MR. JEPERTINGER: Thank you.

19 THE COURT: Any redirect?

20 MR. STROBEL: Yes, sir.

21 REDIRECT EXAMINATION

22 BY MR. STROBEL:

23 Q Okay. I just want to clarify one thing.
24 You said that you saw him shoot him, right?

25 A Yes, sir.

- 1 Q Did you see any other shooting?
- 2 A Yes, sir.
- 3 Q Now, I thought that was most interesting
- 4 was, is that the security guard?
- 5 A Yes, sir.
- 6 Q And do you know his name?
- 7 A No, sir, I don't know his name.
- 8 Q And what was he doing shooting?
- 9 A He was -- he pulled a tazer out to try to
- 10 get, you know, everybody from around. That when
- 11 ---
- 12 Q What ---
- 13 A He pulled the tazer first but ---
- 14 Q He pulled the tazer out?
- 15 A Yes, sir. It was too many people. They
- 16 still wouldn't listen so that's when he pulled
- 17 his gun out
- 18 and started shooting.
- 19 Q So he fired shots?
- 20 A Yes, sir.
- 21 Q So some of those shells on the ground could
- 22 have been from ---
- 23 MR. JEPERTINGER: I would object to his
- 24 leading, Your Honor.
- 25 THE COURT: Sustained.

1 THE WITNESS: Yes, sir.

2 BY MR. STROBEL:

3 Q Do you know how many times he fired?

4 A No, sir.

5 Q Could you see what kind of a pistol he had?

6 A No, sir.

7 Q So there was somebody else shooting there.
8 too?

9 A Yes, sir.

10 MR. STROBEL: Thank you.

11 RE CROSS-EXAMINATION

12 BY MR. JEPERTINGER:

13 Q And of course you reported that to the
14 police officers that not only was Philip Myers
15 shooting, but a security guard from the Down Beat
16 Club was also firing?

17 A No, I did not.

18 Q You didn't think that was important?

19 A No, sir.

20 Q All right. But you think it's important now
21 while we're in the middle of a trial with Deron
22 Myers; is that correct?

23 A Yes, sir.

24 MR. JEPERTINGER: That's it.

25 THE COURT: You may step down.

1 If you'd call your next witness.

2 MR. STROBEL: Yes, we call Philip Myers.

3 THE CLERK: If you will, sir, place your
4 left hand on the Bible, raise your right hand.

5 WHEREUPON,

6 **Philip Myers,**

7 after first having been duly sworn, testified as
8 follows:

9 THE CLERK: State your full name for the
10 record.

11 THE WITNESS: Philip Myers.

12 DIRECT EXAMINATION

13 BY MR. STROBEL:

14 Q Okay. How old are you, Mr. Myers?

15 A 28.

16 Q Do you have a family?

17 A Yes, sir.

18 Q Did you go to the club Down Beat near Coward
19 on this night in question?

20 A Yes, sir.

21 Q What time did you get there?

22 A I got there and left, left around maybe 12,
23 1:00 in the morning.

24 Q 12, 1:00 in the morning?

25 A Yes, sir.

- 1 Q I noticed your father was here yesterday.
2 Was he at the club too?
- 3 A Yes, sir.
- 4 Q So your father was there and several
5 brothers; is that right?
- 6 A Yes, sir.
- 7 Q Now, you've heard talk about these two girls
8 getting in a fight outside?
- 9 A Yes, sir.
- 10 Q Okay, did you see that?
- 11 A Yes, sir.
- 12 Q And what did you do?
- 13 A I tried to break it up.
- 14 Q You got to speak a little bit louder.
- 15 A I said I tried to break it up.
- 16 Q And what happened when you tried to break it
17 up?
- 18 A They broke up and I got in my van and
19 proceeded to leave and then another fight broke
20 out with my brother.
- 21 Q So there was a fight between two girls that
22 you broke up?
- 23 A Yes, sir.
- 24 Q Then you got in your van to leave to go
25 home?

- 1 A Yes, sir.
- 2 Q And then you saw another fight?
- 3 A Yes, sir.
- 4 Q And who was that between?
- 5 A Between Harry Myers and a guy named Horse.
- 6 Q A guy named Horse?
- 7 A Yes, sir.
- 8 Q Okay. And what happened in that fight with
- 9 Harry Myers? That's your brother?
- 10 A Yes, sir. I was in the van leaving. Harry
- 11 ---
- 12 Q What ---
- 13 A I was in my van about to leave. Harry Myers
- 14 started fighting with Horse and I spotted it from
- 15 inside the van. That's when I got out. And then
- 16 they're on the ground scuffling. Deron here came
- 17 and tried to break it up and some---
- 18 Q So they were not fighting like this, they
- 19 were on the ground wrestling?
- 20 A Yes, sir.
- 21 Q Okay, go ahead.
- 22 A And Deron proceeded to break it up and
- 23 that's when I seen Michael Taylor grab him by the
- 24 back of his hair.
- 25 Q This guy here?

- 1 A Yes, sir.
- 2 Q So he reached and he did what?
- 3 A He grabbed him by the back of his hair?
- 4 A Yes, sir.
- 5 Q Back of his hair and pulled him back?
- 6 A Yes, sir.
- 7 Q Okay. Then what happened?
- 8 A I tried to break that up.
- 9 Q You tried to break that fight up?
- 10 A Yes, sir.
- 11 Q And what happened?
- 12 A When I went to go and grab and tell him to
- 13 stop he punched me, punched me in the right eye.
- 14 Q He hit you?
- 15 A Yes, sir.
- 16 Q In the right eye?
- 17 A Yes, sir.
- 18 Q And what happened to you?
- 19 A I spun around and I got my vision clear. I
- 20 seen Harry getting up off the ground. I turn back
- 21 around and face Michael Taylor, and that's when
- 22 he cut me in the arm, stab me in the shoulder.
- 23 Q Who did?
- 24 A Michael Taylor.
- 25 Q Michael Taylor stabbed you? With what?

1 A A knife.
2 Q How many times?
3 A Kind of like a steak knife or something.
4 Twice.
5 Q Twice?
6 A Yes, sir.
7 Q Now, did you go -- I'm jumping ahead. Did
8 you go to the hospital?
9 A Yes, sir.
10 Q Which one?
11 A Lake City.
12 Q Lake City Hospital?
13 A Yes, sir.
14 Q And who took you there?
15 A It was the person I had driving my van, and
16 she was like a friend.
17 Q What did they do for you at Lake City?
18 A Basically they stopped the wound from
19 bleeding
20 'cause the knife was still in there.
21 Q The knife was still in you?
22 A Yes, sir.
23 Q Okay, go ahead.
24 A They tried to stop it and basically get it
25 under control and then they had to send me to

- 1 Carolinas Hospital to have surgery.
- 2 Q How did you get to Carolinas Hospital?
- 3 A They sent me in ambulance.
- 4 Q The ambulance took you to Carolinas Hospital
- 5 that Saturday morning?
- 6 A Yes, sir.
- 7 Q And how long were you in the hospital?
- 8 A For about a week.
- 9 Q A week?
- 10 A Yes, sir.
- 11 Q So you were with a stab wound in the
- 12 hospital about a week?
- 13 A Yes, sir.
- 14 Q Okay. Well, tell me this, did any
- 15 detectives or police officers come up there talk
- 16 to you while you were in there with a knife wound
- 17 for a week at Carolinas Hospital?
- 18 A No, sir.
- 19 Q No?
- 20 A No, sir.
- 21 Q Did you call the Florence County Sheriff's
- 22 Department?
- 23 A Yes, sir, I did.
- 24 Q Don't tell me what they said, but just tell
- 25 me, did you report to them that you had been

- 1 stabbed and what had happened?
- 2 A Yes, sir.
- 3 Q Did anybody come to talk to you at the
- 4 hospital?
- 5 A No, sir.
- 6 Q And you were there an entire week here in
- 7 Florence?
- 8 A Yes, sir.
- 9 Q Let's go back to the scene. He had stabbed
- 10 -- he hit you in the right eye, you spun around,
- 11 and then he stabbed you with a knife?
- 12 A Yes, sir.
- 13 Q What y'all call a blade?
- 14 A Yes, sir.
- 15 Q What happened then?
- 16 A As he came from for the second hit where the
- 17 knife got stuck in my shoulder, that's when I was
- 18 pulling out the weapon. The ---
- 19 Q You had a weapon on you?
- 20 A Yes, sir.
- 21 Q Where did you get that from?
- 22 A From out my van.
- 23 Q From your van?
- 24 A Yes, sir.
- 25 Q And what did you do with the weapon that you

- 1 pulled?
- 2 A I fired.
- 3 Q Fired where?
- 4 A At the ground mostly because I was going
5 down. As he stabbed me I was going down.
- 6 Q You were shooting towards whom?
- 7 A Michael Taylor about where he was standing
8 at really.
- 9 Q What?
- 10 A I say I was shooting at Michael Taylor where
11 he was standing at.
- 12 Q As you were going down?
- 13 A Yes, sir.
- 14 Q How many times did you shoot?
- 15 A That I can't remember because adrenaline and
16 I was in a fight.
- 17 Q Where's the pistol?
- 18 A That I don't know neither. I dropped it on
19 the scene and somebody may have picked it up.
- 20 Q Do you know that you are confessing to the
21 crime that your brother is accused of and you can
22 get 30 years?
- 23 A Yes, sir.
- 24 Q 30 years. You fully understand that?
- 25 A Yes, sir.

1 Q 'Cause that's what he's facing.

2 MR. JEPERTINGER: Your Honor, I would
3 object to this question. It's not questions,
4 it's statements.

5 THE COURT: Sustained.

6 MR. STROBEL: I'm asking...

7 BY MR. STROBEL:

8 Q Why are you doing this?

9 A I don't want him to go down for something I
10 did. That's my brother.

11 MR. STROBEL: Thank you. That's all.

12 MR. JEPERTINGER: Your Honor, can we just
13 take a short, short recess. Based on the
14 testimony elicited I just need a short recess,
15 Judge.

16 THE COURT: Okay. Members of the jury,
17 step into the jury room. Do not discuss the
18 case.

19 (WHEREUPON, the jury was removed from the
20 courtroom and there was a recess in the
21 proceedings.)

22 THE COURT: Go ahead and bring out the
23 jury.

24 (WHEREUPON, the jury was returned to the

1 courtroom and the following proceedings
2 commenced in open courtroom and the
3 following proceedings commenced in open
4 court.)

5 THE COURT: Cross-examination.

6 CROSS-EXAMINATION

7 BY MR. JEPERTINGER:

8 Q Okay. Can you tell me where you lived back
9 in April or May of 2013?

10 A I lived at -- what's that -- I lived off Old
11 Creek Road in a trailer, was renting a trailer
12 from a Ms. Ackerman.

13 Q Okay.

14 A No, sir.

15 Q Was your address 5544 Ocala Road in Coward?

16 A No.

17 Q Was not your address?

18 A No.

19 THE COURT: You got to speak up and
20 answer.

21 THE WITNESS: No, sir.

22 BY MR. JEPERTINGER:

23 Q And did you not speak with Investigator
24 Worsley at Carolinas Hospital System?

- 1 A No, sir.
- 2 Q Never spoke with Investigator Worsley at
3 Carolinas Hospital System?
- 4 A No, sir, I don't remember speaking to him.
- 5 Q And you never told him that a Mildred
6 Montgomery was the person that stabbed you at the
7 Down Beat Club?
- 8 A No, sir.
- 9 Q Never?
- 10 A No, sir. I don't know a Mildred to tell him
11 that.
- 12 Q You know a Shernira (ph) Robinson?
- 13 A Yes, sir.
- 14 Q All right. And none of these people --
15 Mildred say never stabbed her, a woman that
16 dresses like a guy, never said that?
- 17 A No, sir.
- 18 Q All right. Have you always worn your hair
19 short?
- 20 A Yes, sir.
- 21 Q All right. And back in April of 2013 you
22 still wore your hair short, correct?
- 23 A Yes, sir.
- 24 Q And Deron wore his hair in dreads, correct?
- 25 A Yes, sir.

1 Q 'Cause that's how his hair was pulled you're
2 saying?

3 A Yes, sir.

4 Q All right. So all this time you know you
5 grabbed a gun but you'd been stabbed by Michael
6 Taylor and you responded you didn't know he was
7 going to stab you again?

8 A No, sir.

9 Q You didn't know that?

10 A No, sir.

11 Q So when you felt you could just get to a
12 place of safety you called the Florence County
13 Sheriff's Office to tell them, look, I just got
14 jooged in the shoulder and you know, I know I'm
15 here in a hospital room at Carolinas Hospital
16 System and I got to tell you what happened. You
17 never did that, did you?

18 A I called them to tell them and I never got
19 through them, and he never came to the room for
20 me to tell him so I just left it alone honestly.

21 Q Okay. That's your testimony today?

22 A Yes, sir.

23 Q All right.

24 MR. JEPERTINGER: That's all I have for
25 this witness.

1 THE COURT: Redirect?

2 MR. STROBEL: No, sir.

3 THE COURT: All right, you may step down.

4 Call your next witness.

5 MR. STROBEL: The Defense rests.

6 THE COURT: Members of the jury, we have
7 to take up motions at this time. If you would
8 step into the jury room at this time. When you
9 come back we will conclude the trial at that
10 time.

11 WHEREUPON, the jury was removed from the
12 jury
13 room and the following proceedings commenced in
14 open
15 court.)

16 THE COURT: Any motions?

17 MR. JEPERTINGER: None from the State.

18 THE COURT: From the Defense?

19 MR. STROBEL: Your Honor, I would just
20 renew my motion I made at the conclusion of the
21 State's case.

22 THE COURT: All right. I think there's

1 some question of fact to send it to the jury.

2 I'm going to respectfully deny those motions.

3 MR. JEPERTINGER: I have some reply
4 testimony.

5 THE COURT: All right. Let's take their
6 lunch order real quick.

7 (WHEREUPON, a break was taken.)

8 THE COURT: If you'd go ahead and bring
9 out the jury.

10 (WHEREUPON, the jury was returned to the
11 courtroom, and the following
12 proceedings commenced in open court.

13 MR. JEPERTINGER: We call Investigator
14 Alvin Worsley to the stand.

15 WHEREUPON,

16 ALVIN K. WORSLEY,
17 after having been duly sworn by the Clerk,
18 testified as follows:

19 THE CLERK: Please be seated, state your
20 full name for the record.

21 THE WITNESS: Investigator Alvin Keith
22 Worsley.

23 DIRECT EXAMINATION

24 BY MR. JEPERTINGER:

25 Q Okay. Investigator Worsley, what were your

1 responsibilities in terms of this case?

2 A Investigator on the case. I was on-call the
3 night the incident took place.

4 Q All right. And did you go to the scene of
5 the
6 crime?

7 A No, I did not. I went to the hospital first
8 in Lake City.

9 Q Okay. At Lake City who did you see?

10 A Brandon, who was shot in the foot, at the
11 time -- he was the only victim at Lake City
12 Hospital. Then I was advised that I had another
13 victim at Carolina and McLeod -- one was on the
14 way to McLeod.

15 Q Okay. And who did you ultimately find out
16 was sent to McLeod? Would it have been Michael
17 Taylor?

18 A Michael Taylor was on the way to McLeod and
19 Philip Myers was on the way to Carolinas
20 Hospital.

21 Q All right. Did you go to both locations?

22 A I did.

23 Q Okay. When did you go to McLeod Hospital,
24 if you recall?

25 A I went to McLeod Hospital that same night

1 and I made contact with Michael.

2 Q And when did you go to Carolinas Hospital
3 System?

4 A I went to Carolinas Hospital System about
5 two days later.

6 Q All right. And at Carolinas Hospital System
7 who did you see?

8 A Philip Myers.

9 Q All right. And had he been injured?

10 A Yes, he had a stab wound to his shoulder.

11 Q Did you ask him who stabbed him?

12 A I did.

13 Q And who stabbed him according to him when
14 you saw him a few days after this incident at the
15 club Down Beat?

16 A Mildred Montgomery.

17 Q And who is Mildred Montgomery? Did you know
18 her?

19 A I did not know her.

20 Q Did you wind up ultimately arresting Mildred
21 Montgomery?

22 A I did.

23 Q And is she female?

24 A She is a female. He described her as a
25 female that looked like a boy.

1 Q When you arrested her without getting too I
2 guess descriptive in clothing and things like
3 that, what was your opinion?

4 A She does look like a boy.

5 Q Did he ever mention to you that Michael
6 Taylor jooged him in the shoulder?

7 A He did not.

8 Q From April 2013 to today has Philip Myers
9 ever called you and said, listen, I wasn't
10 shooting straight with you, the guy that jooged
11 me was Michael Taylor?

12 A He did not.

13 Q Did he ever provide any information that
14 Deron was getting beat by Michael Taylor?

15 A He did not.

16 Q Did you give him an opportunity to tell you
17 that?

18 A I did.

19 Q Was Michael Taylor present when you spoke
20 with him?

21 A He was not.

22 Q Was Brandon Marquis Holmes present when you
23 spoke with him?

24 A He was not.

25 Q Did he ever tell you, look, I got stabbed, I

1 was angry, I went to my van, I got my
2 9-millimeter and I started shooting Michael
3 Taylor?

4 A He did not.

5 Q What address did he give you where he was
6 residing at the time?

7 A 5544 Othelo Road, Coward, South Carolina.

8 Q Did Nicky Jackson ever pick up the phone and
9 say. look here, I was at the Down Beat Club and
10 this is what was going on?

11 A She did not.

12 Q Did she ever tell you or did you get any
13 information from Philip or Nicky that a security
14 guard was also popping off rounds at the Down
15 Beat Club?

16 A I did not.

17 Q Did you ask Philip if he had any information
18 to call you or let you, how to get in contact
19 with you?

20 A I did at the hospital.

21 Q And he had -- Philip had short hair at the
22 time?

23 A He did.

24 Q All right, thank you. Please answer any
25 questions that Mr. Strobel may have for you.

1 THE COURT: Any questions?

2 MR. STROBEL: I have none.

3 THE COURT: You may step down.

4 Any further reply?

5 MR. JEPERTINGER: Yes, sir, I call Eric
6 Taylor to the stand.

7 THE CLERK: Place your left hand on the
8 Bible, raise your right hand.

9 WHEREUPON,

10 **ERIC R. TAYLOR,**
11 after first having been duly sworn by the Clerk,
12 testified as follows:

13 THE CLERK: Have a seat in the witness
14 chair

15 and state your full name for the record.

16 THE WITNESS: Eric Rico Taylor.

17 DIRECT EXAMINATION

18 BY MR. JEPERTINGER:

19 Q I have a few questions. When you heard the
20 gunshots ---

21 A Yes, sir.

22 Q ---did you see someone run away with a gun
23 in their hand?

24 A Yes, sir.

25 Q Did that person have short hair or dreads?

- 1 A Dreads.
- 2 Q Did you ever see anyone with short hair with
3 a gun that evening?
- 4 A No, sir.
- 5 Q Did ever see the security guard with a gun
6 that evening?
- 7 A He had it on his holster but I never seen
8 him took it out.
- 9 Q How long were you out there to observe the
10 security guard?
- 11 A I was the whole night. I came out there
12 like 9:00 to set up.
- 13 Q Now, were you familiar with the type of
14 vehicle that Philip drove?
- 15 A Yes, sir.
- 16 Q When you heard the shooting was -- and let
17 me ask you, what type of vehicle was he driving?
- 18 A Like a van, like with the old school vans
19 like a television in it, something like that.
- 20 Q Like a conversion van?
- 21 A Yes, sir.
- 22 Q When the shooting started was that van still
23 on site?
- 24 A No, sir.
- 25 Q No longer there?

1 A No, sir.

2 Q That's all the questions I have.

3 THE COURT: Mr. Strobel?

4 MR. STROBEL: No, sir.

5 THE COURT: You may step down.

6 Any further reply?

7 MR. JEPERTINGER: No, sir.

8 THE COURT: Are there any motions we need
9 to take up before we proceed with the charge and
10 the closings?

11 MR. STROBEL: No.

12 THE COURT: Anything from the State?

13 MR. JEPERTINGER: No, sir.

14 THE COURT: All right. Members of the
15 jury, it is now my duty as the trial judge to
16 instruct you on the law applicable to this case;
17 and after doing so, the lawyers will give their
18 closing statements. It is your duty as jurors to
19 accept the law that I now state to you.
20 Furthermore, it is your exclusive duty to decide
21 all issues of fact in the case and to determine
22 the effect, value, weight, and truth of the
23 evidence. Both the State and the Defendant have
24 a right to expect that you will evaluate the
25 evidence and apply the law of this case to it so

1 that in the end both the State of South Carolina
2 and this defendant will receive a fair and
3 impartial trial. I want you to understand that
4 when I use the word defendant I refer Mr. Deron
5 Jardel Myers. Also, it is important to
6 understand that the State of South Carolina
7 charges the defendant with the offenses known as:
8 two counts of attempted murder and possession of
9 a weapon during the commission of a violent
10 crime. To these charges the defendant has
11 entered a plea of not guilty. This plea of not
12 guilty places the burden of proof on the State to
13 prove the guilt of the defendant to you beyond a
14 reasonable doubt. It is vital to understand that
15 the defendant is presumed under the law to be
16 innocent of the charges. It is a fundamental
17 rule of our law that a defendant regardless of
18 the seriousness against him is always presumed
19 innocent of the crime for which he is charged
20 unless and until his guilt has been proved by
21 evidence that satisfies you beyond a reasonable
22 doubt.

23 The presumption of innocence is not a
24 mere legal theory or legal phrase. The
25 presumption of innocence is very important, and

1 you need to understand that this presumption from
2 the time of his arrest and appearance this court
3 continues with the defendant even after you
4 retire to the jury room to deliberate. In other
5 words, the defendant receives the benefit of
6 their presumption of innocence until the very end
7 of this trial when you will deliberate upon the
8 evidence and decide whether the State has proved
9 his guilt beyond a reasonable doubt.

10 During this trial you and I have separate
11 duties to perform. As the judge it is my
12 responsibility to preside over this trial.
13 Furthermore, I have the duty to rule upon the
14 admissibility of the evidence offered during the
15 trial. In that regard you are to consider only
16 the evidence before you. Thus, you are to
17 consider only the testimony which has been
18 presented from this witness stand together with
19 any exhibits admitted into the record of this
20 case. Also, I have the additional duty to charge
21 you on the applicable law to this case. In that
22 regard, it is your duty to accept and apply the
23 law as I now state it to you. If you have any
24 preconceived ideas as to what the law is or what
25 the law ought to be and it does not agree with

1 what I tell you the law is, then you are
2 obligated under your oath to abandon these
3 preconceptions and accept the law as I now state
4 it to you. In this trial you are the sole and
5 exclusive judge of the facts and I am the judge
6 of the law. Do not infer that I have any opinion
7 about the facts in this case from anything I have
8 said during the course of this trial. In this
9 regard, the law simply does not permit me to have
10 an opinion about the facts. As jurors it is your
11 duty alone to determine the effect, value,
12 weight, and truth of the evidence presented
13 during the course of this trial. Furthermore, it
14 is your job as jurors to determine the
15 credibility and believability of witnesses who
16 have testified in this case. In determining the
17 believability of witnesses who have testified in
18 this trial you may believe one witness over many
19 or many over one. You may believe a part of the
20 testimony of a witness and reject the remaining
21 part. You may believe the testimony of a witness
22 in its entirety or reject it in full. You may
23 consider whether the witness has an interest in
24 the result of the trial, whether the witness is
25 prejudiced toward either party, whether the

1 opportunity for the witness to have seen the
2 matters and things about which the witness may
3 testify and the way the witness acts on the
4 witness stand.

5 Proof beyond a reasonable doubt is proof
6 that leaves you firmly convinced of the
7 defendant's guilt. There are few things in this
8 world we, that we know with absolute certainty,
9 so even in criminal cases the law does not
10 require proof that overcomes every possible
11 doubt. However, if based on your consideration
12 of the evidence you are firmly convinced that the
13 defendant is guilty of the crimes charged, you
14 must find him guilty. If on the other hand, you
15 think there's a real possibility that he is not
16 guilty, you must give him the benefit of the
17 doubt and find him not guilty. Please understand
18 that reasonable doubt may arise from evidence
19 which has been presented in the case or from the
20 lack of evidence in the case. It is your
21 responsibility to determine whether or not
22 reasonable doubt exists as to the guilt of this
23 defendant.

24 I charge you that the defendant is
25 entitled to every reasonable doubt arising in the

1 whole case or arising in any defenses asserted by
2 the defendant. If upon any issues of fact
3 essential to conviction at a verdict of guilty
4 you have a reasonable doubt as how that issue
5 should be resolved, it would be your duty to
6 resolve that reasonable doubt in favor of the
7 defendant. Thus, in summary, it is important to
8 understand that the defendant is not required to
9 prove his innocence. Instead, the State is
10 required by law to prove every essential element
11 of the offenses charged against the defendant by
12 evidence which satisfies you of his guilt beyond
13 a reasonable doubt. Only then can you convict
14 the defendant and find him guilty.

15 Furthermore, ladies and gentlemen of the
16 jury, at the beginning of this trial the
17 defendant was on the tenth floor of this
18 courtroom instead of the eleventh floor
19 courtroom. Apparently he had received
20 instructions from the court bailiff to go to the
21 eleventh instead of here. This resulted in the
22 defendant being absent during opening statements
23 and the first witness' testimony. However, he
24 has been present in the courtroom since that
25 time. In this regard and under the laws of this

1 state, a defendant may be tried even if the
2 defendant does not attend the trial or even part
3 of the trial; but the fact that the defendant was
4 not present during this short time at the
5 beginning of this trial, may not be considered
6 against the defendant in any manner whatsoever.
7 Do not consider the fact in any way in your
8 deliberations. It was a simple mix-up between
9 the bailiff and the defendant and should not
10 prejudice the defendant in any way.

11 Furthermore, evidence may be direct or
12 circumstantial. Direct evidence is testimony by
13 a live witness about what a witness personally
14 saw or heard or did. Circumstantial evidence is
15 indirect evidence. In other words, it is proof
16 one or more facts for which one may find another
17 fact. You may consider both direct and
18 circumstantial evidence equally. You have heard
19 testimony from police officers yesterday and
20 today. I want you to understand that the
21 testimony of a police officer is not entitled to
22 more weight than that of any other witnesses.
23 You are the sole and exclusive judge of the
24 credibility of witnesses. You are not to give
25 more weight to a police officer's testimony

1 solely because he or she is a police officer.
2 Rather, you should an officer's testimony by the
3 same standards that you apply to all other
4 witnesses.

5 I further instruct you the fact that the
6 defendant in this trial did not testify on his
7 own behalf is not a factor to be considered by
8 you in any way in your deliberations and in your
9 consideration on the question of guilt or
10 innocence. In this regard, a defendant has the
11 constitutional right to remain silent, and the
12 exercise of this right must not be considered by
13 you in your deliberations. The fact that the
14 defendant did not testify should not even be
15 discussed in the jury room. The burden of proof,
16 as I have stated to you, is on the State. The
17 defendant has no obligation to prove his
18 innocence. The burden of proof remains with the
19 State to prove the defendant's guilt beyond a
20 reasonable doubt and the fact that a defendant
21 did not testify is not a factor to be considered
22 by you in deciding the guilt or the innocence of
23 this defendant. When you consider the whole
24 case, if you have a reasonable doubt as to the
25 guilt or the innocence of the defendant, then he

1 is entitled to that reasonable doubt and would be
2 entitled to a verdict of not guilty. However, if
3 upon considering the whole case you find that the
4 State has proved by evidence which satisfies you
5 of the guilt of the defendant beyond a reasonable
6 doubt, then in such circumstances it would
7 equally be your duty to convict the defendant and
8 find him guilty.

9 The defendant in this case is charged
10 with three offenses. Each offense charges a
11 separate and distinct crime. You must decide
12 each offense separately on the evidence and the
13 law applicable to it uninfluenced by your
14 decision as to any other offense. The defendant
15 may be convicted or acquitted on any or all of
16 the offenses charged. You will be asked to write
17 separate guilty or not guilty for each offense.
18 I will now define each offense for you.

19 The defendant is charged with two counts
20 of attempted murder. One count against the
21 alleged victim Michael Taylor and another count
22 against the alleged victim Brandon Marquis
23 Holmes. In order to prove these crimes, the
24 State must prove attempted to kill another person
25 with malice aforethought either expressed or

1 implied malice toward another person. It is the
2 intentional doing of wrongful act without just
3 cause or excuse and with the intent to inflict an
4 injury or under circumstances that the law will
5 infer an evil intent. Malice aforethought does
6 not require that malice exist for any particular
7 time before the act is committed, but malice must
8 exist in the mind of the defendant just before
9 and at the time the act is committed. Therefore,
10 there must be a combination of previous evil
11 intent and the act.

12 Malice aforethought may be expressed or
13 inferred. These terms expressed and inferred do
14 not mean different kinds of malice, but merely
15 the manner which malice may be shown to exist.
16 That is either by direct evidence or by inference
17 from the facts and circumstances which are
18 proved. Expressed malice shown when person speak
19 words which express hatred or ill will for
20 another or when the person prepared beforehand to
21 do the act which was later accomplished. For
22 example, lying in wait for a person or any other
23 act of preparation going to show that the deed
24 was within the defendant's mind would be
25 expressed malice. Malice may be inferred from

1 conduct showing a total disregard for human life
2 or may be inferred from the use of a deadly
3 weapon.

4 An attempt is an effort which does not
5 succeed. An attempt includes a specific intent to
6 do a particular criminal act along with an act
7 falling short of the act intended. The State
8 must show more than mere preparation and intent.
9 There must be some overt act committed in effort
10 to commit the crime. Intent means intending the
11 result which actually occurs, not accidentally or
12 involuntarily. Intent may be shown by acts and
13 conduct of the defendant and other circumstances
14 from which you may naturally and reasonably infer
15 intent. Furthermore, if the defendant with
16 malice aforethought attempts to kill another
17 person, but by mistake injures or kills a
18 different person, the defendant still has the
19 intent to kill. The intent to kill is merely
20 transferred from the original person the
21 defendant attempted to kill to the actual person
22 killed or injured. The defendant would be guilty
23 of attempted murder just as if the attempt
24 resulted in death or injury of the person the
25 defendant attempted to kill.

1 The defendant is also charged with
2 possession of a weapon during the commission of a
3 crime, violent crime. The State must prove
4 beyond a reasonable doubt that the defendant was
5 in possession of a firearm or visibly displayed
6 what appeared to be a firearm during the
7 commission of a violent crime. A firearm means
8 any machine gun, automatic rifle, revolver,
9 pistol or any weapon which will, is designed to,
10 or may be readily converted to expel a
11 projectile. In order to find the defendant
12 guilty of possession of a weapon during the
13 commission of a violent crime, you must first
14 find the defendant guilty of either committing a
15 violent crime or attempting to commit a violent
16 crime. Attempted murder is considered a violent
17 crime under the laws of this state.

18 Ladies and gentlemen, I'm now drawing
19 near the end of my charge, and I want you to
20 clearly understand that you are not partisans for
21 either the State or this defendant. You do not
22 serve as jurors to reward your friends or punish
23 your enemies. In this regard, you have been
24 selected by both the State and this defendant to
25 be fair and impartial jurors. It is your duty by

1 your joint deliberations to determine the truth
2 in this case giving to this defendant the
3 benefit of every reasonable doubt on each and
4 every issue. Then, to the facts which you
5 determine to be true, you should take and apply
6 the law which has been given to you by this
7 Court, and thus, arrive at a verdict which speaks
8 the truth in this case. In fact, the word
9 verdict, which has a Latin derivative, means a
10 true saying. Thus, when you have accomplished
11 these responsibilities you will have satisfied
12 your oath as jurors and you will have discharged
13 your duty to this Court.

14 Now Ms. Clerk, would you please hand the
15 forelady of the jury the verdict form. How about
16 the bailiff? How about Ms. Joe, is she around
17 there?

18 Now Ms. Forelady, I have handed you the
19 verdict form. When you arrive at a verdict in
20 this case you will write your verdict on the
21 form. For the charges, if the State has failed
22 to prove the guilt of this defendant beyond a
23 reasonable doubt, your verdict would be two
24 words, not guilty. However, should the State
25 have proved their case against the defendant

1 beyond a reasonable doubt, then your verdict
2 would be one word, guilty.

3 Ms. Foreman, once a decision has been
4 made just check whichever choice is your verdict
5 on each count. Also, please understand that the
6 verdict that you render must be the verdict of
7 each and every juror. It must be your unanimous
8 verdict. All twelve jurors must agree on the
9 verdict which authorizes the forelady to write
10 for the jury. Ladies and gentlemen, I want you
11 to further understand that the order which choice
12 appear on the verdict form is not suggestive of
13 any verdict on the part of this Court. The
14 verdict in this case is to be determined by you,
15 not the Court. Furthermore, ladies and
16 gentlemen, please understand that even though I
17 have given the verdict to the forelady it is not
18 her verdict alone. It is the verdict of all
19 twelve of you and it must be unanimous.

20 After closing arguments by the attorneys
21 you will retire to the jury room. However, I
22 would ask that you do not begin your
23 deliberations until you are told to do so. At
24 that time the law requires that I consult with
25 the attorneys first. After I have done so the

1 bailiff will bring in the items of evidence and
2 instruct you to begin your deliberations at that
3 time. Also, should you have any questions during
4 your deliberations you must put them in writing
5 and send them to me by way of the bailiff. The
6 court bailiff will be placed immediately outside
7 the jury room door to provide security and
8 assistance for you during your deliberations.
9 Once you have reached your verdict please knock
10 on the jury room door and ask the bailiff to
11 advise the Court that you have reached a verdict
12 and we will return you to the courtroom as
13 promptly as possible thereafter. Thank you, and
14 I would appreciate your giving the attorneys your
15 undivided attention as they proceed forward with
16 closing arguments.

17 Does the State waive the initial ---

18 MR. JEPERTINGER: The State would waive.

19 THE COURT: The Defense is recognized for
20 your closing statement.

21 MR. STROBEL: The first trial I've ever
22 been a part of where the jury was charged before
23 final arguments; I rather like it. He certainly
24 touched on a lot that I may have to say. The
25 judge charged you as to the law and you are only

1 to assemble the facts and apply them to the law.
2 Now, there's no need for me to go into the fact
3 because we started this trial around 9:30 and
4 it's about an hour ago so you should be able to
5 remember clearly the facts in this case as to
6 what happened. And if you do, I'm sure that you
7 will reach a conclusion that he, that Deron Myers
8 is not guilty. They have not proven their case
9 beyond a reasonable doubt and that is the only
10 verdict that will speak the truth. Thank you.

11 THE COURT: All right, the State is
12 recognized.

13 MR. JEPERTINGER: I want to thank you. I
14 know the case went rather quickly, but Mr.
15 Strobel only wants you to consider what was
16 testified today by his witnesses because the case
17 didn't start at 9:30 today, it started yesterday.
18 And yesterday's testimony was critical. You
19 know, at the beginning I kind of used that
20 example of a, the Zeppelin, that blew up in 1937.
21 And you know, those are cute things lawyers
22 sometime say. And the fact of the matter is,
23 when Michael Taylor when went to that club about
24 12:15 on April the 7th was not looking to get
25 shot. A fight broke out that he didn't start.

1 He tried to break it up, and he wound up tussling
2 with a guy named Harry Myers which he admitted to
3 doing. Of course, Harry didn't testify for you
4 because, you know, and they could have called
5 Harry just as well as we did because they called
6 Philip and Nicky Jackson. You know, it would
7 have been simple for them to say they were doing
8 nothing. I walked to my car and got shot. He
9 gave you what he did. And what he did, he
10 tussled with someone I bet it hurt the living
11 daylights out of Deron Jardel Myers that this guy
12 laid his hands on his brother and he was going to
13 make him pay.

14 Now, yesterday during cross-examination
15 of Michael Taylor Mr. Strobels examination
16 consisted, well, he never told you he was going
17 to kill you. Now, folks, he also didn't say I'm
18 gonna shoot you in the legs. When a person pulls
19 a gun on you and starts pulling a trigger where
20 there's seven shell casings and a live round on
21 the ground afterwards that probably misfired
22 coming out of that 9-millimeter. Every time he
23 pulled the trigger death is potential. And I
24 don't care what he said or what he didn't say,
25 his very actions spoke louder than any words he

1 could have said. If he would have wanted to
2 frighten him and shot the gun up in the air, I'm
3 loaded, get out of here. He didn't do that. It
4 got so bad -- now think about this, folks, it
5 wasn't one shot. It wasn't -- it was multiple
6 shots where he got hit multiple times in his legs
7 to the point of when Brandon Holmes gets over in
8 the way, he catches it in the foot.

9 Now, the judge just read to you the law
10 of the law of doctrine transferred intent.
11 Transferred intent as it applies to Brandon
12 Holmes because looking at the facts you might
13 say, well, he didn't want to kill Brandon Holmes,
14 he wanted to kill Michael Taylor. The law allows
15 under this doctrine, which the judge just read to
16 you, that if he had the intent to kill Michael
17 Taylor that same intent transferred to the
18 unintended victim because there is a danger. If
19 you think about it, in any crowded venue, in this
20 case a parking lot, and a guy pulls a gun and
21 starts shooting that gun, that bullet can go
22 anywhere and hit anyone. It's not the specific
23 intent to kill Michael Taylor. It is a general
24 intent to kill Michael Taylor any other, anyone
25 who might be hit by a bullet. I don't believe

1 Philip Myers shot Mike Taylor. All that time he
2 could have called the police. And folks, Worsley
3 talked to him. In terms of getting stabbed, I
4 use the Pee Dee term as someone jugged; but
5 getting stabbed, first words, a girl stabbed me.
6 None of this business that this guy stabbed me.
7 There was no threat from Taylor or any of these
8 guys. And Eric Taylor, the DJ, what's he got,
9 what's he gonna win out of *this. It would be
10 very easy for Eric and Brandon to say, look, I
11 saw this guy, I mean, he had the gun in his hand,
12 fire come out of the gun, I saw the shells pop
13 out. It's credibility. Look, they didn't tell
14 you, what'd they tell you? Brandon, my back was
15 turned but I saw him run away, I saw Deron Jardel
16 Myers run away. Didn't see a gun. If he wanted
17 to make this up he would have put the gun in his
18 hand. It's credible.

19 Eric Taylor, I didn't see shots, I heard
20 them. Then I saw Harry and Deron run to a white,
21 I think he said it was an Explorer, and they took
22 off. And I knew he had dreads. Even Philip
23 Myers said I had short hair, he had dreads. The
24 guy shot had dreads. To come now, a year
25 afterwards, say a security guard was shooting.

1 That, you get from Nicky. He's preposterous.

2 He's preposterous.

3 Folks, the judge just told you you can
4 weigh the credibility and the believability of
5 these witnesses. And this case lies on that fact
6 that these witnesses based on their testimony
7 subject to cross-examination, subject to talking
8 to law enforcement, subject to swearing and
9 coming in and telling stories that were
10 consistent with the evidence in this case.

11 Now, the Court has explained to you that
12 to make it an attempted murder there must be
13 malice, malice aforethought. Once again I bring
14 up this thing of aforethought, what you think
15 before, not what you speak before. It's not
16 aforespeak but it's aforethought. You can infer
17 malice by what was done in this case. The
18 complete reckless disregard for the safety of
19 others to the point of shooting that gun over and
20 over and over again, even when there were no
21 bullets left in the chamber or the magazine so
22 the gun went click. We do not try to reward
23 Michael Taylor or Brandon Holmes. We do not
24 stand for them in that respect. A trial is a
25 search for the truth ultimately and to hold those

1 responsible who have broken the law, hold them
2 responsible, and speak a verdict that tells
3 everyone this is what happened. The law is the
4 great leveler in our society. It looks past
5 race, ethnicity, gender; and it is a search, as I
6 said, for the truth. And the truth in this case
7 from this witness stand is that man, Deron Myers,
8 for whatever reason, wanted to kill Michael
9 Taylor and as a result of that tried to kill
10 Brandon Holmes. I thank you for your attention,
11 I thank you for your time, and ask that you do
12 the right thing. Thank you.

13 THE COURT: All right. Members of the
14 jury, if you would step into the jury room but do
15 not begin deliberations until told to do so.

16 (WHEREUPON, the jury was removed from
17 the courtroom at 11:09 a.m.)

18 THE COURT: Okay, any objection to the
19 charge as given from the State?

20 MR. JEPERTINGER: No, sir.

21 THE COURT: How about Defense?

22 MR. STROBEL: No, sir.

23 THE COURT: Why don't y'all come up here
24 and we'll take a look at the items of evidence to
25 make sure they are in order, and we'll send them

1 in.

2 (WHEREUPON, a pause in the proceedings.)

3 MR. JEPERTINGER: Everything is in
4 evidence from the State's perspective.

5 THE COURT: Thank you. From Defense?

6 MR. STROBEL: Uh-huh.

7 THE COURT: All right, very good. Go
8 ahead and send all the items of evidence.

9 (Jury began its deliberations at 11:11
10 a.m.)

11 THE COURT: All right, Mr. Avant, your job
12 is complete. We needed you as the alternate
13 because we needed you as a backup. In this state
14 we have to have twelve jurors to try a criminal
15 case. If one of them's family members had gotten
16 sick or somebody had died in the family or what
17 have you, they couldn't come, we wouldn't be able
18 to finish the trial to step in and take over to
19 be twelve jurors. So far all twelve are okay and
20 ready to go. We need you back at 1:00.

21 THE ALTERNATE: Yes, sir.

22 THE COURT: We'll be at ease until
23 something happens.

24 (WHEREUPON, the alternate was excused.)

25 THE COURT: We have our first question

1 which says, we need to hear Philip Myers'
2 testimony again. Any objections to playing it
3 back from the tape?

4 MR. JEPERTINGER: No.

5 THE COURT: From Defense?

6 MR. STROBEL: No, sir.

7 THE COURT: All right, go ahead and bring
8 out the jury.

9 (Whereupon, Court's Exhibit No. 1 was
10 marked and made a part of the record.)

11 (WHEREUPON, the jury was returned to the
12 courtroom at 11:31 a.m.)

13 THE COURT: All right, Madam Court
14 Reporter, if you'd go ahead and play the
15 testimony again.

16 (WHEREUPON, the testimony of Philip Myers
17 was played for the jury.)

18 (WHEREUPON, the jury was removed from the
19 courtroom at 11:44 a.m.)

20 THE COURT: We'll be at ease until
21 something else happens.

22 (WHEREUPON, there was a recess in the
23 proceedings.)

24 THE COURT: We have another question. It
25 says, do we have a choice of a lesser charge of

1 attempted murder? What says the State?

2 MR. JEPERTINGER: Certainly, Judge. I
3 mean, all these things are lesser included
4 offenses are everything, and you know, it's up to
5 the Court to determine whether there's any
6 evidence whatsoever in terms of charging these
7 matters.

8 THE COURT: What does Defense say?

9 MR. STROBEL: Simple assault. I think
10 you can charge it.

11 THE COURT: What do y'all want me to do?
12 Just ---

13 MR. STROBEL: Do nothing.

14 THE COURT: Tell them the case is over,
15 the case is over with?

16 MR. JEPERTINGER: Well, you have to
17 charge the law as it applies in this case and if
18 you viewed lesser included offense there was no
19 request from the State for lesser included
20 offense, nor was there a request for a lesser
21 included offense from the Defense.

22 MR. STROBEL: So do nothing.

23 THE COURT: That's kind of the way I feel
24 about it. It's closed and over and it's in their
25 hands at this time.

1 MR. STROBEL: That's it.

2 THE COURT: I'm just gonna write a note.

3 MR. STROBEL: Yes, sir.

4 THE COURT: Don't throw it away. Tell
5 them not to throw it away.

6 THE BAILIFF: Okay.

7 (WHEREUPON, Court's Exhibit No. 2 was
8 marked and made a part of the record.)

9 (WHEREUPON, court was in recess.)

10 THE COURT: All right, we have a third
11 question. It says, if we can't agree on guilty
12 is it a mistrial or is it a not guilty?

13 MR. STROBEL: Say that again.

14 THE COURT: That's what they said. If we
15 can't agree on guilty, is it a mistrial or is it
16 not guilty?

17 MR. JEPERTINGER: Judge, I don't think
18 that question bears any response for them because
19 they did not say that they couldn't reach a
20 verdict. They're asking, if we can't. I mean,
21 they haven't said that they're hung or any of
22 that business, Judge.

23 THE COURT: Should I write on here
24 continue your deliberations, this is a, this is
25 not a question for the jury at this time?

1 MR. STROBEL: Would you read that one
2 more time please.

3 THE COURT: If we cannot agree guilty is
4 it a mistrial or is it not guilty?

5 MR. STROBEL: Well, I think the law is
6 very clear that if they can't reach a verdict of
7 guilty then it has to be a mistrial.

8 MR. JEPERTINGER: We haven't got to that
9 point though.

10 MR. STROBEL: Well, that's what they
11 asked.

12 MR. JEPERTINGER: Yeah, but I mean,
13 that's -- it's just a general question of law
14 that they're asking.

15 THE COURT: What if we give them an Allen
16 charge at this time?

17 MR. JEPERTINGER: I would disagree with
18 that, Judge, because they have not said that they
19 have not been able to reach a -- they're
20 deadlocked or hung.

21 MR. STROBEL: If they've reached a verdict
22 then they can't reach a verdict of guilty or not
23 guilty, then they want to know does that lead to a
24 mistrial.

25 MR. JEPERTINGER: That is a general

1 principle of law that they're asking about. They
2 said, they have not gotten there. They would --
3 they could have written we're deadlocked.

4 THE COURT: How about if I put, this is not
5 a matter for you to consider at this time,
6 continue your deliberations.

7 MR. JEPERTINGER: I would agree with that,
8 Judge.

9 (WHEREUPON, Court Exhibit No. 3 was
10 marked and made a part of the record.)

11 (Note was sent back to the jury and court
12 was in recess.)

13 THE COURT: There's a question. It says,
14 can we have the definition of attempted murder.
15 I'll just charge them again on attempted murder.

16 MR. JEPERTINGER: Yes, sir, but inclusive
17 of that would be malice aforethought. I think if
18 ---

19 THE COURT: I think it's in there. Any
20 objection to that?

21 MR. STROBEL: Your Honor, you've already
22 charge-- you gonna read your charge back over
23 concerning all that?

1 THE COURT: Just the attempted murder.

2 MR. STROBEL: That's right. I don't have
3 any problem with that.

4 MR. JEPERTINGER: Just -- is malice
5 included, your definition of malice?

6 THE COURT: I'm looking over. I think it
7 is. It is.

8 MR. JEPERTINGER: Thank you, Your Honor.

9 THE COURT: Go ahead and bring the jury
10 out.

11 (WHEREUPON, Court Exhibit No. 4 was marked
12 and made a part of the record.)

13 (WHEREUPON, the jury was returned to the
14 courtroom at 1:02 p.m.)

15 THE COURT: The defendant is charged with
16 two counts of attempted murder: One count against
17 the alleged victim Michael Taylor and another
18 count against the alleged victim Brandon Marquis
19 Holmes. In order to prove these crimes the State
20 must prove the defendant attempted to kill
21 another person with malice aforethought either
22 expressed or implied. Malice is hatred, ill will,
23 or hostility towards another person. It is the

1 intentional doing of a wrongful act without just
2 cause or excuse and with the intent to inflict an
3 injury or under circumstances that the law will
4 infer an evil intent. Malice aforethought does
5 not require that malice exists for any particular
6 time before the act is committed, but malice must
7 exist in the mind of the defendant just before an
8 act the time the act is committed. Therefore,
9 there must be a combination of the previous evil
10 intent and the act. Malice aforethought may be
11 expressed or inferred. These terms expressed and
12 inferred do not mean different kinds of malice but
13 merely the manner in which malice may be shown to
14 exist. That is either by direct evidence or by
15 inference from the facts and circumstances which
16 are proved. Expressed is shown when a
17 person speaks words which express hatred or ill
18 will for another or when the person prepared
19 beforehand to do the act which was later
20 accomplished. For example, lying in
21 wait for a person or any other acts of preparation
22 going to show that the deed was within the
23 defendant's mind would be expressed malice.

1 Malice may be inferred from conduct showing a
2 total disregard for human life or may be inferred
3 from the use of a deadly weapon. An attempt is an
4 effort to accomplish a crime and does not succeed.
5 An attempt includes a specific intent to do a
6 particular crime, criminal act along with an
7 act falling short of the act intended. The State
8 must show more than mere preparation than intent.
9 There must be some overt act committed in the
10 effort to commit the crime. Intent means
11 intending the result which actually
12 occurs, not accidentally or involuntary. Intent
13 may be shown by acts and conduct of the defendant
14 and other circumstances from which you may
15 naturally and reasonably infer intent.
16 Furthermore, if a defendant with malice
17 aforethought attempts to kill another person but
18 by mistake injures or kills a different person,
19 the defendant still has the intent to kill. The
20 intent to kill is merely transferred from the
21 original person the defendant attempted to kill to
22 the actual person killed or injured. The
23 defendant would be guilty of attempted murder

1 just as if the intent had resulted in the death or
2 injury of the person the defendant attempted to
3 kill.

4 All right, if you would step into the jury
5 room, but do not begin your deliberations until I
6 tell you to resume.

7 (WHEREUPON, the jury was removed from the
8 courtroom at 1:06 p.m.)

9 THE COURT: Any objection to that charge
10 as given, by the State?

11 MR. JEPERTINGER: None from the State, Your
12 Honor.

13 THE COURT: From Defense?

14 MR. STROBEL: No additions or exceptions
15 on behalf of the Defense.

16 THE COURT: All right, if the bailiff will
17 tell them to continue their deliberations.

18 (WHEREUPON, court was in recess.)

19 (WHEREUPON, the jury was returned to the
20 courtroom at approximately 1:45 p.m.)

21 THE COURT: Ms. Riddle, has the jury
22 reached a verdict?

23 THE FORELADY: We have.

1 THE COURT: All right, I find that the
2 verdict form is in order. If the Clerk will
3 publish the verdict.

4 THE CLERK: The State of South Carolina versus
5 Deron Jardel Myers, indictment 2013-GS-21-1167.

6 As to the charge of the attempted murder of
7 Michael Taylor: we, the jury, unanimously find the
8 defendant Deron Jardel Myers guilty. As to the
9 charge of attempted murder of Brandon Marquis
10 Holmes: we, the jury, unanimously find the
11 defendant Deron Jardel Myers guilty. As to the
12 charge of possession of a weapon during the
13 commission of a violent crime: we, the jury, find
14 the defendant Deron Jardel Myers guilty. Dated
15 April 15, 2014, signed by foreperson Jennifer
16 Riddle.

17 Members of the jury, if this is your
18 verdict please raise your right hand.

19 (Jurors complied by raising their hand.)

20 THE CLERK: That's everyone, Judge.

21 THE COURT: Any need for polling from the
22 State?

23 MR. JEPERTINGER: No, sir.

1 THE COURT: The Defense?

2 MR. STROBEL: No, sir.

3 THE COURT: All right, members of the
4 jury, I appreciate your service on this case.
5 You are excused for the day. If you would, call
6 back after six to see if there are any further
7 instructions for you. Everybody else remain
8 seated and the jury is excused.

9 (WHEREUPON, the jury is dismissed.)

10 THE COURT: Any motions from the

11 MR. STROBEL: No, I'm ready for
12 sentencing.

13 THE COURT: If you'll go ahead and bring
14 up the sentencing sheets and bring the defendant
15 forward.

16 MR. JEPERTINGER: Your Honor, I
17 delineated count 1 and count 2 and count three
18 obviously because possession of a weapon.
19 Counts 1 and 2 deal with both Michael and
20 Brandon and I've delineated that on the
21 sentencing sheet, Your Honor. And here is the
22 third one. The only thing I would point out,
23 Your Honor, the record that he has, Your Honor,
24 he has, a simple possession of marijuana back in
25 2012 and he was placed on probation it looks like

1 back in 2013 shortly before this crime, custody
2 stayed his probation 4/4/2013, three days before
3 this happened for failure to stop for a blue
4 light. He was given 18 months suspended to one
5 year probation, 40 hours public service and drug
6 testing, Your Honor. I do not know if he's on
7 probation now. We do not have anyone from
8 probation here, Your Honor, but I just point that
9 out to you.

10 THE COURT: All right.

11 MR. JEPERTINGER: I would ask if you
12 would also consider anything that Mr. Taylor or
13 Mr. Brandon Holmes would like to say in terms of
14 sentencing.

15 THE COURT: All right, Mr. Taylor,
16 anything you want to say?

17 MR. TAYLOR: Just that I do forgive him
18 but I do want to see justice because he tried to
19 took my life, you know. But I just want to see
20 justice.

21 THE COURT: How about, Mr. Holmes,
22 anything you want to add?

23 MR. JEPERTINGER: No, sir.

24 THE COURT: All right. I'll be glad to
25 hear from you, Mr. Strobel.

1 MR. STROBEL: Your Honor, we deny that
2 the facts in this case warrant an attempted
3 murder. But be that as it may, he's 24 year of
4 age and he has no really serious prior criminal
5 offenses. He realizes as he's gonna have to go
6 and serve some time. It's just a matter of how
7 much of that time he's going to have to serve,
8 and he's willing and able to carry that out.

9 THE COURT: All right. The sentence of
10 the Court on each attempted murder is 20 years.
11 The sentence of the Court on the weapons charge
12 is five years. I'm gonna run all those
13 concurrent. Thank you.

14

15

16 * * * END OF REQUESTED TRANSCRIPT OF RECORD * * *

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1 C E R T I F I C A T E O F R E P O R T E R

2

3

4 STATE OF SOUTH CAROLINA)

5)

6 COUNTY OF FLORENCE)

7

8 I, FRANCES BAKIS-RAY, Registered Professional
9 Reporter (RPR), court reporter for the State of
10 South Carolina, Third Judicial Circuit, do hereby
11 certify that the foregoing proceeding was
12 transcribed by me for Keshia Reed through
13 computer-aided transcription; that the foregoing
14 transcript contains a true record of the
15 proceedings to the best of my ability.

16 I further certify that I am neither counsel
17 for, nor related to nor employed by any of the
18 parties connected to the action, nor am I
19 financially interested in the action.

20 Witness my hand at Florence, South
21 Carolina, this 23rd day of September, 2014.

22

23

Frances B Ray

24

25 FRANCES BAKIS-RAY, RPR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF
STATE

Florence

VS.

Deron Jardell Myers

AKA:

Race: B Sex: M Age: 25

DOB: SS#:

Address:

City, State, Zip: Effingham, SC 29541

DL#: SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Murder / Attempted Murder (0-30) CT#1

INDICTMENT/CASE#: 2013-GS-21-01167

A/W#: 2013A2110400059

Date of Offense: 4/7/2013

S.C. Code §: 16-03-0029

CDR Code #: 3410

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-03-0029 of the S.C. Code of Laws, bearing CDR Code # 3410.

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-23-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)
The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

John C. Seperinger, Jr. 9826
Seperinger, John C. SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 20 days/months/years or ☐ under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation formonths/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: today
☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

Total: \$ plus 20% fee: \$

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114 (BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ca	\$
Proviso 90.5 (SCCA Surcharge)	\$5	\$ 5.00
3% to County (if paid in installments)	\$	\$
TOTAL	\$	\$ 105.00

days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ beginning

\$ paid to Public Defender Fund

Other:

☐ Appointed PD or appointed other counsel,
§ 47.12 requires \$500 be paid to Clerk
during probation.

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

Presiding Judge

Judge Code: 2159

Sentence Date: 04-15-14

217

04-29-14;02:11PM;

47 b

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

Florence

VS.

Deron Jardell Myers

AKA:

Race: B Sex: M Age: 25

DOB: SS#:

Address:

City, State, Zip: Effingham, SC 29541

DL#: SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Murder / Attempted Murder (0-30) (T#2)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2013-GS-21-01167

A/W#: 2013A2110400060

Date of Offense: 4/7/2013

S.C. Code §: 16-03-0029

CDR Code #: 3410

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-03-0029

of the S.C. Code of Laws, bearing CDR Code # 3410

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury, (defendant's initials)
The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST

John C. Jepting

9826

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the

☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 20 days/months/years or ☐ under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation formonths/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
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SPECIAL CONDITIONS:

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Total: \$ plus 20% fee: \$

Payment Terms:

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Proviso 90.5 (SCJA Surcharge)	\$5	\$ 5.00
3% to County (if paid in installments)	\$	\$
TOTAL	\$	\$ 105.00

PTUP

days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ beginning

\$ paid to Public Defender Fund

Other:

☐ Appointed PD or appointed other counsel,
§ 47.12 requires \$500 be paid to Clerk
during probation.

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

Presiding Judge

Judge Code:

2157

Sentence Date:

4-15-14

STATE OF SOUTH CAROLINA

COUNTY OF Florence
STATE VS.

Deron Jardell Myers

AKA:

Race: B Sex: M Age: 25

DOB: SS#:

Address: L

City, State, Zip: Effingham, SC 29541

DL#: SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS
TO: Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death (0-3)

in violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)
The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

John C. Jeptinger, John C. SC Bar# 9826

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation formonths/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: to day
☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

Total: \$ plus 20% fee: \$

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCA Surcharge)	\$5	\$ 5.00
3% to County (if paid in installments)	\$	\$
TOTAL	\$	\$ 105.00

Clerk of Court/ Deputy Clerk.

Court Reporter:

SCCA/217 (03/2011)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2013-GS-21-01167

A/W#: 2013A2110200416

Date of Offense: 4/7/2013

S.C. Code § : 16-23-0490

CDR Code #: 0549

SENTENCE SHEET

Presiding Judge

Judge Code:

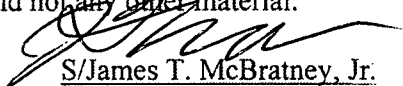
Sentence Date:

219

Certificate of Counsel

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

August 4, 2015



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james@mcbratneylawfirm.com
Attorney for Appellant

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