

STATE OF SOUTH CAROLINA

In The Court of Appeals

ORIGINAL

APPEAL FROM OCONEE COUNTY

Alexander S. Macaulay, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

LAQUAVIUS T. CLEVELAND,

APPELLANT

APPELLATE CASE NO. 2014-001842

RECORD ON APPEAL

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2 County of Oconee In the Court of General Sessions

3
4 State of South Carolina,)
5 Plaintiff,) 2013-GS-37-1043, 1044
6 -vs-) July 23, 2014
7 Laquavius T. Cleveland,) Volume II (pgs. 69-271)
8 Defendant.)
9 Transcript of Record

10
11 B E F O R E:

12 The Honorable Alexander S. Macaulay, Judge;
13 and a jury.

14
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1 E x h i b i t s

2 For the State:

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22	43	CD of 911 call	174	175

23 For the Defendant:

24	<u>Marked</u>	<u>Description</u>	<u>I.D.</u>	<u>Admitted</u>
25	1	Polygraph consent	93	93
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1 (WHEREUPON, court convened with all parties
2 present and the following proceedings were had
3 commencing at approximately 9:37 a.m.)

4 THE COURT: Is the State ready to proceed?

5 MR. WAGNER: Yes, sir.

6 THE COURT: Defense ready to proceed?

7 MR. GRIFFIN: Yes, sir.

8 THE COURT: All right. We're back on the case of
9 State of South Carolina versus Laquavius Tyshawn
10 Cleveland. I understand there is a question as to the
11 voluntariness and admissibility of a statement
12 allegedly made by the defendant.

13 Is there anything from the defendant before we
14 proceed?

15 MR. GRIFFIN: Yes, sir. I've got a formal motion
16 to suppress regarding this statement that I would like
17 to tender.

18 THE COURT: Have you given them a copy of it?

19 MR. WAGNER: Yes.

20 THE COURT: Do you want to be heard on this motion
21 at this time or wait until we have the hearing?

22 MR. GRIFFIN: As part of -- I suppose the hearing
23 would be part of this.

24 THE COURT: That's what I would think, but I
25 wanted to be sure if you had something that you thought

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1 might affect the admissibility of any statement.

2 MR. GRIFFIN: No, sir. It's all involving the
3 *Jackson v. Denno* hearing.

4 THE COURT: Very good. All right. With that --
5 and you are aware that he has moved to suppress any
6 statement made by the defendant?

7 MR. WAGNER: Yes, sir.

8 THE COURT: All right. You may proceed.

9 MR. WAGNER: Your Honor, we would call Sergeant
10 Tinsley.

11 MARGARET AMANDA TINSLEY,
12 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

13 THE COURT: If you would, please, ma'am, state
14 your name for the record.

15 THE WITNESS: Margaret Amanda Tinsley.

16 THE COURT: You may proceed.

17 DIRECT EXAMINATION

18 BY MR. WAGNER:

19 Q Sergeant Tinsley, can you tell us who you work for
20 and what are your job duties there?

21 A The Oconee County Sheriff's Office. I'm a
22 detective in investigations.

23 Q How long have you been working for the sheriff's
24 office?

25 A For about nine years, nine and a half years.

1 Q And how long have you been a detective in
2 investigations there?

3 A For about three years.

4 Q Part of your duties as a detective, are you on
5 call from time to time?

6 A I am.

7 Q Back on the weekend of July -- or July 8th, 2013,
8 were you on call that week?

9 A I was.

10 Q And as a result of that call, did you get called
11 out on a stabbing case involving the defendant,
12 Laquavius Cleveland?

13 A Yes.

14 Q Did you at any time that day talk to Laquavius
15 Cleveland and where did you talk to him, if you did?

16 A Yes, up at the sheriff's office.

17 Q And how did he get up there?

18 A His Aunt Patrice had picked him up from where he
19 had been and brought him to Corporal Philip Robertson
20 and Philip brought him to the sheriff's office.

21 Q Okay. And Philip, was he a road deputy at the
22 time?

23 A He was working -- he was working the road but
24 mainly through their traffic division worked the
25 interstate.

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1 Q Okay. So he arrived at the sheriff's office in
2 Philip's patrol car?

3 A Yes.

4 Q Was he under arrest at the time?

5 A No.

6 Q And where did y'all talk to him?

7 A In investigations, in an interview room in
8 investigations.

9 Q About what time was that?

10 A Let's see. Around 5:48 p.m.

11 Q Did you advise him of his rights at that time?

12 A We did.

13 Q And did you do so using a form that you normally
14 use?

15 A Yes.

16 Q What do you call that form?

17 A It's a Miranda rights waiver form.

18 (WHEREUPON, State's Exhibit Number 1 was marked
19 for identification.)

20 BY MR. WAGNER:

21 Q Let me show you what's been marked State's
22 Exhibit 1 for identification. Do you recognize that?

23 A I do.

24 Q What is that?

25 A It's the form that we read him and that he signed

1 and initialed.

2 Q Is that the form you would use generally when you
3 were talking to somebody suspected of a crime?

4 A Yes.

5 Q And what's the title? What do you call that form
6 exactly?

7 A The rights form.

8 Q Okay.

9 A Miranda rights form.

10 Q Is it still in substantially the same condition as
11 it was when you used it that day?

12 A It is.

13 Q Is that the exact form that you used?

14 A It is.

15 Q Where did you talk to him? What kind of room is
16 this? It's like you call it an interview room. How
17 big is it?

18 A I think it's around an eight-foot-by-seven-foot
19 maybe room with no other doors but the door that comes
20 in and out of it with a table and four chairs.

21 Q And who was in there with you?

22 A Philip Robertson and Laquavius.

23 Q Just the three of you?

24 A Yes.

25 Q Was he denied any comforts like restroom, or did

1 you offer him anything to drink, anything to eat if he
2 wanted it?

3 A We did after we talked to him.

4 Q Okay. Was he in handcuffs?

5 A No.

6 Q Was he seated?

7 A Yes.

8 Q Was anybody else present besides Phil Robertson?

9 A No.

10 Q Was anybody like outside the door or anything or
11 just the three of y'all talking?

12 A Just the three of us.

13 Q And the form, State's Exhibit No. 1, what rights
14 exactly are on that form, and can you tell us exactly
15 how you went about advising him of his rights, what
16 exactly you said and how he did it?

17 A I told him before we ask him any questions we need
18 to read his rights to him since we were conducting an
19 investigation. It says, "Before we ask you any
20 questions, you must understand your rights. You have
21 the right to remain silent. Anything you say can be
22 used against you in court. You have the right to talk
23 to a lawyer for advice before we ask you any questions
24 and have him with you during questioning. If you
25 cannot afford a lawyer, one can be appointed for you

1 before questions if you wish. If you decide to answer
2 questions now without a lawyer present, you will still
3 have the right to stop answering questions at any point
4 in time." And the bottom part says, "I have read this
5 statement of my rights and I understand what my rights
6 are. I am willing to make a statement and answer
7 questions. I understand and know what I'm doing. No
8 promises or threats have been made to me and no
9 pressure or coercion of any kind has been used against
10 me."

11 Q Okay. And did you read it to him exactly like
12 that?

13 A I did.

14 Q Did you make sure that he understood it?

15 A Yes, and he signed -- he initialed beside each one
16 of those points and put his initial and signed it.
17 Philip witnessed it and I witnessed it.

18 Q So you went over it with him as you went, and he
19 was read each of those rights?

20 A Yes. Yes.

21 Q And he initialed that he understood it, and then
22 he signed saying that he understood it?

23 A Uh-huh.

24 Q In your time in law enforcement have you ever been
25 around people that have been under the influence of

1 alcohol or drugs?

2 A Yes.

3 Q Do you have an opinion as to whether he was under
4 the influence of anything that day? Did he seem to be
5 in his right frame of mind?

6 A He did. He didn't seem to be under the influence
7 of anything.

8 Q Did he talk to you normally?

9 A Yes.

10 Q Was his speech coherent?

11 A Yes.

12 Q Did he respond to your questions?

13 A Yes. He was very polite.

14 Q Did he agree to waive his rights and talk to you?

15 A Yes, he did.

16 Q At that point in time did y'all start discussing
17 what was happening and try to get his side of the
18 story?

19 A Yes.

20 Q Did you question him while you were doing that?

21 A Yes. What we typically do -- what I typically do
22 is allow them to tell us, and if I need clarification,
23 I'll ask somebody to clarify what they're saying,
24 but --

25 Q Did you -- at any time did anybody ever offer him

1 any hope for reward to get him to go ahead and talk to
2 you?

3 A No, it was very preliminary in the investigation.
4 We really -- I didn't even know -- I just knew that
5 someone had been stabbed, but I didn't know how many
6 times, I didn't know the seriousness of injuries or
7 anything like that. It was very, very early in the
8 investigation.

9 Q Were any threats or promises made to him in order
10 to induce him to sign the form, waive his rights and go
11 ahead and give you a statement?

12 A No.

13 Q Was there any intimidation?

14 A No.

15 Q Best of your knowledge, was his waiver of his
16 rights and his agreement to talk to you and the
17 statements that came later, were they given freely and
18 voluntarily by him?

19 A Yes, they were, uh-huh.

20 Q And did he tell you that he would talk to you?

21 A Yes.

22 (WHEREUPON, State's Exhibit Number 2 was marked
23 for identification.)

24 BY MR. WAGNER:

25 Q Let me show you what's been marked State's Exhibit

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1 Number 2 for I.D. Do you recognize State's Exhibit 2
2 for identification?

3 A I do.

4 Q And what is that?

5 A This is the written statement that Laquavius wrote
6 after we initially had him talk to us and tell us what
7 happened. We asked him if he would write a voluntary
8 statement, and he agreed to write a voluntary
9 statement.

10 Q So what time, going back to State's Exhibit 1 on
11 the rights waiver, what time did you start talking to
12 him?

13 A We started talking to him, actually got his basic
14 information, at 5:48, and I read his rights to him at
15 5:50, we signed it at 5:52, and he began to write the
16 statement at 6:14.

17 Q In between that time was he telling you anything,
18 or did you just give him the statement and ask him to
19 start writing what happened?

20 A In between the statement and reading the Miranda?

21 Q In between the rights waiver and him agreeing to
22 talk to you, what happened in those minutes there? Did
23 you go ahead and give him the form and let him fill it
24 out?

25 A We let him talk to us first. And once he told us,

1 we then received his statement.

2 Q And is that statement still in substantially the
3 same condition as it was?

4 A It is.

5 Q Is that the original statement that he gave you?

6 A Yes, sir, it is.

7 Q Was that his writing or yours?

8 A It's his writing.

9 Q And what did he say happened?

10 A He said --

11 MR. GRIFFIN: Your Honor, I object to the
12 substance of the statement. That's beyond the scope of
13 a *Jackson/Denno* hearing, I believe.

14 THE COURT: Mr. Wagner.

15 MR. WAGNER: Your Honor, the *Jackson v. Denno*
16 hearing, that's what we're here for.

17 THE COURT: Actually, we're here to determine
18 whether or not a statement was given and if it was
19 given freely and voluntarily. Of course it's for the
20 Court. We have no jury here, so I'm going to permit
21 you to generally ask what the statement is about and,
22 again, what it is. Also as I understand, this is only
23 for identification purposes at this time and not for
24 admission or submission to the jury. All right.

25 BY MR. WAGNER:

1 Q In a nutshell, just --

2 THE COURT: Over your objection.

3 BY MR. WAGNER:

4 Q Basically what did he tell you on this statement,
5 State's Exhibit Number 2?

6 A He stated that they came over to his house and he
7 had -- Hakeem had fronted him \$200 about a year and a
8 half earlier. And Hakeem came over this particular day
9 wanting his money back, trying to get his money back.
10 And he said that Hakeem had a gun on him and he got
11 scared, and he stabbed him a couple of times in the
12 shoulder and ran.

13 Q Okay. And did he sign that statement?

14 A He did.

15 Q And did y'all -- when I say y'all, you and Philip
16 Robertson, anybody else?

17 A Just Philip and I witnessed it.

18 Q Did anybody promise him anything to give that
19 statement? Did anybody hold out any hope for reward to
20 give that statement?

21 A No.

22 Q Did anybody threaten or coerce him in any manner?

23 A No.

24 Q Did he stay -- after he gave you that statement,
25 did he stay around the sheriff's office there?

1 A He did.

2 Q And what did y'all do?

3 A We were waiting on some of the investigators.

4 Some of the investigators had been sent to Greenville.

5 Hakeem had been sent to Greenville because of his

6 injuries, so a couple officers had went to Greenville

7 Memorial to try to talk to him there. There were a

8 couple officers out at the scene where it took place,

9 and some of the people at the crime scene were at the

10 tire shop where he ended up at. So we were really

11 waiting for more information to come in from other

12 people. We went back to the conference room in CID.

13 We cut the television on and sat and watched television

14 while we waited for more information to come back.

15 Q So he wasn't being questioned in the lag there in
16 time?

17 A No.

18 Q Was he hungry? Did anybody offer him any food or
19 anything to drink?

20 A Captain Reed, Greg Reed, once they left the house
21 where this took place, he called us and asked us if he
22 wanted anything to eat or drink or anything because
23 they were coming back to the department. Laquavius and
24 I only got a sweet tea. Neither one of us were hungry,
25 so they brought us back sweet tea to drink.

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1 Q So he got a sweet tea and you got a sweet tea. At
2 some point in time did you find out there was more to
3 the case? When these other detectives got back, did
4 you find out there was more to the case than he had
5 initially told you in State's Exhibit 2?

6 A We did. When Sergeant McMahan had gotten back, he
7 told us that Hakeem had been stabbed 11 times, and
8 Hakeem had given him pictures of text messages that
9 showed and talked about what Laquavius and Hakeem were
10 talking about in these text messages, Hakeem selling a
11 little bit of marijuana and a gun to Laquavius. And
12 that was why they were initially meeting, according to
13 Hakeem.

14 And so we got that information and realized the
15 extent of his injuries and how many times he had been
16 stabbed and the reason he was there and that didn't --
17 that didn't match up with what Laquavius had told us
18 initially in his initial statement.

19 Q And during that time frame for the officers to get
20 back, for you to find that out, for y'all to be sitting
21 there and watching TV and drinking iced tea, did that
22 take several hours?

23 A It did.

24 Q At some point in time later that evening did you
25 go ahead and talk to him again, and was he essentially

1 in custody with y'all; he had never left?

2 A Right.

3 (WHEREUPON, State's Exhibit Number 3 was marked
4 for identification.)

5 BY MR. WAGNER:

6 Q Let me show you what's been marked State's
7 Exhibit 3 for I.D. Do you recognize State's Exhibit
8 Number 3?

9 A I do.

10 Q What is that?

11 A It's the notes that I took on the second interview
12 when we were speaking -- when Captain Greg Reed and I
13 were speaking with Laquavius.

14 Q What time did y'all start talking to him again?

15 A It was at 1:15 a.m.

16 Q So it was late. Who was with you when you were
17 talking to Laquavius?

18 A Captain Greg Reed, Laquavius and I were in the
19 same room.

20 Q Same interview room?

21 A Uh-huh.

22 Q When you started talking to him, did you confront
23 him with new information that you had?

24 A We did. We told him about what we had discovered
25 from Hakeem, the photographs that we had of the text

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1 messages, that we knew that it wasn't consistent with
2 what he told us initially, and we told him how many
3 times Hakeem had been stabbed.

4 Q Did y'all threaten him or try to coerce him in any
5 manner to talk to you?

6 A No.

7 Q Just --

8 A We just confronted him that it just wasn't adding
9 up.

10 Q Nobody tried to coerce him or threaten him?

11 A No.

12 Q Nobody promised him anything or held out any hope
13 for reward to get him to talk to you?

14 A No.

15 Q He agreed to talk to you some more?

16 A He did.

17 Q And, in a nutshell, what did he tell you the
18 second go-round?

19 A He -- he told us what was consistent with what
20 Hakeem had said, that he had contacted Hakeem --

21 MR. GRIFFIN: Your Honor, again I'm going to
22 object to the substance of the statement.

23 THE COURT: All right. Same objection?

24 MR. GRIFFIN: Yes.

25 THE COURT: Overruled.

1 THE WITNESS: It was that he and Hakeem, he had
2 contacted Hakeem, who was his cousin, in reference
3 to -- and who he had also bought a little bit of drugs
4 and a gun from before, that he contacted him in
5 reference to buying a little bit of marijuana and a
6 gun. He said the gun wasn't for him, it was for
7 someone else. But he had contacted him about that, and
8 they talked in those text messages, and he told us that
9 they did. And he said that was why Hakeem had come
10 over, over to his house. He said that he didn't have
11 the money to buy it, his mama was in a desperate
12 financial situation, so he planned on actually robbing
13 Hakeem of the gun and the marijuana and just robbing
14 from -- robbing him.

15 And he said that he went into the house after they
16 talked in the car for a little bit. He went back into
17 the house, he got a butcher knife. He described it
18 like what Michael Myers used in the movie *Halloween*,
19 butcher knife with a black handle. He got that and
20 come back outside. And when Hakeem looked away at the
21 neighbor's house and got distracted and wasn't looking
22 at him, he started stabbing him. And they scuffled for
23 a second, and then he took off running.

24 Q Was his second statement consistent with what you
25 had found out had happened through the rest of your

1 investigation?

2 A Yes.

3 Q How this defendant said he stabbed the victim,
4 from the angle and everything, was that consistent with
5 the wounds on the victim?

6 A Yes.

7 Q As a result of that, did you have him -- did you
8 get a written statement out of him to the second part
9 of that?

10 A We asked him if he would write a written
11 statement, and he said he was tired. He didn't feel
12 like it. I said, "Do you mind signing my notes?" And
13 he said, "No, I'll sign your notes." So I read my
14 notes back to him, and he signed my notes. And I
15 witnessed it and Greg Reed witnessed it. And that was
16 at 1:58 a.m.

17 Q And he signed your notes as being what his --

18 A Yes.

19 Q -- his statement was?

20 A Yes. I told him, "You let me know if I left
21 anything out. You let me know if there's something in
22 here that I have incorrect, that I need to change. If
23 you need to change anything, just point it out, let me
24 know."

25 Q I'll ask you this one more time. Was he ever

1 promised anything?

2 A No.

3 Q Was he ever threatened in any manner?

4 A No.

5 Q Was any coercion ever used against him to either
6 waive his rights or give you the first or second
7 statement?

8 A No.

9 Q To the best of your knowledge, was it freely and
10 voluntarily given by him?

11 A It was.

12 Q After that -- after the second statement, did you
13 get warrants the next morning?

14 A We got warrants that morning. I mean, probably
15 at, I think, just after this, probably around 2:30 a.m.
16 we stayed, went ahead and got -- we called Judge Norton
17 out, who met us at his office, and we went ahead and
18 got the warrants at that time.

19 Q At any time did he ever ask for an attorney?

20 A No.

21 Q If he had, would you have provided him one?

22 A We would have stopped our interview until he was
23 able to have one present.

24 Q But he wanted to talk to you and he kept talking
25 to you?

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1 A Yes.

2 Q Thank you.

3 MR. WAGNER: That's all the questions I have.

4 THE COURT: All right.

5 Mr. Griffin.

6 MR. GRIFFIN: Yes, sir.

7 CROSS-EXAMINATION

8 BY MR. GRIFFIN:

9 Q All right. He was 16 years old at the time; isn't
10 that correct?

11 A That's correct.

12 Q And did you determine how far he went in school?

13 A We did.

14 Q How far was that?

15 A Says that eleventh grade, he will be going to Code
16 Academy.

17 Q He was going into the eleventh grade, but he just
18 got out of the tenth?

19 A Said he was -- eleventh grade will be Code
20 Academy, will be going to Code Academy.

21 Q So he was progressing to the eleventh grade at
22 that time; is that correct?

23 A Uh-huh.

24 Q Okay. And did anyone -- when he was brought to
25 the station, did anyone contact his mother?

1 A It was -- she was contacted before, actually.

2 Corporal Philip Robertson knew his mother previously,
3 beforehand.

4 Q Yes, ma'am.

5 A And she talked to him, and out of politeness, he
6 really asked her did she mind us talking to him and she
7 said no.

8 Q Did she ever call back and want to talk to him
9 while he was in there?

10 A No. I called her while talking to Laquavius. He
11 said that their house had cameras on it and that we
12 probably -- the whole thing would have been on video,
13 so I called her. She was at work, so I called her and
14 talked to her and asked her could she get us a copy
15 from ADT, a copy of that video from the house.

16 Q Okay. Was that before or after the first
17 statement was given?

18 A That was after.

19 Q And after the first statement was given, y'all
20 arranged for a polygraph to be taken?

21 A We did.

22 Q Okay. And how long did it take for the polygraph
23 examiner to get there?

24 A About an hour. He lives in Easley.

25 Q All right. And were you present during the

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1 polygraph?

2 A I didn't go in the room, but I was at the -- I was
3 there in CID, in investigations.

4 (WHEREUPON, Defendant's Exhibit Number 1
5 was marked for identification.)

6 BY MR. GRIFFIN:

7 Q Okay. Is this a copy of the alleged consent that
8 Laquavius signed to be polygraphed?

9 A It appears to be. I didn't -- I didn't take this
10 from her, though. A different officer took this from
11 her, took it up there.

12 Q Somebody from the sheriff's office?

13 A She, Nina McKee, and Mike Lark, who's the
14 polygraph examiner.

15 Q Yes, ma'am.

16 A Met Yashica at her place of business, her work,
17 and met her there and got it signed by her there.

18 Q But that's the one Laquavius signed, isn't it?

19 A It looked like Laquavius' handwriting.

20 Q Okay? But I don't have a copy of that. Mike Lark
21 would have it.

22 MR. GRIFFIN: I move defense Exhibit 1 for
23 identification.

24 (WHEREUPON, Defendant's Exhibit Number 1 was
25 admitted into evidence.)

1 BY MR. GRIFFIN:

2 Q What time did the polygraph begin?

3 A I'm not sure. You would probably have to ask Mike
4 Lark that. He makes notes of those things. I didn't
5 make a note of it.

6 Q Do y'all have Mike Lark's notes?

7 A I have -- let's see. Here I don't. They do.

8 Q Okay. Do you recall what the note said?

9 A All I recall is he was showing signs of deception.
10 When Mike come out of the polygraph room, he told us he
11 was showing signs of deception.

12 Q And did -- was that communicated to Laquavius?

13 A I'm sure it was.

14 Q Okay. And who communicated that to him, to the
15 best of your knowledge?

16 A Best of my knowledge, it probably would have been
17 Mike Lark.

18 Q Okay. And then the second statement was taken; is
19 that correct?

20 A It was.

21 Q Okay. And that was taken as a result of the
22 polygraph examination?

23 A And the new information we had received that
24 didn't match his statement, his first statement.

25 Q Okay. Did you talk to the aunt that brought him

1 up there?

2 A No. She didn't bring him to the sheriff's office.
3 She met Philip Robertson at Laquavius' house. She took
4 him to Philip, and then Philip brought him to the
5 sheriff's office.

6 Q Okay. Do you recall what, if anything, his aunt
7 told him?

8 A I wasn't there when his aunt was with him, so I
9 don't know what he told her. I have no idea.

10 Q So you're not aware that she told him if he went
11 and gave y'all a statement, that he could go home?

12 A No, I wasn't aware of that.

13 Q Okay. I believe the only -- what kind of prior
14 contact did Laquavius have with law enforcement prior
15 to this date?

16 A Prior to this date, only time I personally had
17 anything with him was I went out to -- I got called out
18 when I worked the road in reference to a fight his mama
19 and her boyfriend had had, but nobody went to jail at
20 that time. He was just a witness to their altercation.
21 But other than that, he had other altercations with
22 other officers where he had been charged with attempted
23 murder, four other counts, with David McMahan.

24 Q Was that prior to this or right around the same
25 time?

1 A Prior to this. I think about a year earlier.

2 Q All right. Was he charged as a juvenile back
3 then?

4 A He was charged as a juvenile because he was 15
5 when it happened.

6 Q Do you recall what kind of -- was he held in
7 detention or was he allowed to go back home then?

8 A I wasn't a part of that investigation.

9 Q Okay. Are those charges still pending?

10 A Yes.

11 Q Okay.

12 A They're pending now in general sessions.

13 Q Okay. All right. After the second statement was
14 supposedly signed by Laquavius, that was around
15 2 o'clock in the morning?

16 A Yes.

17 Q So he was at the -- he was brought by a deputy to
18 the sheriff's office?

19 A Uh-huh.

20 Q Okay. And that lasted about eight hours?

21 A Let's see. Four, six -- six or seven hours.

22 Q Okay. I'm going to look here for a second.

23 The -- according to the notes I have that he --
24 according to, I believe, your notes, around 7 --

25 July 8, 2013, at 5:48 p.m. on your record of interview;

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1 would that be correct?

2 A Yes.

3 Q Okay. And then the last statement, last statement
4 that he eventually gave was --

5 A At 1:58.

6 Q At 1:58 a.m., the next day?

7 A The next morning, uh-huh.

8 Q So that would be two hours -- almost two hours
9 into the next day, correct?

10 A Yes.

11 Q And then we're starting at right around 6 o'clock
12 the previous day, so six plus two is eight hours,
13 correct?

14 A Okay.

15 Q Did he -- I believe y'all asked him to call his
16 mother at one point?

17 A Uh-huh.

18 Q That was for the purposes of --

19 A Obtaining video --

20 Q -- verifying whether or not there was a security
21 system at the house?

22 A Uh-huh.

23 Q And that was after the first day, correct?

24 A Right.

25 Q And he didn't want to sign -- write up another

1 statement because you said he was tired?

2 A Everybody was tired.

3 Q Okay. And had he been asleep any that night?

4 A Had he been asleep any that night?

5 Q Yes, ma'am.

6 A No.

7 Q He was awake the whole time?

8 A Yeah.

9 Q You say the reason this Mr. Hakeem was over at the
10 house was to deliver a gun and marijuana to a
11 16-year-old?

12 A Uh-huh --

13 MR. WAGNER: Objection, your Honor.

14 MR. GRIFFIN: Your Honor, they got into it.

15 THE COURT: What's your objection?

16 MR. WAGNER: Your Honor, he's getting into things
17 outside the scope.

18 THE COURT: He's waiving his objection.

19 MR. GRIFFIN: I withdraw it, then.

20 BY MR. GRIFFIN:

21 Q Did you ever find out what kind of grades
22 Laquavius made while he was in school?

23 A No, I didn't find out what kind of grades he made.

24 Q And he was carried straight to detention from --
25 after he gave the last statement, y'all placed him

1 under arrest?

2 A Yes.

3 Q Was he free to leave prior to this?

4 A We didn't -- we didn't -- we really were just
5 detaining him, really.

6 Q Detaining him?

7 A But he was -- we -- we -- he was willfully staying
8 because he wanted, we thought, wanted to -- I
9 thought -- personally I thought that there may be
10 video. He was telling us the truth. He was very
11 cooperative. So he was willfully saying, "Yeah, I'll
12 call my mama. We got it on video." So I thought,
13 yeah, he was staying because he was wanting to
14 cooperate.

15 Q Did you tell him he was free to leave at any
16 point?

17 A I don't remember if we did or didn't.

18 Q Okay.

19 Did y'all give him anything to eat while he was
20 there?

21 A We offered, but he didn't want anything to eat.

22 MR. GRIFFIN: That's all I have, your Honor.

23 THE COURT: Re-exam?

24 REDIRECT EXAMINATION

25 BY MR. WAGNER:

1 Q So he was there until the early morning hours into
2 the 8th on that second statement?

3 A Yes.

4 Q Were you able to find out what time he had gone to
5 bed the day before or what time he had gotten up?

6 A From what I understand, it was around noon. He
7 and his cousin had stayed up the night before playing
8 video games, so they didn't wake up until about noon
9 the next day.

10 Q So he had only been up about six hours when y'all
11 first started talking to him?

12 A Right.

13 Q So it wasn't like he had been up 24 hours or
14 something?

15 A Right.

16 Q I guess the flip side of that coin is how long had
17 you been up that day?

18 A I had been up since 6:00 a.m.

19 Q What does your day start off with?

20 A It started off with getting ready for work and
21 coming to work.

22 Q Did you work a murder that day, too?

23 A I worked a murder the very next day.

24 Q So if he went to bed at noon or got up at noon
25 that day, y'all were talking to him about six hours

1 later?

2 A Yes.

3 Q And then he was there for six to seven hours or so
4 from start to finish?

5 A Yes.

6 Q And part of that time was watching TV and just
7 hanging out?

8 A That's correct.

9 Q And he did have iced tea?

10 A He did.

11 Q And he was offered food but he didn't want
12 anything?

13 A Right. He said he wasn't hungry. And I didn't
14 eat either.

15 Q Did he ever complain about being tired or wanting
16 to leave or --

17 A No, he was -- he had just appeared to be patiently
18 waiting like the rest of us to find out about the
19 video. And all that took time unfortunately because we
20 had to contact his mama at work, and she had to wait
21 until she was on break to be able to call her
22 ex-boyfriend and to get information about the --
23 because he apparently had an app on his phone where he
24 could pull the video system up on his phone. And in
25 the meantime, when that was taking place, we ended up

1 going and meeting his mama or Deputy Nina McKee met his
2 mama at work and got that waiver signed for the
3 polygraph. And at that point she found out -- his mama
4 found out that the system had not been working for
5 several months. So at that point is when we realized
6 we didn't have any video of it.

7 Q Thank you, ma'am. That's all the questions I
8 have.

9 THE COURT: All right. Anything else? Recross?

10 MR. GRIFFIN: No, sir.

11 THE COURT: All right. You may step down. Thank
12 you, ma'am.

13 MR. WAGNER: Your Honor, we would call Captain
14 Reed.

15 GREG REED,

16 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

17 THE COURT: If you would, please, sir, state and
18 spell your name for the record, sir.

19 THE WITNESS: Greg Reed.

20 THE COURT: Very good. Thank you. Spell your
21 last name.

22 THE WITNESS: R-e-e-d.

23 THE COURT: Thank you, sir.

24 DIRECT EXAMINATION

25 BY MR. WAGNER:

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1 Q Captain Reed, who do you work for?

2 A Ocone County Sheriff's Office.

3 Q And what are your job duties there?

4 A I'm captain of CID and a couple other divisions.

5 Q CID being investigations?

6 A That's correct.

7 Q How long have you worked for the sheriff's office?

8 A 29 years-plus.

9 Q Okay. Were you working back on July 8th, 2013?

10 A I was.

11 Q Did you get involved in assisting Sergeant Tinsley
12 with an interview involving the defendant, Laquavius
13 Cleveland?

14 A Yes, I did.

15 Q Where did this occur and about what time did you
16 get involved?

17 A In the interview or the actual case?

18 Q Well, the actual case, I guess, briefly, and then
19 the interview.

20 A Okay. Actually, I was notified. If I'm not
21 mistaken, Sergeant Tinsley notified me that we had a
22 stabbing. I directed some investigators to go to the
23 incident location on Shiloh Road. Myself and another
24 investigator ended up going to Brown Street where the
25 defendant lived. Then I ended up sending some

1 investigators on to Greenville since Mr. Kirkland was
2 transported at that time to Greenville because of his
3 injuries.

4 Then later on that evening after we finished up,
5 ended up back at the law enforcement center in the CID.
6 On the way up there I called, asked if anybody needed
7 anything to eat. I actually did take Sergeant Tinsley
8 and the defendant an iced tea. And then after -- after
9 getting there, the other officers called and let us
10 know and did come back and let us know what they had
11 found out at Greenville from the victim and from the
12 cell phone.

13 And by that time we went into the next interview
14 after the interview he was just in showed deception,
15 which already has been brought out, and that's when we
16 got the next statement.

17 Q Okay. So were you present with Sergeant Tinsley
18 on the second statement?

19 A Yes, I was.

20 Q From the start?

21 A Yes.

22 Q You had been present prior to that, but you
23 weren't present when he was Mirandized?

24 A No. Actually, I wasn't, but when I come to the
25 center, I actually released Corporal Robertson where he

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1 could go on with his duties.

2 Q And were you present at all during the first
3 statement?

4 A No.

5 Q The second statement that's marked State's
6 Exhibit 3 for identification, do you recognize that?

7 A Yes, I do.

8 Q Were you present when Sergeant Tinsley was filling
9 that out?

10 A Yes, I was.

11 Q Was she taking those notes and what's written on
12 State's Exhibit 3 on there, was she writing that down
13 as the defendant was talking?

14 A Yes, she was.

15 Q Were you there the entire time she was writing and
16 present when everything front and back was written?

17 A Yes, I was.

18 Q Were you present when the defendant signed it and
19 adopted those notes as his statement?

20 A I was.

21 Q Was he tired and at that point didn't want to give
22 a written statement?

23 A Yes, sir. He was asked -- Sergeant Tinsley asked
24 if we could actually get it in writing, and he advised
25 he was just tired and wanted to rest.

1 Q Okay. But then he signed it in your presence?

2 A Exactly, yes.

3 Q Okay. Did anybody ever promise him anything to
4 talk to y'all in that second -- second statement and
5 sign that statement as his notes -- as his statement?

6 A No, sir.

7 Q Did anybody ever hold out hope for reward that he
8 would benefit from talking to you and making that
9 statement?

10 A No, sir.

11 Q Did anybody ever threaten him or try to coerce him
12 in any manner?

13 A No, sir.

14 Q To the best of your knowledge, did he freely and
15 voluntarily talk to you and give you that statement?

16 A Yes, sir.

17 Q When you say you called up about bringing food up
18 earlier on your way back up there, that statement was
19 given after midnight. Approximately what time were you
20 calling and what time were you coming up to the
21 sheriff's office do you think?

22 A I don't know, but I know I got there probably a
23 couple hours before this statement because the tea and
24 everything was gotten, I think, before actually --
25 before the polygraph.

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1 Q Was the defendant offered to get -- did you offer
2 to get food for him, too?

3 A Yes.

4 Q He just didn't want it?

5 A No. All he wanted was a sweet tea.

6 Q Sergeant Tinsley didn't want food either?

7 A Sweet tea.

8 Q Did he appear to be in his right frame of mind?

9 A Yes, he did.

10 Q Did he appear to understand what you were asking
11 him or what y'all were talking about?

12 A Yes, he did.

13 Q Was he cooperative and did he answer your
14 questions?

15 A Yes, he did and was.

16 Q On the second statement, did y'all confront him
17 with -- I say new evidence -- stuff that you had
18 learned since he talked to Sergeant Tinsley earlier
19 that evening?

20 A Yes. That was the main reason for us going back
21 in, to let him know what we had learned through the
22 investigation. It didn't match up with anything he had
23 told us earlier.

24 Q What he had told you on that second statement, did
25 it corroborate what you knew and believed to be true

1 about the case as it was?

2 A Yes, it did.

3 Q Was it consistent with what the other versions --

4 A Yes, it was consistent with what had been found
5 out by the other investigation.

6 MR. GRIFFIN: Your Honor, I object to that and
7 move to strike. That's not within the line of
8 *Jackson/Denno*, the statement is accurate.

9 THE COURT: I think it is because otherwise it
10 wouldn't be admissible at all.

11 MR. GRIFFIN: Well, the scope of *Jackson/Denno* is
12 whether it was voluntary. We're not at that stage.

13 THE COURT: Well, there again, I have to make an
14 initial ruling to find out if it's even admissible as
15 being relevant and material. And if it's not accurate,
16 then obviously it's not admissible. It will be for the
17 jury to determine whether or not it was actually made,
18 and if it was made, if it's an accurate statement.
19 I'll overrule your objection.

20 MR. WAGNER: Your Honor, nothing further for this
21 witness.

22 THE COURT: All right.

23 Cross-examine.

24 CROSS-EXAMINATION

25 BY MR. GRIFFIN:

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1 Q Why was the polygraph examiner called in?

2 A To see if his version of his first statement was
3 true and accurate.

4 Q Okay. And were you present when Mr. Lark informed
5 him of the results of the polygraph?

6 A I was at the center when -- yes, sir, when that
7 happened, but I wasn't present when he told him, no.

8 Q Okay. But you are aware that did happen?

9 A Yeah. And I'm sure that we -- we also told him
10 that he didn't do good on the polygraph.

11 Q Who confronted him with this new evidence?

12 A Myself and Sergeant Tinsley.

13 Q All right. Did y'all tell him he was lying on the
14 first statement?

15 A We told him his first statement didn't match in
16 any way with what we had learned through the
17 investigation.

18 Q All right. Did any of this subsequent information
19 you received match the alleged victim's first
20 statement?

21 A I would have to look at his first statement, but,
22 yes, I believe it did.

23 Q Well, didn't that victim tell y'all to begin with
24 he didn't know why he did it?

25 A Again, I'd have to look at it. I wasn't part of

1 that statement.

2 Q Okay. When Mr. Cleveland had been prior detained
3 on some other charges, are you aware of the
4 circumstances surrounding his detention and release in
5 those cases?

6 A I'm aware of the cases a little bit, but I'm not
7 aware that much of his release.

8 Q Okay. Do you know whether or not -- well, he
9 wasn't detained on those charges indefinitely, was he?

10 A No, sir. If he had been, he wouldn't have been
11 out to be involved in this.

12 Q To be arrested for this one?

13 A Yeah.

14 Q Okay.

15 MR. GRIFFIN: That's all I have of this witness,
16 your Honor.

17 THE COURT: Okay.

18 Re-exam?

19 MR. WAGNER: Nothing, your Honor.

20 THE COURT: All right. You may step down.

21 MR. WAGNER: Your Honor, that's all we have got as
22 to this issue.

23 THE COURT: All right.

24 Mr. Griffin, you renew your motion?

25 MR. GRIFFIN: Yes, sir. I renew my motion.

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1 THE COURT: All right. I found that there is
2 enough to go forward. And does the defendant have
3 anything it wants heard on the *Jackson v. Denno*?

4 MR. GRIFFIN: Excuse me, your Honor?

5 THE COURT: I say I find enough to go forward, in
6 other words, deny your motion. But does the defendant
7 have anything he wants to offer on the *Jackson v.*
8 *Denno*?

9 MR. GRIFFIN: Yes, sir. I suppose I'll call the
10 defendant to testify about the statement.

11 THE COURT: I mean, it's up to you. Or anyone
12 else, any other witnesses.

13 MR. GRIFFIN: Yes, sir. I may call his mother.

14 THE COURT: Very good.

15 LAQUAVIUS CLEVELAND,

16 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

17 THE COURT: If you would, please, sir, give us
18 your full name for the record, spelling your last name.

19 THE WITNESS: Yes, sir. Laquavius Cleveland,
20 C-l-e-v-e-l-a-n-d.

21 THE COURT: Very good. Thank you, sir.

22 DIRECT EXAMINATION

23 BY MR. GRIFFIN:

24 Q Mr. Cleveland, do you recall the date of July 8,
25 2013?

1 A Yes, sir.

2 Q Okay. And do you recall meeting with the sheriff
3 deputies at your mother's house or somewhere else?

4 A Yes, sir.

5 Q Where was -- where did that occur?

6 A Where did I meet them at?

7 Q Yes.

8 A I met them first when my auntie came and got me.

9 Q Was anybody with your auntie?

10 A No, sir. Mr. Philip was sent -- I mean sent her.

11 Q Where did she take you?

12 A She took me to the house.

13 Q Whose house?

14 A My house.

15 Q Okay. Did you meet the officer there?

16 A Yes, sir.

17 Q Okay. Did your auntie tell you anything?

18 A She told me write a statement and I would be going
19 home.

20 Q Okay. And you had a little trouble with the law
21 before?

22 A Yes, sir.

23 Q All right. And did you get to go home after you
24 went to the -- got picked up then?

25 A In this case?

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1 Q No, the other case prior to this one when you were
2 a juvenile.

3 A I was 14. Yes, sir.

4 Q They let you go?

5 A Yes, sir.

6 Q All right. They didn't detain you?

7 A No, sir.

8 Q Now, how did you get to the sheriff's office?

9 A Philip Robertson.

10 Q Mr. Robertson?

11 A Yes, sir.

12 Q Okay. And when you got there, did you meet with
13 the detective here?

14 A Yes, sir.

15 Q Okay. Did you feel once you got there, you could
16 get up and go home at any time?

17 A No, sir.

18 Q All right. And you gave the first statement?

19 A Yes, sir.

20 Q And then they called in a polygraph examiner?

21 A Yes, sir.

22 Q All right. And you took the polygraph?

23 A Yes, sir.

24 Q And did anybody inform you of the results of the
25 polygraph?

1 A Yes, sir. He did.

2 Q Who's he?

3 A The polygrapher.

4 Q What did he tell you?

5 A I was lying.

6 Q Okay. And then -- that's when you talked to the
7 detective again?

8 A Yes, sir.

9 Q Did they ever tell you that they had some more
10 evidence about it or another statement from somebody?

11 A First they meant from the victim.

12 Q Yeah.

13 A They told me -- they really didn't inform me too
14 much of a lot.

15 Q They didn't tell you what he said?

16 A No, sir.

17 Q Did they tell you they had something else?

18 A Not that I can recall.

19 Q Okay. And did you think they could use the
20 polygraph against you in court?

21 A Yes, sir.

22 Q And then you gave the second statement?

23 A Yes, sir.

24 Q All right. And you didn't write out another

25 statement; they wrote it for you or wrote on some paper

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1 and you signed it, didn't you?

2 A Yes, sir.

3 Q Why didn't you write it?

4 A Tired. Just didn't really feel like it.

5 Q Did you think you were going to be able to go home
6 after all that?

7 A I had doubts, but, then again, I was just
8 basically referring to what my auntie told me.

9 Q Okay. But you didn't think you could leave at any
10 time during this period, just get up and call your mama
11 to come get you and go home?

12 A No, sir, I didn't think I could leave.

13 Q How many -- was anybody else in the room with you
14 when they were taking your statement?

15 A The first one?

16 Q Was your aunt there or anybody?

17 A No, sir.

18 Q You didn't have any other adults other than the
19 police officers and a polygraph examiner?

20 A No, sir.

21 Q Okay. What kind of room was it?

22 A Interrogation room. Well, first we went down to
23 some room, conference room, watched TV for a minute.
24 And then they like interrogated me in the interrogation
25 room.

1 Q Where is the interrogation room? Is that where
2 you and me met in the jail?

3 A No, sir. That's up in the sheriff's department
4 area.

5 Q They got another one?

6 A Yes, sir.

7 Q All right. Do you recall how long you were in the
8 interrogation room, in that interrogation room?

9 A I would stay there for a minute, then I go to
10 watch TV and --

11 Q Okay. You meant a minute?

12 A Yes, sir.

13 Q A minute, is that slang for a long time?

14 A Yes, sir. My bad. I'm sorry.

15 Q In your mind a minute is not 60 seconds; that's a
16 good while?

17 A Yes, sir.

18 Q Okay.

19 MR. GRIFFIN: That's all I have of this witness.

20 THE COURT: All right.

21 Cross-examination.

22 CROSS-EXAMINATION

23 BY MR. WAGNER:

24 Q I'll show you what's been marked State's Exhibit 1
25 for identification, Mr. Cleveland. Do you remember

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1 that?

2 A Yes, sir.

3 Q Okay. Do you remember Sergeant Tinsley going over
4 that with you?

5 A Yes, sir.

6 Q Do you remember initialing -- do you remember her
7 filling it out and going over this line by line with
8 you and you initialing that you understood?

9 A Yes, sir.

10 Q Can you read and write?

11 A Yes, sir.

12 Q So you knew what she was asking you, and you know
13 she read you your rights and you understood what they
14 were?

15 A Yes, sir.

16 Q And do you remember signing down here that you
17 would agree to talk to her?

18 A That's my signature.

19 Q She didn't promise you anything or anything; she
20 didn't threaten you in any manner to make you do that,
21 did she?

22 A No, sir.

23 Q So you started talking to her. That was about

24 5:52. Now, you had been up -- you got up about

25 lunchtime, right? I mean, you were playing video games

1 the night before with somebody, stayed up all night?

2 A Yes, sir.

3 Q So you got up at lunchtime. Six hours later you
4 found yourself in this predicament?

5 A Yes, sir.

6 Q You were down there at the sheriff's office?

7 A Yes, sir.

8 Q And you came down there basically of your own free
9 will; rode with Philip Robertson there?

10 A Yes, sir, due to the fact that my auntie said, you
11 know, write a statement, I'd be going home.

12 Q But your auntie didn't go with you, did she?

13 A No, sir. She was going to follow me, but she
14 thought they were going to take me to the city police
15 department, but they took me to the county.

16 Q All right. So six -- roughly six hours, a little
17 over six hours later, you gave and I'll show you
18 State's Exhibit 2. Do you remember giving that
19 statement, writing that out?

20 A Looks like my handwriting.

21 Q Okay. Well, take a look at it, see, make sure.

22 A Yes, sir.

23 Q And you wrote that statement yourself, didn't you?

24 A Yes, sir.

25 Q Okay. Did anybody force you to write it?

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1 A No, sir.

2 Q Did anybody promise you anything to write it?

3 A No, sir.

4 Q Were they nice to you?

5 A Yes, sir.

6 Q Okay. Were you polite back to them?

7 A Yes, sir.

8 Q Okay. And what you told them the first go-round
9 was on that statement, right? And you signed it and
10 you --

11 A Yes, sir.

12 Q Okay. All right. And that is your statement?

13 A Yes, sir.

14 Q Okay. And you made that freely and voluntarily?

15 A Due to what my auntie told me, based off that,
16 yes, sir.

17 Q But they didn't promise you anything and they
18 didn't threaten you to do this, right?

19 A Yes, sir.

20 Q Okay. And then -- and I'm -- they kept you there
21 for a little while. Y'all watched TV. What did y'all
22 watch?

23 A Some show. I mean, I don't --

24 Q Whatever you wanted to watch. I mean, did ya'll
25 watch -- they got a big 'ol TV in that room?

1 A Yes, sir. Yes, sir.

2 Q Okay. So y'all were watching shows for a while?

3 A Yes, sir.

4 Q Did they tell you the polygraph guy was going to
5 come?

6 A Yes, sir. They asked me to do one.

7 Q You agreed to take a polygraph?

8 A Yes, sir.

9 Q And was that guy nice to you?

10 A Yes, sir.

11 Q Okay. I mean, they told you you didn't do well?

12 A Yes, sir.

13 Q All right. Then they came back up and talked to
14 you again?

15 A Uh-huh.

16 Q All right. And this time it was Sergeant Tinsley
17 and Captain Reed?

18 A Yes, sir.

19 Q All right. And you agreed to talk to them?

20 A Yes, sir.

21 Q Now, they offered you some food, too, didn't they?

22 A Yes, sir.

23 Q You weren't hungry?

24 A No, sir.

25 Q Were you nervous?

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1 A Anybody would be in this predicament.

2 Q All right. But you drank that iced tea, though,
3 right?

4 A Yes, sir.

5 Q All right. So you remember talking to Sergeant
6 Tinsley again. And by this time it's after midnight,
7 but you have only been up about 12 hours, so you're
8 still going strong, right?

9 A Yeah. I was tired.

10 Q I understand. I mean, it's midnight or
11 thereabouts. Do you remember telling her and her
12 taking down notes?

13 A I remember her taking down notes, yes, sir.

14 Q Now, you changed your story quite a bit the second
15 go-round. You kind of told what really happened,
16 didn't you?

17 A Yes, sir.

18 Q And then at the end, did she ever promise you
19 anything, did she ever threaten you in any manner to
20 make you talk to her the second time?

21 A No, sir.

22 Q Did Captain Reed? They were nice to you, weren't
23 they?

24 A Yes, sir.

25 Q Do you remember at the end of it she said, "Well,

1 look. Let's go ahead and take a written statement."

2 You said, "No, I'm tired. I don't want to do that."

3 But then she said, Do you want to sign -- she read

4 these back to you, didn't she?

5 A Yes, sir.

6 Q Every word.

7 Let me show you State's Exhibit 3. I'm holding it

8 here. Do you recognize that?

9 A I guess. Yes, sir.

10 Q Okay. Let me flip it over on the back side. Do

11 you recognize your signature?

12 A Yes, sir.

13 Q Do you remember Sergeant Tinsley reading that back

14 to you and saying, "Was that what happened?" and you

15 signed it?

16 A I can honestly say yes, sir.

17 Q Okay. And nobody ever promised you nothing or

18 threatened you in any manner?

19 A I was just going based on what my auntie told me.

20 Q Okay.

21 MR. WAGNER: No further questions, your Honor.

22 THE COURT: Re-exam?

23 MR. GRIFFIN: Nothing further of this witness.

24 THE COURT: All right. You may step down.

25 Thank you, sir.

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Yashica Cleveland - Direct Exam by Mr. Griffin

1 MR. GRIFFIN: I have a witness out in the lobby,
2 sir.

3 YASHICA CLEVELAND,

4 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

5 THE COURT: Ma'am, if you would, please, give us
6 your full name for the record, spelling your last name.

7 THE WITNESS: Yashica Nicola Cleveland,
8 C-l-e-v-e-l-a-n-d.

9 THE COURT: Thank you, ma'am.

10 DIRECT EXAMINATION

11 BY MR. GRIFFIN:

12 Q Ms. Cleveland, you're Laquavius' mother?

13 A Yes, sir.

14 Q Okay. And do you recall the day of July 8, 2013,
15 last year?

16 A What date was it?

17 Q July 8th of 2013 when he had the problem with the
18 law last time.

19 A Yes, sir.

20 Q Okay. Where were you that afternoon?

21 A At work.

22 Q Where do you work?

23 A At Parkway.

24 Q Excuse me?

25 A At the time I was working at Parkway Products.

1 Q What's that?

2 A It's a plant, I guess, between Seneca and
3 Walhalla.

4 Q When did you find out there had been a problem
5 with Laquavius?

6 A My sister called me about 4:30 -- about 4:25,
7 4:30 -- and said that my house was surrounded by
8 police, I need to get off work. And I was like, "Why
9 do I need to get off work?" And she said the police
10 was looking for Quay. I said, "What Quay do?" You
11 know, he's on house arrest. She was like, Philip
12 Robertson was over there, said that he supposedly left
13 my house, [REDACTED], went down Shiloh Road to
14 his cousin's house, apparently got in a fight or
15 something, and he stabbed his cousin.

16 Q All right. And did you ever -- did anybody from
17 the Oconee County Sheriff's Office ever contact you?

18 A No. The investigator -- I can't remember her
19 name -- but she come up there between, I want to say
20 between 7:00 or 8:00, asking for a polygram test, my
21 permission to get him a polygram test.

22 Q You mean a polygraph?

23 A Well, polygraph, yes, sir.

24 Q All right. And did you realize he had already
25 given a statement at that point?

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Yashica Cleveland - Direct Exam by Mr. Griffin

1 A No, sir, I didn't.

2 Q Did they tell you?

3 A No, sir. I didn't really know what was going on.
4 I just went off what my sister told me. Nobody said
5 they was still investigating the case. I didn't hear
6 nothing.

7 Q Okay. Did you try to call over there to find out
8 what was going on?

9 A Yes, sir. I kept calling. Nobody knew where my
10 son was at.

11 Q Okay. And how often did you call over there?

12 A I kept calling.

13 Q All right. And when was -- did you ever talk to
14 Quay that night?

15 A No, sir. I didn't talk to him until in the
16 morning.

17 Q Okay. Did anybody ever call you about getting
18 permission to question him or anything other than them
19 showing up with that document about the polygraph?

20 A No, sir.

21 Q Can you identify that document? Is that your
22 signature on it?

23 A Yes, sir.

24 Q All right. Is that the statement they brought for
25 you to sign about the polygraph?

1 A Yes.

2 THE COURT: Does that have an identification
3 number?

4 MR. GRIFFIN: Yes. It would be Defendant's Number
5 2, I guess.

6 (WHEREUPON, Defendant's Exhibit Number 2
7 was marked for identification.)

8 BY MR. GRIFFIN:

9 Q I'm going to show you Defendant Number 2. That's
10 the document they brought to you?

11 A This paper?

12 Q Yes.

13 A Yes, sir, that's the paper they brought.

14 Q Is that the only contact you had with Ocone
15 County law enforcement --

16 A Yes, sir.

17 Q -- after Quay got picked up and taken to the
18 sheriff's office?

19 A Yes, sir.

20 Q All right. And when did you get to see or talk to
21 Quay again after that?

22 A Investigator Greg Reed called, I want to say
23 between the hours of 2:00 and 3:00. Like I said, it
24 was over in the morning. I got off at 12:00. And he
25 said, "I have Laquavius Cleveland here." And I said,

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1 "What happened?" And he said he really didn't know
2 what happened. He just know that him and his cousin
3 got into an altercation, and he supposedly had stabbed
4 his cousin 12 times. And that's when he let Quay talk
5 to me.

6 Q Okay. And Quay, he was what, 16 years old at the
7 time?

8 A Yes, sir. He was 16.

9 Q Okay. And he -- what kind of grades did he make
10 in school?

11 A Average grades. He had A's, B's and C's. He had
12 F's and pulled them up to C's. He had just like total
13 F's.

14 Q Total F's?

15 A Two.

16 Q Two F's?

17 A Yes, sir. He pulled them up to C's.

18 Q Did he ever have an IQ test done, to your
19 knowledge, or anything?

20 A Not to my knowledge.

21 Q All right. And what day is his birthday?

22 A November 1, 1996.

23 Q All right. And is your sister his auntie he's
24 referring to about taking him back to the house where
25 it all happened or supposedly happened?

1 A Yes, sir.

2 Q Okay. Do you know of any conversations that he
3 had with his aunt, auntie, going over there?

4 A My -- once they told her to go get him --

5 Q Who told her to go get him?

6 A From my understanding, Philip Robertson got -- was
7 talking to my sister, and she supposedly, from what she
8 tells me, that she asked -- Phil asked her if he would
9 go get her and bring him over there to talk to him. He
10 said he wasn't going to talk to nobody but
11 Mr. Robertson, so she brought him over there to talk to
12 him.

13 MR. GRIFFIN: All right. That's all I have.

14 CROSS-EXAMINATION

15 BY MR. WAGNER:

16 Q Were you present at the sheriff's office at any
17 time?

18 A What was that?

19 Q Were you present at the sheriff's office at any
20 time when your son was there talking to the detectives?

21 A No, sir, I wasn't.

22 Q Were you present at home when the stabbing took
23 place?

24 A No, sir.

25 Q Okay. So firsthand knowledge, you really don't

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1 have any knowledge because you weren't there; there's
2 no way you could know what transpired?

3 A Yes, sir.

4 Q Do you remember Phil Robertson calling you just
5 saying, "Do you mind if I talk to Quay"?

6 A No, sir. As I can remember, I don't remember. I
7 do remember him talking to Patrice and Shannon.

8 Q Okay.

9 A Yes, sir.

10 Q And then do you remember them putting him on the
11 phone, though? He was calling, called your sister, I
12 think, and then she handed the phone to you and you
13 said, "Yeah, go ahead and talk to him." Do you
14 remember that?

15 A No, I don't. I swear I don't remember that.

16 Q Okay. But you remember coming and they got --

17 A Yeah, I do remember. Yes, sir, it was the
18 investigator. She called me.

19 Q But you have no way of knowing exactly what
20 transpired really from I guess the time he got up at
21 noon, your son got up at noon, through the stabbing all
22 the way into the nighttime when he's talking to the
23 sheriff's office; do you have any way of knowing --

24 A Like know that day? I was at home until about
25 3:30. I leave for work because I have to be there at

1 4:00.

2 Q Okay. But after that you really don't know --

3 A No, sir, I don't know.

4 MR. WAGNER: That's all the questions I have.

5 THE COURT: Re-exam?

6 MR. GRIFFIN: None, your Honor.

7 THE COURT: Okay. Ma'am, you may step down.

8 Thank you, ma'am.

9 Call your next witness.

10 MR. GRIFFIN: That would be the case for us on the
11 Jackson v. Denno hearing.

12 THE COURT: All right. Any reply?

13 MR. WAGNER: No, your Honor. We'd move to admit
14 State's Exhibit 1, 2 and 3 at this time.

15 THE COURT: All right.

16 Mr. Griffin.

17 MR. GRIFFIN: Your Honor, I would oppose admission
18 of the statements given the fact that the State has not
19 proven by a preponderance of the evidence that the
20 statements were admitted -- or given freely and
21 voluntarily pursuant to -- within the meaning of the
22 14th Amendment due process and also the Fifth Amendment
23 waiver of counsel and constitutional amendments.

24 Basically these matters are based on the totality
25 of the circumstances, and there are several factors

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1 taken into consideration. One is the age. He was only
2 16 when this occurred. And the supreme court,
3 basically when applying totality of circumstances test
4 to a juvenile, in the past special caution should be
5 exercised particularly when there is a prolonged or
6 repeated questioning or when the interrogation occurs
7 in the absence of a parent, lawyer or friendly adult.
8 There's been some -- also when a juvenile is detained,
9 I believe the law enforcement officer is supposed to
10 notify the parent as soon as possible. There's been
11 some conflicting testimony on that. The mother
12 testified she wasn't notified until after the first
13 statement was given.

14 Also, your Honor, defendant was subjected to a
15 polygraph during this time. Basically the cases state
16 any coercion and that renders the statements
17 involuntary under the 14th Amendment. Basically South
18 Carolina has taken the position that polygraphs are
19 generally inadmissible. The supreme court has taken
20 the position that polygraphs are generally
21 inadmissible, and that basically when the results, due
22 to the unreliability -- basically when the polygraph
23 examiner who informed the defendant about the polygraph
24 results, basically he was boosting the reliability of
25 the polygraph to the defendant, therefore other courts

1 have held it's unacceptable for the police to use the
2 results of polygraph examination to tell them they lied
3 in order to extract a confession.

4 THE COURT: You got a case on that?

5 MR. GRIFFIN: *People vs. Hughes*, 2011 Illinois
6 appeal. It's a December 18th case, 2011. Case number
7 110237. *People vs. Hughes*, 2013 IL App (1st) 110237.
8 And in that case I believe when the officers told the
9 defendant about the polygraph results that they
10 basically were enhancing the credibility of the
11 polygraph to the defendant, therefore that amounted to
12 some type of coercion and the polygraph -- I mean the
13 confessions were suppressed.

14 Also, your Honor, he testified that he was tired,
15 worn down. The whole thing lasted about eight hours,
16 and oftentimes people will succumb, their free will
17 succumb after extended periods. The supreme court,
18 U.S. Supreme Court, in a recent case a couple years ago
19 basically came out and stated -- kind of reaffirmed
20 *Gallegos*, *In re Gault* and the other cases that came out
21 prior to *Miranda* where the juvenile, young children,
22 juveniles were first given some protections in these
23 interrogations.

24 And basically in 2011 the supreme court came out
25 basically reaffirming those cases. And from what I can

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1 tell, basically the supreme court would rather have a
2 lawyer present once the questioning starts. Here he
3 had no lawyer. I mean, I don't -- I think the supreme
4 court doesn't feel -- these are children, they don't
5 see the finality of what they do, and they don't
6 realize the consequences of what they do; therefore,
7 they're basically incapable of waiving certain rights.
8 I mean, a minor can't even enter into a contract. It
9 may be voidable. And the supreme court basically said
10 special care should be taken and especially in a case
11 such as this where there may be a question of whether
12 he was in custody for interrogation purposes or not,
13 that juvenile confessions are, unless there's some
14 responsible adult present or a lawyer present, they
15 should not be allowed to be admitted into evidence and
16 should be suppressed.

17 From what I can tell this is a late hour,
18 eight-hour period, he was confined, incommunicado from
19 his parents and everybody else and, under the
20 circumstances, subjected to a polygraph test.
21 Several -- at least three officers were present during
22 the questioning. He was in a police-dominated
23 atmosphere, didn't feel that he could leave. And I
24 believe the officer testified that he was detained,
25 they were detaining him, but then she kind of

1 flip-flopped back and forth on that issue.

2 But I believe that, given the totality of the
3 circumstances here, that the -- that the confession
4 should be suppressed under *Jackson v. Denno* and the
5 supreme court rulings, especially in light of the
6 recent supreme court case that came out -- I believe it
7 was *J.D.B. vs. North Carolina*, 131 Supreme Court
8 2394 -- they said basically a child's age is more than
9 a chronological fact and that this is self-evident to
10 anybody who's been a child at one time.

11 THE COURT: I beg your pardon.

12 MR. GRIFFIN: I mean, the supreme court basically
13 said that children's chronological age is not a
14 chronological fact. Basically the supreme court said
15 that that's self-evident because everybody was a child
16 at one time.

17 THE COURT: I thought you said if anybody had been
18 a child at one time.

19 MR. GRIFFIN: No, sir. Basically the supreme
20 court said they're self-evident to anyone who has ever
21 been a child at any time including a police officer, et
22 cetera. And the supreme court in that case basically
23 said our history is replete with laws and judicial
24 recognition that children cannot be viewed simply as
25 miniature adults, and that youth remains a critical

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1 factor for consideration, and the younger the child,
2 the more carefully scrutinized the questioning tactics
3 to determine if excessive coercion or intimidation or
4 simply immaturity would affect an adult -- whether or
5 not an adult had tainted the juvenile's confession, and
6 that often adults under certain circumstances would
7 simply not cooperate. Children are simply more
8 susceptible to police pressures and their will is more
9 likely to be overcome. And this case here illustrates
10 what the fears of the United States Supreme Court, that
11 they opined in the North Carolina case which is 2011.
12 Thank you.

13 THE COURT: Very good. All right. What does the
14 State say?

15 MR. WAGNER: Your Honor, as to the voluntariness,
16 I think even the defendant's own testimony was these
17 officers, they didn't promise him anything, they didn't
18 threaten anything. He freely and voluntarily waived
19 his rights. He gave them two statements. They offered
20 him food. They were nice to him. He watched TV. He,
21 basically through his own words, his own testimony
22 under oath said it was a freely and voluntarily given
23 statement.

24 But as to the fact that he was a juvenile, I would
25 submit to the Court under the state law this was a case

1 of attempted murder, and under state law it immediately
2 attaches to general sessions as an adult even though he
3 was 16 at the time. But I would cite a few cases here.

4 *In Re Williams*, 265 S.C. 295, and it's 217 S.E.2d
5 719. Your Honor, that's a supreme court case, and
6 basically they held that while the age of an individual
7 is a factor to be taken into consideration, the
8 admissibility of a statement or confession of a minor
9 depends on its voluntariness to be determined from the
10 totality of the circumstances under which it's made.
11 That's a case from 1975, your Honor.

12 We've got -- there is a couple others here. *State*
13 *v. Parker*, 381 S.C. 68, and it's also 671 S.E.2d 619.
14 That's a case where it is found that a 16-year-old's
15 confession was voluntary and admissible. As well as
16 *State v. Moses*, 390 S.C. 502, 702 S.E.2d 395. That's a
17 2010 court of appeals case from South Carolina where
18 the evidence supported the trial court's finding that a
19 learning disabled juvenile's custodial statement was
20 freely, knowingly and voluntarily made. And I think
21 all those, I think, dealt with the fact that the person
22 was 16 or younger, technically I guess a juvenile under
23 a lot of crimes.

24 However, in this crime, he was an adult from the
25 start. Even though he was 16, by his own testimony he

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1 freely and voluntarily came there, talked to them,
2 waived his rights, gave them two statements. And he
3 said under oath both those statements were his and
4 that's what he had told them and that they had not
5 promised him anything or threatened or tried to coerce
6 him in any manner and they were, in fact, voluntary
7 statements by him.

8 THE COURT: All right.

9 Anything else, Mr. Griffin?

10 MR. GRIFFIN: Your Honor, there is a lot of cases
11 cited by counsel.

12 THE COURT: Let me, first of all, tell you about
13 your Illinois case. If I'm not mistaken -- of course
14 you have it there -- that the polygraph operator there
15 suggested, indicated or represented that a polygraph
16 was infallible. And I haven't heard anything here. I
17 think that the polygraph operator did no more than
18 polygraph operators do, either advise that there was --
19 that it supported the questions or they were evasive or
20 something of that nature. Even that. I think that's
21 what the Illinois case says. Otherwise it does come
22 down to totality. So let's start there.

23 MR. GRIFFIN: Yes, sir. Totality includes age,
24 educational level, especially the length of
25 interrogation. Here we have an eight-hour period where

1 he was held incommunicado and questioned off and on.

2 THE COURT: He was also watching TV sounds like.
3 I mean, if he can understand TV after a lengthy -- I
4 would imagine you could do almost anything.

5 MR. GRIFFIN: Yes, sir. There is -- that goes to
6 the fact that juvenile children watch television.
7 Obviously he wasn't free to leave during that period.

8 THE COURT: Well, the testimony was that he had
9 signed the waiver and part of the waiver being that he
10 was entitled to an attorney and that if he wished to
11 discontinue the investigation, interrogation, that he
12 could do it at any time, consult with an attorney.

13 MR. GRIFFIN: Yes, sir.

14 THE COURT: So, I mean, obviously the fact that he
15 didn't exercise his rights doesn't mean that he wasn't
16 aware of them.

17 MR. GRIFFIN: But I believe the case JCB or JDB in
18 the North Carolina supreme court kind of points out the
19 inherent --

20 THE COURT: How old was the child in the North
21 Carolina case?

22 MR. GRIFFIN: I think she was 14.

23 THE COURT: 14? There is a little bit of
24 difference between 14 and 16 besides the fact in South
25 Carolina the age of consent is 16, whereas 14 is not.

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1 It was at one time, but the legislature, in its
2 infinite wisdom, decided 14 was too early for the age
3 of consent and they raised it to 16. But our
4 legislature recognizes there is a difference between 14
5 and 16.

6 MR. GRIFFIN: I lived in North Carolina. I think
7 the age of consent is 15.

8 THE COURT: Well, we won't go there, but anyway.

9 MR. GRIFFEN: But there is a number of factors
10 here, especially given the length of the interrogation
11 and the fact that no one was there, the mother, another
12 friendly adult or attorney, gives rise to the issue
13 that the interrogation simply overborne his free will
14 at that point given the length and the fact he had
15 nobody with him. And also there is an issue about
16 whether or not the parent was notified, the mother was
17 notified pursuant to code section -- excuse me.
18 Parents required under South Carolina Code Section
19 63-19-810, that the child is taken into custody, the
20 officer taking the child into custody shall notify the
21 parent, guardian or custodian of the child as soon as
22 possible.

23 THE COURT: Let me ask you. In this case was not
24 the mother notified and then instructed the aunt to
25 take the defendant to the location of the incident?

1 MR. GRIFFIN: Yes, but I don't think he was in
2 custody at that time. Just go down there.

3 THE COURT: He was in custody of the aunt.

4 MR. GRIFFIN: Yes, sir, he was in custody of the
5 aunt.

6 THE COURT: Who delivered custody to the officers
7 who were investigating whatever occurred at the
8 location that he took them.

9 MR. GRIFFIN: Yes, sir.

10 THE COURT: All right. Go ahead. I mean, I'm
11 just saying when you consider the totality, that means
12 that you have to look at the entire event rather than
13 just cherry-pick what seems to be favorable.

14 MR. GRIFFIN: Yes, sir. The aunt was acting on
15 behalf of law enforcement --

16 THE COURT: Actually, she was acting on behalf of
17 the mother because she would be locum tenens.

18 MR. GRIFFIN: But under the notification statute,
19 and there's some states that many courts have
20 suppressed juvenile confessions given custodial
21 interrogation where the officer violated parental
22 notification statutes. And there's law to support that
23 fact that when law enforcement doesn't notify the
24 parent as soon as possible, then the purpose of the law
25 requiring immediate notification when a child is taken

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1 into custody is to permit where possible a parent to
2 confer with or counsel the juvenile before
3 interrogation and confession. That's *State vs. Horse*,
4 644 N.W.2d 211, 2002 case.

5 THE COURT: Well, again, as I understand it, the
6 mother was contacted. She contacted the aunt, or the
7 aunt -- she told the aunt. I can't remember exactly
8 how that initially -- I think the aunt called the
9 mother, told her there was a problem. The mother, as a
10 result of that conversation, what is it, the aunt
11 delivers the defendant to the scene where the alleged
12 event occurred.

13 MR. GRIFFIN: Yes, sir.

14 THE COURT: But, I mean, it's not whether they
15 took him off the streets and hid him in the back of a
16 warehouse. He came in, and all the testimony that I
17 heard, even from him, was that he cooperated willingly.

18 MR. GRIFFIN: Yes. Apparently he did cooperate.

19 THE COURT: Well, the thing is, let's get to
20 something that applies to this case rather than
21 something in Illinois and North Carolina.

22 MR. GRIFFIN: All right. Well, in *In re Gerald*,
23 that youngster was held for a good number of hours, and
24 he was questioned about five and a half hours. And I
25 believe in *Hailey* the interrogation only lasted five,

1 and the U.S. Supreme Court struck that down. U.S.
2 Supreme Court case *Hailey*, 332 --

3 THE COURT: And how old was the defendant in
4 *Hailey*?

5 MR. GRIFFIN: I think he was about 15, your Honor.
6 But the *Hailey* custodial interrogation only lasted five
7 hours, and here this interrogation, which the Court
8 said it was significantly longer than most
9 interrogations, and the length of custody and
10 interrogation is additional evidence of -- the length
11 of custody and interrogation is additional evidence of
12 coercive conduct. And we would allege that holding him
13 eight hours and questioning him off and on for eight
14 hours would be evidence of coercive conduct, especially
15 without anyone there to counsel him.

16 And the fact he was subjected to a polygraph and
17 advised and thereafter basically ran through the
18 traditional questioning line of almost eight hours off
19 and on, and then he said he was tired, and in his
20 earlier testimony said he thought the polygraph would
21 be used against him in court and --

22 THE COURT: Beg your pardon?

23 MR. GRIFFIN: His testimony was that he thought
24 the polygraph could be used against him in court.

25 THE COURT: He thought.

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1 MR. GRIFFIN: Yes, sir, he thought that.

2 THE COURT: Was he told that?

3 MR. GRIFFIN: Excuse me?

4 THE COURT: Was he told that?

5 MR. GRIFFIN: No, sir, that was his belief about
6 it. That's what his impression was after talking to
7 the polygraph examiner.

8 THE COURT: Polygraph examiner said it was
9 infallible?

10 MR. GRIFFIN: No, sir, he didn't say that --

11 THE COURT: That's what they did in Illinois.
12 That was the reason they --

13 MR. GRIFFIN: That was one of the issues there.

14 THE COURT: He just told him it was inconsistent.

15 MR. GRIFFIN: Yes, sir. But I would take that one
16 step further that he was basically --

17 THE COURT: Let's just -- again you understand and
18 you said from the first that I'm not here to decide
19 beyond a reasonable doubt. That's for the jury, so
20 save your arguments for that. I must determine whether
21 or not there has been anything to suggest that they're
22 not reliable by the preponderance of the evidence.

23 All right. Anything else?

24 MR. GRIFFIN: That would be all, your Honor.

25 THE COURT: All right. Having considered the

1 totality of the events leading up to the statements,
2 and there are two statements. The first one was taken
3 and actually handwritten by the defendant which
4 demonstrates at least two -- one thing, that he can
5 write. But more than likely he could also read what he
6 was writing, so that he was not incapable.

7 Also I understand that he has a certain, well,
8 prior experience with the juvenile justice system and
9 that would be *Miller* -- let's see. It's cited in *State*
10 *v. Parker*, 381 S.C. 68, 2008 court of appeals where it
11 lays out the various considerations, and one of them
12 is, of course, the age of the defendant.

13 In that case they cite *Miller*, *State vs. Miller*,
14 375 S.C. 385 and also *In re Michael C.*, 442 U.S. 707,
15 where a 16-year-old's prior arrest and time spent in
16 juvenile camp is a factor in whether he understood
17 consequences of Miranda rights. Here, obviously, the
18 age, education level of the defendant making A's, B's
19 and C's, I think even some of us have made also
20 exemplary grades and obviously is of above-average
21 intelligence.

22 Considering the totality, I do find that by a
23 preponderance of the evidence that the defendant was
24 fully advised of his rights under the Fifth and Sixth
25 Amendments as well as the 14th Amendment, those rights

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1 being the right to remain silent; statement can and
2 will be used against him; he has a right to an
3 attorney; the Court would appoint, provide an attorney
4 for him; he has a right to consult with his attorney
5 and the right to interrupt and terminate the
6 interrogation; the interrogation would cease until an
7 attorney was provided for him, and he would be given an
8 opportunity to consult with his attorney; that the
9 defendant knowingly and intelligently waived those
10 rights under the Fifth and Sixth Amendments of the
11 Constitution; and that the alleged incriminating
12 statement or confession was freely and voluntarily
13 given without duress, coercion, without undue
14 influence, without reward, without promise of hope for
15 reward, without promise of leniency, without threat of
16 injury, without coercion or inducement of any kind.

17 The statement or confession was a voluntary
18 product of the free and unconstrained will of the
19 defendant. I find all of these foregoing conclusions
20 actually beyond a reasonable doubt, but I am only
21 concerned with whether or not by the preponderance of
22 the evidence. Of course it will be up to the jury to
23 determine, if it's submitted to the jury, the statement
24 is submitted to the jury, was in fact made and the
25 voluntariness was beyond a reasonable doubt.

1 All right. So the statements as marked for
2 identification I think State's Exhibit 2 and 3 being
3 the two statements allegedly made by the defendant will
4 be admitted.

5 (WHEREUPON, State's Exhibit Numbers 2 and 3 were
6 admitted into evidence.)

7 THE COURT: All right. It is now after
8 11 o'clock. The jury has been back there, though,
9 since 10:30. Let's take a little break and then we'll
10 come back.

11 I had a probation case, I understand.

12 Ms. Ware, are you going to represent the probation
13 office?

14 PROBATION OFFICER: Yes, sir.

15 THE COURT: Are you ready to go forward?

16 PROBATION OFFICER: Yes, sir.

17 THE COURT: I'll try to do that while we take a
18 break, but let's be ready to go forward at 11:30.

19 All right. Stand at ease in this case until
20 11:30, but I do want to see the parties on the other.

21 (Whereupon, recess taken in this case from
22 11:10 a.m. to 11:33 a.m. while the Court took up
23 another matter.)

24 THE COURT: All right. Is the State ready to
25 proceed?

1 that can determine the facts of the case. You are the
2 only ones that have the right to weigh the evidence to
3 determine the believability of the witnesses or the
4 testimony or the other evidence that is admitted in the
5 case.

6 I am only concerned about whether certain
7 procedures are followed. I am just checking off things
8 as they are done to be sure that the rules that are
9 required for presentation of a case fall in order. I
10 have no concern about the weight for what's being done.
11 That's for you and you alone. So with that we'll now
12 begin the trial, and I'll recognize the State for their
13 opening statement.

14 MR. WAGNER: Thank you, Judge.

15 THE COURT: Mr. Solicitor.

16 MR. WAGNER: Back on July 8th, 2013, the victim in
17 this case, his name is Hakeem. You're going to hear
18 from him. He's cousins with the defendant, or second
19 cousins. They were texting each other back and forth.
20 Hakeem was going to sell the defendant a bag of
21 marijuana and a pistol. They couldn't get it done on
22 the night before, so on the 8th the victim drove down.
23 He ended up meeting the defendant at his house right
24 nearby there.

25 He was in the process of selling the pistol,

1 selling marijuana. The defendant, in an effort to
2 steal these items from him, pulled out a big knife,
3 stabbed the victim 11 times. He's charged with
4 attempted murder for that. He's charged with
5 possession of a knife during the commission of a
6 violent crime.

7 You're going to hear from half a dozen or so
8 witnesses from the State, people that were involved in
9 the investigation -- detectives, Sergeant Tinsley,
10 Captain Reed from the sheriff's office -- that talked
11 to the defendant afterwards. They're going to tell you
12 that he admitted it. You're going to hear from a nurse
13 and a paramedic that were at the scene to talk about
14 the victim's injuries and extent of them. You will see
15 pictures. You will see -- the evidence will come from
16 the witness stand from these witnesses. You will hear
17 the 911 call to the 911 operator. And all that, what
18 it's going to do is paint a picture of exactly what
19 happened on July 8, 2013, here in Oconee County when
20 the defendant attempted to murder his cousin by
21 stabbing him 11 times.

22 I anticipate it being a relatively quick case.
23 We're going to make every effort to move it along best
24 we can, try not to waste your time. Appreciate you
25 being here and hearing this case because the defendant

1 is entitled to a trial. He's pled not guilty to these
2 charges, and that puts the burden on us, the State of
3 South Carolina -- Ms. Simmons and I, we work for Oconee
4 County for the Solicitor's office as prosecutors --
5 puts the burden on us to prove beyond a reasonable
6 doubt that the defendant did what he's charged with.
7 Again, that's two charges, attempted murder and
8 possession of a knife during the commission of a
9 violent crime. It's two charges, actually one
10 incident.

11 Ask you to at least listen to all the testimony.
12 Sometimes in a case, in any case, sometimes there's
13 witnesses that appear before others do. We try to do
14 it as chronologically as we can. Sometimes we have to
15 call witnesses a little bit out of order, but bear with
16 us. You will understand what they're saying when
17 they're saying it. It may not be in the exact order
18 that we wanted. But if you would just listen to what
19 the witnesses say. That's what the evidence is going
20 to be. That's what the evidence is going to show.

21 At the end of this case we're going to be asking
22 for a verdict of guilty on both charges because the
23 defendant -- we will prove to you the defendant is
24 guilty of both charges. Thanks.

25 THE COURT: Mr. Griffin.

1 MR. GRIFFIN: May it please the Court.

2 Ladies and gentlemen of the jury, you will be
3 introduced to a number of witnesses, a number of
4 statements. I believe the Solicitor said that the
5 alleged victim here went to the defendant's house to
6 sell him -- sell marijuana and deliver a gun. Sell a
7 gun.

8 Well, the defendant is only 16 years old. I
9 believe the alleged victim here is in his 30s. And the
10 Solicitor made reference to statements. Well, I
11 believe the alleged victim gave one statement that he
12 doesn't know what happened, why all this happened; what
13 happened, he didn't know nothing about it. And then
14 apparently he gives another statement, and there's
15 about four different versions of what occurred here.

16 Bottom line is I believe the first statement is
17 that the alleged victim went over there to smoke some
18 marijuana with these kids. Then he changes his story.
19 And then we all end up here today. And the defendant
20 is charged with attempted murder in this matter and
21 possession of a deadly weapon during a crime. The
22 bottom line is the facts will bear out this man who
23 claims he got stabbed and robbed or -- well, he didn't
24 get robbed. He had a pistol on him the whole time.
25 There was no robbery. He left with the pistol and the

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1 marijuana. And that's pretty much the crux of the
2 case, and I'm asking that you find the defendant not
3 guilty of this. And you will find out this is not a
4 clear-cut case as the prosecution would have you
5 believe. Thank you.

6 THE COURT: All right. You may call your first
7 witness.

8 MS. SIMMONS: Thank you, your Honor.

9 The State calls Cindy Blackwell.

10 CINDY BLACKWELL,

11 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

12 THE COURT: Please state your full name, spelling
13 your last name for the reporter.

14 THE WITNESS: Cindy Blackwell, B-l-a-c-k-w-e-l-l.

15 THE COURT: Thank you, ma'am.

16 DIRECT EXAMINATION

17 BY MS. SIMMONS:

18 Q Ms. Blackwell, do you live here in Oconee County?

19 A Yes, I do.

20 Q And what's your present occupation?

21 A I -- business owner. I own a little like
22 antique/produce store called Purple Possum, and it's
23 currently under renovations because we're redoing the
24 parking lot, but in July of last year it was open.

25 Q And in July of last year what kind of business was

1 it back then?

2 A It was a produce stand.

3 Q Were you working anywhere else in July of 2013?

4 A Yes, I was. I was a third shift CNA at Country
5 Care, and I worked third shift there taking care of the
6 elderly, you know, changing their clothing, taking care
7 of their wounds, things like that.

8 Q When you say you're a CNA, what kind of
9 professional training or degree do you have?

10 A I don't have a license for CNA, but they hire you
11 to do CNA work without a license. The state of South
12 Carolina does not require it for certain places. Some
13 places they do, some places they don't. But you are
14 required to take classes and learn, you know, how to
15 recognize an emergency, how to take care of something
16 that, you know, needs medical attention right away or
17 administer medication, see the signs of a heart attack,
18 perform, you know, CPR, all that type things.

19 Q So you have some medical training?

20 A Yes, I do.

21 Q Okay. And what's the address of your produce
22 stand?

23 A It's Shiloh Road.

24 Q Is that in Oconee County?

25 A Yes, it is.

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1 Q Okay. Were you at the produce stand on July 8th
2 of 2013?

3 A Yes, I was.

4 Q Anything unusual happen that day?

5 A Yes. When I come home from work every day, I had
6 like a little cot in the very, very back that I would
7 lay down and sleep for a couple hours. Well, the
8 mechanic that works out at the tire shop there, because
9 there is a tire shop as well as a produce stand, he
10 comes running in the front door, and I was almost
11 asleep and he hollers, "Call 911. Somebody has been
12 stabbed."

13 MR. GRIFFIN: Objection, your Honor. Hearsay.

14 THE COURT: I'm going to have to sustain the
15 objection.

16 Mr. Foreman, ladies and gentlemen of the jury,
17 hearsay is just what the term implies. It's what you
18 hear somebody else say. And the reason we don't admit
19 it into evidence is because we don't know what the
20 context of it was or even that same thing we were
21 talking about earlier with notes, we don't know if it
22 was an accurate hearing of what was said. In other
23 words, it might have been something else said that was
24 missed. It's no reflection on the witness. But it's a
25 rule of law that we have because, as I say, we're

1 trying to be sure that whatever evidence you have is
2 the most trustworthy and reliable evidence possible,
3 so, therefore, we do not permit hearsay.

4 If you have testimony to get something in, you, of
5 course, ask the person who allegedly said it and then
6 the other side can cross-examine to be sure that that's
7 what was intended to be said and what was in fact said.
8 As I say, these rules apply both to the State and to
9 the defendant.

10 All right. You may proceed. Restate your
11 question.

12 BY MS. SIMMONS:

13 Q Ms. Blackwell, based on what you were told, what
14 did you see?

15 A When I came out the front door, there was a guy
16 coming up through there. He had on a white shirt. His
17 shirt was not white anymore. There was blood dripping
18 all off his shirt. There was blood squirting out the
19 top of his head. From what I heard when I was asleep,
20 I just assumed, you know, I could put pressure on it
21 and get it stopped. Because I just thought somebody
22 fell or something like that because they were always
23 out there working.

24 When I see this guy, I know he needs medical
25 attention right away. So immediately someone calls

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1 911. I have him sit on the steps and tried to calm him
2 down to keep him from moving around because the more he
3 moved, the more his heart beat, the more his heart
4 beat, the more he bled. I honestly thought the guy was
5 going to bleed to death. I had never seen firsthand --

6 MR. GRIFFIN: Your Honor, I object to the
7 conclusion as to what she thought.

8 THE COURT: Actually, what she was doing was
9 saying what she had never seen. Again, now, of course
10 she's not supposed to give any opinion she's not
11 qualified to do. But she can relate what she observed
12 and the context of what she observed, so I'm going to
13 overrule the objection but with that understanding.

14 So restate your question.

15 BY MS. SIMMONS:

16 Q What were the extent of the injuries that you saw?

17 A Well, the top part of his head right here, there
18 was blood squirting out the top of his head. The flesh
19 on the back part of his ear was hanging off. He took
20 his shirt out -- off, and there was a big, huge gash
21 here and blood was squirting out of that. My whole
22 step that's where you come in the front door was
23 completely red. The whole sidewalk was red. And, I
24 mean, there was just no stopping it. I mean, it was
25 just coming from all directions.

1 Q Did you know the victim prior to this day?

2 A Never seen him before in my life.

3 (WHEREUPON, State's Exhibit Numbers 4 through 9
4 were marked for identification.)

5 BY MS. SIMMONS:

6 Q I want to show you what has been premarked as
7 State's Exhibit 4 through 9.

8 MS. SIMMONS: Your Honor, may I approach the
9 witness?

10 THE COURT: Sure.

11 BY MS. SIMMONS:

12 Q Ms. Blackwell, are these photographs a fair and
13 accurate depiction of what you saw that day?

14 A Yes. This is the front of my store. Yes. This
15 is exactly what -- yeah. All of these are what I saw
16 that day.

17 THE COURT: Ms. Simmons, let's move to one side or
18 the other so the jury can see the witness.

19 BY MS. SIMMONS:

20 Q Have these photographs been altered in any way
21 from what you saw?

22 A No, they're exactly what I saw.

23 MS. SIMMONS: Judge, at this time the State would
24 move Exhibits 4 through 9 into evidence and move to
25 publish to the jury.

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1 THE COURT: Of course, if you would, please, have
2 the witness identify what is represented by each of the
3 photographs, identifying which exhibit they are.

4 MS. SIMMONS: I will be glad to do that, Judge.

5 MR. GRIFFIN: Your Honor, I would object based on
6 the fact that the proper foundation hasn't been laid
7 and also the fact that these pictures are unduly
8 prejudicial and highly inflammatory.

9 THE COURT: Well, I haven't seen them.

10 MS. SIMMONS: Judge, may we approach?

11 THE COURT: Certainly.

12 (WHEREUPON, a bench conference was held off the
13 record in the presence of the jury, but out of the
14 hearing of the jury.)

15 THE COURT: Tell you what, let's do it over here.

16 I'm going to overrule the objection.

17 State's Exhibits 4, 5, 6, 7, 8 and 9 will be
18 admitted over the objection of the defendant.

19 (WHEREUPON, State's Exhibit Numbers 4 through 9
20 were admitted into evidence.)

21 MS. SIMMONS: Thank you, your Honor.

22 BY MS. SIMMONS:

23 Q Ms. Blackwell, I'm going to show you each picture,
24 and can you describe what you saw?

25 THE COURT: Let's see. Might want to get these

1 lights. Also you give us the number on the exhibit.

2 MS. SIMMONS: This is State's Exhibit 4, your
3 Honor.

4 THE COURT: Very good. Thank you.

5 THE WITNESS: This is the front of my produce
6 stand. That's the front door. And that's the blood
7 that -- where he was laying on the front step. The mat
8 there with all that blood on it is where I had to
9 remove it to clean. I had to use five gallons of
10 Clorox and a hose to clean the front of my store.

11 BY MS. SIMMONS:

12 Q Are you referring to this spot?

13 A Yes, I am, that mat and the spot right in front of
14 the door.

15 Q Thank you.

16 Where did you say the victim was lying?

17 A He came to the front of the store, and he was
18 lying right in front of my front door on that step.

19 Q I'm going to show you now what's been marked
20 State's Exhibit 5. Can you tell me what this is?

21 A Yes. That's him actually laying in front of the
22 door. As you can see, he's bleeding from lots and lots
23 of places. There's lots of stab wounds on this guy.

24 Q Then State's Exhibit 6. Again, can you describe
25 what we're seeing?

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1 A Yeah. That's some of the oozing places that I was
2 referring to that are actual just huge, deep
3 lacerations that you can't stop because there's so
4 many. You can't stop the blood. There's just too many
5 places.

6 Q And State's Exhibit 7?

7 A Yeah, that's one of the big puncture holes when --
8 when he was able to actually sit up because he fell
9 over like that. He had bled so much that he fell over.
10 That was one of the places where it was just squirting
11 from him.

12 Q And State's Exhibit 8?

13 A And that's one of the big, huge places that was
14 just laid open. I mean, it just looked like it was
15 just torn, the flesh was just ripped.

16 Q And, lastly, State's Exhibit 9?

17 A That was one of the worst ones. And when I saw
18 that, I thought it, to me, I mean, just from my working
19 with the elderly and seeing different things, I thought
20 that probably was a punctured lung.

21 Q Thank you.

22 Ms. Blackwell, was the victim able to communicate
23 with you at all?

24 A Barely. I mean, I could -- I mean he -- he was --
25 when he first came, he was -- you could understand what

1 he was saying. But the more blood that, you know, he
2 was losing, by the time the ambulance got there he was,
3 you know, not really able to talk. But he was -- he
4 did communicate with me when he first came up.

5 Q At any point while he was under the stress of this
6 event, was he able to communicate who had done this to
7 him?

8 A I said, "What happened to you? Who did this?"
9 And he said, "My cousin."

10 Q And who transported the victim from your business?

11 A The EMS came and they transported him from my. . .

12 Q Have you had any further dealings with the victim
13 or the defendant in this case since July 8th of 2013?

14 A No. And I don't even know the defendant. I never
15 seen him. Didn't -- I mean, he was never on my place
16 of business, so I never saw the defendant.

17 MS. SIMMONS: Beg the Court's indulgence for one
18 moment.

19 Please answer any questions the defense may have.

20 MR. GRIFFIN: No questions, your Honor.

21 THE COURT: Very well. You may step down. Thank
22 you, ma'am.

23 Can the witness be excused?

24 MR. WAGNER: Yes, sir, please.

25 THE COURT: Any objection?

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1 we'll now continue the trial of the case and the State
2 may call its next witness.

3 MS. SIMMONS: Thank you, your Honor. May it
4 please the Court. The State calls Neal Burkett.

5 DANA NEAL BURKETT,

6 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

7 THE COURT: Please state your full name, spelling
8 your last name for the reporter.

9 THE WITNESS: Dana Neal, Burkett, B-u-r-k-e-t-t.

10 THE COURT: You may proceed.

11 MS. SIMMONS: Thank you, your Honor.

12 DIRECT EXAMINATION

13 BY MS. SIMMONS:

14 Q Mr. Burkett, what's your occupation?

15 A I'm a senior dispatcher with the Oconee County
16 Sheriff's Office.

17 Q How long have you been there?

18 A Twelve years.

19 Q And what -- as a senior dispatcher, what are your
20 duties presently?

21 A Other than supervising the other dispatchers in
22 the room, answering 911 calls and dispatching out
23 public safety agencies.

24 Q Were you on duty on July 8th of 2013?

25 A Yes.

1 Q And did you receive a 911 call that afternoon
2 regarding a stabbing?

3 A Yes.

4 Q Around what time was that?

5 A About 4 -- about 4:04 p.m.

6 Q Who did the caller identify himself as?

7 A At first when I asked, I understood his name to be
8 Ken Kirkland, but later on I understand that was not
9 the correct first name.

10 Q So you later learned it was Hakeem?

11 A Yes.

12 Q What did you immediately do after the call came
13 in?

14 A I was gathering the information. He had
15 identified that he had been stabbed. I tried to get as
16 much information as to his injury, where he was, who
17 did it, and to get him at a point where I knew where he
18 was so I could get the law enforcement and also EMS to
19 him.

20 Q Did you ultimately dispatch help to Hakeem?

21 A Yes.

22 Q Did you also get dispatch from the hospital on the
23 line with you?

24 A Yes.

25 Q What's the purpose of that?

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1 A For them to gather information so they can relay
2 to their paramedics and also administer any first aid
3 or pre-arrival instructions to any -- to the patient.

4 Q And do you stay on the line the entire time with
5 the hospital and the patient?

6 A Yes.

7 Q Are the 911 calls typically recorded in the
8 ordinary course of business?

9 A Yes.

10 Q How do you do that?

11 A They are digitally recorded to a server on-site.

12 Q Once the calls are recorded to the server, are
13 they altered or tampered with in any way once they are
14 stored?

15 A No.

16 MS. SIMMONS: Your Honor, may I approach the
17 witness?

18 THE COURT: Certainly.

19 (WHEREUPON, State's Exhibit Number 43 was marked
20 for identification.)

21 BY MS. SIMMONS:

22 Q Mr. Burkett, I'm going to show you what's been
23 premarked as State's Exhibit 43. Do you recognize
24 this?

25 A Yes. That is the copy of the call and my

1 initials.

2 Q Did you have a chance to review this?

3 A Yes.

4 Q What date did you do this?

5 A The 17th -- sorry, the 16th of this month.

6 Q Did you certify by your initials that this is a
7 fair and accurate copy of the call you received that
8 day?

9 A Yes.

10 Q Have any alterations or deletions been made?

11 A No.

12 MS. SIMMONS: Judge, at this time the State would
13 move to introduce State's Exhibit 43 and publish to the
14 jury.

15 THE COURT: Any objection?

16 MR. GRIFFIN: No objection.

17 THE COURT: All right. Without objection, then,
18 State's Exhibit No. 43 will be received.

19 You may proceed.

20 (WHEREUPON, State's Exhibit Number 43 was admitted
21 into evidence.)

22 (WHEREUPON, State's Exhibit Number 43 is played
23 for the jury from 1:28 p.m. until 1:42 p.m.)

24 BY MS. SIMMONS:

25 Q Is that a fair and accurate depiction of the call

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Dana Neal Burkett - Cross-Exam by Mr. Griffin

1 you took that day?

2 A Yes.

3 Q And once this call was terminated, did that end
4 your involvement in this case?

5 A I'm sorry, what now?

6 Q Once that call was terminated, does that end your
7 involvement in this case?

8 A Up until when I was called to come and testify,
9 that's about it.

10 Q And do you personally know either the defendant or
11 the victim in this case?

12 A No.

13 Q Please answer any questions the defense may have.

14 A Okay.

15 CROSS-EXAMINATION

16 BY MR. GRIFFIN:

17 Q Yes, sir. You say when Mr. Kirkland first called
18 you, he told you he didn't know who it was?

19 A Yes.

20 Q Okay. He didn't know who stabbed him?

21 A He just indicated what he could based on my
22 questions at the time.

23 Q Okay. Then he said it was some light-skinned
24 black person?

25 A Yes.

1 Q Okay. And he didn't know who the name was?

2 A At that point in the call he did not give me a
3 name.

4 Q Okay. Then it changed later on to Quay?

5 A Yes.

6 MR. GRIFFIN: That's all I have.

7 THE COURT: Redirect?

8 MS. SIMMONS: Nothing further of this witness,
9 your Honor, and we would ask that he be excused at this
10 time.

11 THE COURT: Any objection?

12 MR. GRIFFIN: No, sir.

13 THE COURT: All right. Without objection, the
14 witness may be excused.

15 Thank you, sir.

16 All right. You may call your next witness.

17 MS. SIMMONS: Your Honor, the State calls Hakeem
18 Kirkland.

19 HAKEEM KIRKLAND,

20 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

21 THE COURT: All right. If would you, please, give
22 us your full name, spelling your last name.

23 THE WITNESS: Hakeem Shimon Kirkland. Kirkland,
24 K-i-r-k-l-a-n-d.

25 THE COURT: Thank you, sir.

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Hakeem Kirkland - Direct Exam by Ms. Simmons

1 You may proceed.

2 MS. SIMMONS: Thank you, your Honor.

3 DIRECT EXAMINATION

4 BY MS. SIMMONS:

5 Q Hakeem, I know you're a little soft-spoken, so
6 speak up for me. Okay?

7 A Okay.

8 Q How old are you?

9 A 22.

10 Q How old were you back in July of 2013?

11 A 21.

12 Q Where do you live?

13 A In Seneca, South Carolina.

14 Q And, Hakeem, have you ever been convicted of a
15 crime?

16 A Yes, ma'am, back in 2011.

17 Q What was that?

18 A Possession of alcohol under a minor.

19 Q Is that it?

20 A Yeah, that's it.

21 Q How do you know the defendant, Laquavius
22 Cleveland?

23 A That's my second cousin.

24 Q Does he go by the street name Quay?

25 A Yes.

1 Q Prior to July of 2013, had you had any problems
2 with the defendant?

3 A No.

4 Q Did he contact you via text message on July 7,
5 2013, and July 8th?

6 A Yes.

7 (WHEREUPON, State's Exhibit Numbers 35 through 42
8 were marked for identification.)

9 BY MS. SIMMONS:

10 Q I'm going to show you those text messages. I'm
11 going to show you what's been premarked as State's
12 Exhibits 35 through 42.

13 MS. SIMMONS: Your Honor, if I may approach.

14 THE COURT: Certainly.

15 BY MS. SIMMONS:

16 Q Do you recognize these messages?

17 A Yes.

18 Q And how were these pictures taken of these text
19 messages?

20 A Like the red one is his, and the green one is
21 mine.

22 Q And were these pictures taken by law enforcement?

23 A Yes.

24 Q And are they exchanged between a number known to
25 you as a number belonging to Laquavius Cleveland?

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Hakeem Kirkland - Direct Exam by Ms. Simmons

1 A Yes, that number at the top right there.

2 Q Okay. I want to show you individually these, and
3 if you can tell us what's going on there.

4 A Okay.

5 Q And you have reviewed these pictures before. Have
6 any alterations, deletions been made to these pictures?

7 A No.

8 Q And are they a fair and accurate depiction of your
9 text conversation over July 7th and 8th of 2013?

10 A Yes.

11 MS. SIMMONS: Judge, at this time we would move
12 State's Exhibits 35 through 42 into evidence and ask to
13 publish to the jury.

14 THE COURT: Any objection?

15 MR. GRIFFIN: No objection.

16 THE COURT: All right. Without objection, State's
17 Exhibits Number 35, 36, 37, 38, 39, 40, 41 and 42 are
18 admitted.

19 (WHEREUPON, State's Exhibit Numbers 35 through 42
20 were admitted into evidence.)

21 BY MS. SIMMONS:

22 Q Hakeem, can you see that?

23 A Yeah.

24 THE COURT: Can you make it a little bit clearer?

25 MS. SIMMONS: Judge, the picture itself is not

1 clear.

2 THE WITNESS: Yeah. The top one he asked me am I
3 back. So that's all he was asking me, am I back and
4 stuff.

5 BY MS. SIMMONS:

6 Q Okay. And right here, what does this say?

7 A "You got sum 380 shells you wanna sell."

8 Q And is that from you or him?

9 A From him.

10 Q I'm going to show you State's Exhibit 36.

11 A "Hell naw. All I got is a clip full."

12 "Damn. Lght."

13 "I'm good."

14 "Lght. You still got that lil 25?"

15 Q What does that refer to?

16 A A gun.

17 "Yeah."

18 "How much again."

19 Q Now we're moving on to State's Exhibit 37.

20 A What, that one right there?

21 Q Yes.

22 A "70, but if a nigga get it soon, he can get it for
23 60."

24 "And you got sum shells."

25 "Yeah, I got some in the clip already."

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1 "Can you meet me in like 20 minutes."

2 Q And this was occurring on July 7th?

3 A Yes.

4 "Meet you where."

5 "Milbs."

6 "Okay."

7 "You ready Cuzzo."

8 "Boy you done waited too late. You said
9 20 minutes."

10 "Laugh out loud. I know. My be Cuzzo."

11 Q So am I correct to assume that you did not meet on
12 that day?

13 A Huh-uh.

14 Q What was the reason of that?

15 A I just couldn't meet him.

16 Q And?

17 A "Okay. And I need a half and my homeboy want that
18 thang."

19 Q What's that discussion about?

20 A The gun, I guess. "That thang," that's what we
21 call "thang," gun, I guess.

22 Q Okay. And what's a half?

23 A A half, a half a reefer.

24 Q Okay.

25 A "Shit, I don't have a half. All I got is a

1 quarter left. And I bring that to your house."

2 "Ma here and okay that's cool. You can meet me --
3 you can't meet me nowhere." And I was like "naw." He
4 was like, "I can't come to you."

5 Q I'm going to show you State's Exhibit 40 now.

6 A I was like, "Oh, naw, I don't do nothing at my
7 house. I might can meet you in the trap."

8 Q What's the trap?

9 A It's just a little neighborhood.

10 Q Okay.

11 A "Damn. All right. Never mind." And I was like
12 "yeah." And then he was like, "You straight?" I was
13 like, "Yeah." He was like, "You got a half and that
14 thing is still for 60?"

15 Q Then moving on to State's Exhibit 41. And this
16 one is hard to read.

17 A I was like, "I can't sell no half because I can't
18 charge you what I want."

19 "Okay."

20 "You still want that thang?"

21 He was like, "Yeah, and you still charging 60?" I
22 was like, "Yeah."

23 "All right. And it got shells, right, because
24 government buying everything."

25 Q So how much was this transaction going to go for

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1 dollar-wise?

2 A Altogether?

3 Q Yes.

4 A 150.

5 Q And, lastly, State's Exhibit 42.

6 A I was like, "What government?" I can't read that
7 right there.

8 MS. SIMMONS: Judge, may I approach the witness?

9 THE COURT: Certainly.

10 THE WITNESS: I was like, "The whole government
11 because they thinking about the end of the world.
12 Laugh out loud." I was like, "I'll be over there." He
13 was like, "All right." I said, "Pulling up." And he
14 was like, "Okay."

15 BY MS. SIMMONS:

16 Q And the "pulling up" text message, was that sent
17 on July 8th?

18 A July 8th.

19 Q As you were pulling up?

20 A Yes.

21 MS. SIMMONS: Madam Clerk, we can turn the lights
22 on. Thank you.

23 BY MS. SIMMONS:

24 Q Hakeem, who initiated all this?

25 A He did.

1 Q What was -- was the plan for you to deliver it to
2 him eventually?

3 A Yes.

4 Q Where did you end up meeting the defendant?

5 A At his house.

6 Q Is that in Oconee County?

7 A Yes.

8 Q What happened when you got to the house?

9 A When I got to the house, he came out the house and
10 sat in the car with me.

11 Q What did you talk about inside the car?

12 A I can't recall.

13 Q Did he stay in the car the whole time?

14 A No. He -- he asked for the gun, and he asked
15 could he go shoot it.

16 Q Did he do that?

17 A Yeah, he went to the back of the house and shot
18 the gun.

19 Q What happened next?

20 A Then he came back and got back in the car with me.

21 Q Where was the gun at that point?

22 A He had it. He was playing with it, so I got it
23 from him.

24 Q What did you do with it?

25 A Set it in my lap.

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1 Q After you took the gun, did y'all stay in the car?

2 A Yeah. We sat in the car for a second, a little
3 bit longer.

4 Q What did you talk about then?

5 A I don't recall. We was just talking.

6 Q Did he stay in the car?

7 A He stayed in the car. After we finished talking,
8 he went back in the house. He went in the house, and
9 that's when he came back outside.

10 Q When he came back out, what happened?

11 A He got in the car.

12 Q Okay.

13 A And when he got in the car, we was talking for a
14 bit. Then he got out the car. He was like, "All
15 right, Cuzzo." The next thing I know he reached back
16 in and started stabbing me.

17 Q So was he in or out of the car when he started
18 stabbing you?

19 A It was like he was halfway out, he was halfway in.
20 Like if you were outside the car and you were leaning
21 in, that's how he was.

22 Q Did you have any idea how many times you were
23 stabbed?

24 A Not at the time.

25 Q Do you know now?

1 A Yes.

2 Q How many?

3 A Eleven.

4 Q Did he say anything when he was stabbing you?

5 A No.

6 Q Do you know what the knife looked like?

7 A It was long. That's all I know. It was like a
8 kitchen knife. I know when he tucked it back in,
9 that's the last time I seen it.

10 Q What happened when he stopped stabbing you?

11 A He jumped out the car and took off running.

12 Q In this whole scenario, at any point did you
13 threaten the defendant, argue with him, point a gun,
14 act aggressive towards him?

15 A No. We was talking like family. Like that's my
16 family.

17 Q How often were you talking with him prior to this
18 day?

19 A Like this wasn't a first-time thing. It's like we
20 done talked and kicked it before, like this is -- this
21 is nothing new.

22 Q Were you in a defensive posture while you were
23 being stabbed?

24 A Yeah.

25 Q Can you demonstrate for the jury?

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1 A Like that right there. That's how my arm got
2 stabbed. It went straight through.

3 Q Where are all your stab wounds, what side of your
4 body?

5 A My right side.

6 Q And is that consistent with being stabbed from the
7 passenger side?

8 A Yes.

9 Q Why do you think he did this to you?

10 A I don't know.

11 Q Did he get away with the gun or the marijuana?

12 A No.

13 Q What did you do when you realized you were hurt?

14 A I jumped in my car and tried to make it home, but
15 I didn't get to make it home. I stopped at Seneca
16 Tires.

17 Q During the stabbing did you somehow end up outside
18 the car?

19 A Yeah. After he stabbed me -- when he was stabbing
20 me, I was trying to get out the car. So I finally got
21 out the car. That's when my door handle -- my door
22 panel fell off. So I pushed it open, I fell out the
23 car; rolled on the ground, and he took off. That's
24 when I jumped in the car and I took off.

25 Q When you realized you were hurt, did you make any

1 calls?

2 A Yes, to 911.

3 Q Why were you initially hesitant to call the 911 --
4 tell the 911 dispatcher who stabbed you?

5 A Because that's my cousin. Like we family. Like I
6 have been knowing him all my life. I didn't even want
7 him involved in this, but at the same time, he tried to
8 take my life.

9 Q Where did you finally end up driving to for help?

10 A Seneca Tires, the old TGIF.

11 Q Were they able to help you there?

12 A Yes.

13 Q You saw the lady testify earlier. Was that the
14 lady who helped you that day?

15 A Yes, ma'am.

16 Q I'm going to show you a few more pictures of that
17 day and have you identify those for me.

18 MS. SIMMONS: If I may approach, your Honor.

19 THE COURT: Yes.

20 (WHEREUPON, State's Exhibit Numbers 29 through 34
21 were marked for identification.)

22 BY MS. SIMMONS:

23 Q Hakeem, I'm going to show you State's Exhibits 29
24 through 34. Do you recognize these items?

25 A Yeah, that's my door. And that's the gun, the

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1 .25.

2 Q And are these a fair and accurate depiction of the
3 things that belonged to you and the incident scene?

4 A Yes, that's the incident scene.

5 Q Have these been altered or tampered with in any
6 way; do you recognize these things?

7 A Yes.

8 MS. SIMMONS: Judge, the State would move in 29
9 through 34 and ask to publish to the jury.

10 THE COURT: Any objection?

11 MR. GRIFFIN: Other than my continuing objection
12 as to one of them.

13 MS. SIMMONS: Continuous objection as to the
14 black-and-whites, your Honor.

15 THE COURT: The what?

16 MS. SIMMONS: The continuous objection as to the
17 certain photographs (indicating).

18 THE COURT: Oh, all right. Now, that is of the
19 scene, right?

20 MS. SIMMONS: Yes, your Honor.

21 THE COURT: Overruled.

22 State's Exhibits Number 29, 30, 31, 32, 33, 34?

23 MS. SIMMONS: Yes, your Honor.

24 THE COURT: Are admitted over the objection.

25 (WHEREUPON, State's Exhibit Numbers 29 through 34

1 were admitted into evidence.)

2 BY MS. SIMMONS:

3 Q Showing you State's Exhibit 29, what is this?

4 A That's the house I pulled up to.

5 Q Again, that's in Ocone?

6 A Yes.

7 Q Where were you when you parked?

8 A Like right there, like right beside where you see
9 the walkway. He walked down a little -- no. Come
10 down. Like right there. That's where I was parked at.

11 Q And these markers, do you know what they mark?

12 A No, I don't know what they mark for.

13 Q So you were parked right here?

14 A Yeah. Because I fell out the car where all the
15 rocks and stuff is at right there.

16 Q Okay. And this is the house the defendant entered
17 and exited during the course of the conversation?

18 A Yes.

19 Q Show you what's been marked as State's Exhibit 30.
20 What is this?

21 A That's my door panel.

22 Q And what is the dark substance on it?

23 A Blood.

24 Q Show you what's marked as State's Exhibit 31. Can
25 you describe that for me?

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Hakeem Kirkland - Direct Exam by Ms. Simmons

1 A Blood.

2 Q Is that your car?

3 A Yes, that's my car.

4 Q State's Exhibit 32. What is that?

5 A Yeah, that's my car. I mean that's the gun when
6 it was in the dashboard in my car.

7 Q Is that the gun that the defendant was trying to
8 buy from you?

9 A Yes, ma'am.

10 Q And who put it in the glove box?

11 A I did.

12 Q And State's Exhibit 33 and 34?

13 A Yeah, that's it. Yes, it's the same gun.

14 Q That's the gun in question? Thank you.

15 Hakeem, you received 11 stab wounds that day?

16 A Yes.

17 Q Did you have any damage to any internal organs?

18 A A punctured lung and something about my kidney or
19 something like that.

20 Q Did you have any liver damage?

21 A Yeah, I think so. I think that's what the doctor
22 told me, liver and punctured lung. But that's when
23 they put me --

24 MR. GRIFFIN: Objection; hearsay.

25 THE COURT: Sustained.

1 BY MS. SIMMONS:

2 Q Hakeem, just keep your testimony to things you
3 actually know.

4 A Okay.

5 Q So your injuries were 11 stab wounds?

6 A Yeah, there was 11 of them.

7 Q And was your liver and lung damaged?

8 A Yes.

9 Q How long did you stay in the hospital?

10 A Four days.

11 Q Do you have any lasting effects from these stab
12 injuries today other than scars?

13 A Like I get the shakes sometimes like anxiety.

14 That's about it.

15 Q And just, once again, did you initiate this
16 transaction in any way?

17 A No.

18 Q And were you aggressive or hostile towards the
19 defendant in any way that day?

20 A No.

21 MS. SIMMONS: Beg the Court's indulgence for one
22 moment.

23 Please answer any questions the defense may have.

24 THE COURT: Cross-examination.

25 CROSS-EXAMINATION

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Hakeem Kirkland - Cross-Exam by Mr. Griffin

1 BY MR. GRIFFIN:

2 Q Mr. Kirkland, you say you went to Laquavius' house
3 to sell him marijuana and a gun?

4 A Yes.

5 Q And you had done that before, hadn't you?

6 A Yes.

7 Q And when you were initially stabbed, you told the
8 911 operator you didn't know who did it?

9 A Yes.

10 Q Okay. And then later you told the 911 operator on
11 in the conversation it was your cousin Quay who did it,
12 right?

13 A Yes.

14 Q Do you remember being interviewed at the hospital
15 by the detectives?

16 A Yes.

17 Q Do you remember telling them that you went over to
18 Quay's house just to smoke some weed?

19 A Yes.

20 Q Okay. And that you didn't have any problems with
21 him at that time, right?

22 A Yes.

23 Q And you said he just -- you had no idea why he
24 attacked you with a knife?

25 A Yes.

1 Q Okay. Isn't it true that you denied who did it
2 because you wanted to cover up the fact that you were
3 over there delivering marijuana and a pistol to an
4 underage person?

5 A Yes, but like it wasn't like -- I don't know, like
6 that's my cousin. Like I didn't even want to bring him
7 into it, but then I finally realized he tried to take
8 my life away over nothing.

9 Q All right. You said you had taken the pistol away
10 from him at one point in the car?

11 A Yeah. I got it back from him.

12 Q You said basically you just took it from him,
13 right?

14 A No, I didn't just take it from him. He was in
15 there playing with the gun, so I got it back from him.

16 Q You got it back from him?

17 A Uh-huh.

18 Q All right. And did the detective ever ask you
19 whether or not you had -- you and Quay got into it
20 about \$200 that Quay owed you?

21 A No, I don't know nothing about no \$200 he owed me
22 because he didn't owe me no \$200.

23 Q Y'all weren't beefing about nothing?

24 A No.

25 Q Were you ever charged in any of this stuff?

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Hakeem Kirkland - Cross-Exam by Mr. Griffin

- 1 A No.
- 2 Q The pistol was found in your glove compartment?
- 3 A Yes.
- 4 Q And what happened to the marijuana?
- 5 A I don't know.
- 6 Q You don't know where it went?
- 7 A I don't recall.
- 8 Q Where was it when you got to Quay's house?
- 9 A In my lap.
- 10 Q Okay. How did the pistol get in the glove
- 11 compartment?
- 12 A I put it in there.
- 13 Q When did you put it in there?
- 14 A After I got stabbed, when I jumped in the car and
- 15 was driving down Shiloh Road trying to get to my house
- 16 but I stopped at Seneca Tire, that's when I put it in
- 17 there.
- 18 Q So you had the presence of mind to put it in the
- 19 glove compartment?
- 20 A Yes.
- 21 Q Was that before or after you called 911?
- 22 A During.
- 23 Q Had you been drinking that day?
- 24 A No.
- 25 Q Been smoking weed that day?

1 A No.

2 Q What else have you ever delivered over there to
3 Quay's house?

4 MS. SIMMONS: Objection, your Honor. Relevance.

5 THE COURT: Overruled.

6 BY MR. GRIFFIN:

7 Q Have you ever delivered anything else?

8 A No.

9 Q Okay. How often did you see Quay up to this
10 point, Laquavius?

11 A Sometime like whenever, you know what I'm saying,
12 like he was out and about, I seen him. I done shot
13 ball with him and everything because they stayed right
14 across the street from a church with a basketball goal
15 in the back.

16 Q Y'all shot basketball with him?

17 A Yeah. That's my cousin.

18 Q How often did you see him before that, I mean
19 daily or every other day or what?

20 A Every other day.

21 Q Okay. What is OG?

22 A Weed.

23 Q Okay. What's a Swisher mean?

24 A A cigar.

25 Q Cigar?

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Hakeem Kirkland - Cross-Exam by Mr. Griffin

- 1 A Yeah.
- 2 Q Do you use them for anything else?
- 3 A No, that's its. That's all it means. A Swisher
- 4 is a cigar.
- 5 Q Where did you get the pistol from?
- 6 A I bought it.
- 7 Q From where?
- 8 A Off the street.
- 9 Q Off the streets?
- 10 A Yeah.
- 11 Q Do you buy and sell guns for anybody else?
- 12 A No. I can go buy a gun at the pawn shop. I ain't
- 13 got no record.
- 14 Q You buy them and sell them to other people?
- 15 A No, I buy them for protection.
- 16 Q Okay. And so you had the pistol in your lap?
- 17 A Yeah.
- 18 Q You claim Quay started stabbing you?
- 19 A Yeah.
- 20 Q Why didn't you shoot him?
- 21 A It fell. When he started stabbing me, it fell.
- 22 It was in my lap, and when he stabbed me, I jumped and
- 23 it fell on the floorboard.
- 24 Q Did you ever get your hands on it and try to shoot
- 25 at him?

1 A No. When he got out -- after he took off running,
2 I grabbed the gun, but I ain't never fired no shot.

3 Q And y'all weren't arguing over \$200 that you
4 fronted him earlier?

5 A No.

6 Q Did the detective ask you about that?

7 A No.

8 Q They never asked you about that?

9 A About the \$200 situation?

10 Q Yeah.

11 A Well, they asked me, but I told them he ain't
12 never owed me nothing.

13 Q Okay. Were you given any promises or anything for
14 your testimony today?

15 A No.

16 MR. GRIFFIN: That's all I have.

17 THE COURT: Re-exam?

18 REDIRECT EXAMINATION

19 BY MS. SIMMONS:

20 Q Hakeem, just two questions for you. Can you
21 please point out for the jury who stabbed you.

22 A (Indicating).

23 MS. SIMMONS: Your Honor, please let the record
24 reflect the defendant is being referenced by the
25 victim. He's pointing to him as the person who stabbed

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Joseph Anderson - Direct Exam by Ms. Simmons

1 him.

2 THE COURT: Very well.

3 BY MS. SIMMONS:

4 Q That's the person who stabbed you on July 8th,
5 2013?

6 A Yes.

7 Q Hakeem, if you had known the defendant needed
8 money or a gun or marijuana, what would you have done?

9 A I would have did it. It's my cousin. Like if he
10 down and bad, I would have did it for him. That's what
11 family is supposed to do.

12 Q If he would have needed money, would you have
13 given him the money?

14 A Yeah.

15 MS. SIMMONS: Thank you.

16 THE COURT: Recross?

17 MR. GRIFFIN: No, sir.

18 THE COURT: All right. You may step down.

19 You may call your next witness.

20 MS. SIMMONS: Thank you, Judge.

21 The State calls Joe Anderson.

22 JOSEPH ANDERSON,

23 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

24 THE COURT: All right. If you would, please, sir,
25 give us your full name for the record, spelling your

1 last name.

2 THE WITNESS: Joseph Alexander Anderson.

3 THE COURT: Very good. Thank you, sir.

4 DIRECT EXAMINATION

5 BY MS. SIMMONS:

6 Q Mr. Anderson, where are you employed?

7 A Ocone Medical Center.

8 Q And how long have you been at Ocone Medical
9 Center?

10 A Since 2006.

11 Q What's your education background?

12 A I have an associate's degree in health science
13 with a minor in emergency medical technology.

14 Q And what kind of specialized training do you have
15 in emergency medical technology?

16 A Other than my paramedic, I have certifications in
17 prehospital trauma life support, pediatric advanced
18 life support, advanced trauma life support, and
19 advanced cardiac life support.

20 Q How many years total have you been a paramedic?

21 A Two years of training plus 26 years, total of
22 28 years.

23 Q Can you estimate how many calls regarding a -- how
24 many trauma calls you have been on during the course of
25 your career?

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1 A Wow. Numerous. I couldn't begin to tell you.

2 Q In the hundreds or in the thousands?

3 A Probably close to a thousand.

4 Q And what range of injuries have you treated over
5 these 28 years?

6 A Everything from crushing to stabbings to
7 shootings, entrapments, all kinds.

8 Q What kind of treatment can you provide as a
9 paramedic or EMT?

10 A Pretty much we do everything that the doctor would
11 be able to do in the ER with the exception of certain
12 medications. That's it.

13 MS. SIMMONS: Your Honor, at this time we would
14 move Mr. Anderson as an expert in emergency medicine
15 and paramedic services based on his 28 years of
16 experience.

17 MR. GRIFFIN: No objection.

18 THE COURT: All right. Without objection, the
19 witness is qualified as an expert in emergency what?

20 THE WITNESS: Medical services.

21 THE COURT: EMS.

22 THE WITNESS: Same thing.

23 THE COURT: I'm just thinking about something for
24 the record. In other words, not as a physician but as
25 an EMS.

1 MS. SIMMONS: Right, as an emergency medical
2 service provider.

3 THE COURT: Mr. Foreman, ladies and gentlemen of
4 the jury, normally witnesses are only permitted to
5 testify -- and you have heard an objection to hearsay
6 and things like that -- as to things that they know of
7 their own knowledge and their own use of their own
8 faculties or senses. In other words, what they see or
9 hear as a physically involved person.

10 However, if a witness is qualified by reason of
11 their background, training, experience or education in
12 a particular area and qualify as such, they are
13 permitted to give their opinion. And that's what we
14 call experts.

15 Now, an expert's testimony is like the testimony
16 of any other witness. The value of it is for you to
17 determine. You weigh that evidence just as you would
18 any other evidence and give it the credit or what you
19 think it's deserving.

20 All right. You may proceed.

21 MS. SIMMONS: Thank you, Judge.

22 BY MS. SIMMONS:

23 Q Mr. Anderson, were you working at the hospital on
24 July 8th of 2013?

25 A Yes, ma'am.

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1 Q Was that -- were all of your events you responded
2 to in Oconee County initially?

3 A Yes, ma'am.

4 Q Did you respond to a stabbing call the afternoon
5 of July 8, 2013?

6 A We did.

7 Q Where did you respond to?

8 A Shiloh Road.

9 Q What did you find when you got there?

10 A We found a gentleman laying on the front steps of
11 a small business and bleeding profusely.

12 Q Did you come to know this gentleman as Hakeem
13 Kirkland?

14 A Yes, ma'am.

15 Q What was your initial assessment of his injuries?

16 A Multiple stab wounds, profuse bleeding. He had
17 lost a lot of blood at that point.

18 Q What treatment did you provide immediately before
19 you even got him into the ambulance?

20 A We initially stabilized him on a long spine board.
21 We roll them to the side. I assessed his back. I
22 noticed he had several stab wounds on his back. Then
23 we put him on the spine board and we basically strap
24 them down to keep them from moving to incur any other
25 injuries.

1 Q What kind of further treatment did you determine
2 this victim needed?

3 A He needed to go to a trauma center, and we called
4 for the helicopter to fly him over to Greenville. We
5 have a golden hour that we're supposed to try to
6 maintain, and the helicopter wouldn't fly because the
7 weather, so we determined that we would have to
8 transport him by ground. So it would be stabilization,
9 IV, o2, rapid transport.

10 Q Did you make it to Greenville within an hour?

11 A I believe so. I believe it was like 35 or
12 38 minutes or something like that.

13 Q Were the services he received at Greenville, could
14 they not be provided by Oconee?

15 A No. He needed to be in a trauma center.

16 Q What treatment did you provide along the way to
17 Greenville other than stabilization?

18 A Administered oxygen, IV, helped stop some of the
19 bleeding by putting occlusive dressings on his chest
20 wound. He actually had a wound on his back, I think in
21 his scapular region, that needed to be dressed. So we
22 put occlusive dressings on that. In case there was
23 involvement of the lung, we have to seal that so that
24 air doesn't leak out.

25 Q What are the potential complications and risks

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1 associated with the injuries you observed the victim
2 had?

3 A Wow. He had potential lung, heart, stab wounds to
4 the head. They were superficial, but they were
5 bleeding pretty bad. I couldn't really tell if they
6 went into the skull or not. There was no depression,
7 but, you know, he had life-threatening injuries.

8 Q And these life-threatening injuries were due to
9 the injuries themselves and the blood loss?

10 A Yes, ma'am.

11 Q Did you have any conversation with the victim on
12 the way to Greenville?

13 A Yes, ma'am.

14 Q What did he tell you had happened?

15 A He didn't tell me exactly what happened. He just
16 said his cousin stabbed him. And I basically said to
17 him, "You need to choose who you hang out with more
18 carefully," you know. It was just a short
19 conversation.

20 Q Did your involvement in this case end upon
21 transferring the victim to the custody of Greenville
22 Memorial Hospital?

23 A I'm sorry?

24 Q Did your involvement in this case end upon your
25 transferring the victim over to Greenville Memorial

1 Hospital?

2 A Yes.

3 Q Please answer any questions the defense may have.

4 MR. GRIFFIN: No questions.

5 THE COURT: All right. You may step down. Thank
6 you, sir.

7 MR. WAGNER: Your Honor, we'd ask this witness be
8 excused.

9 THE COURT: Any objection?

10 MR. GRIFFIN: No, sir.

11 THE COURT: All right. Without objection, you may
12 be excused. Again, thank you, sir.

13 May I see the attorneys, please?

14 (WHEREUPON, a bench conference was held off the
15 record in the presence of the jury, but out of the
16 hearing of the jury.)

17 THE COURT: Mr. Foreman, ladies and gentlemen of
18 the jury, we are simply moving along rather well, so
19 I'm going to suggest that we do take a break at this
20 time and then come back -- let's take 15 minutes.

21 And there are refreshments back there for the
22 jury?

23 THE BAILIFF: Yes, sir.

24 THE COURT: And we'll take this as the afternoon
25 break.

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1 to 2:37 p.m.)

2 THE COURT: All right. Is the State ready to
3 proceed?

4 MR. WAGNER: Yes, sir.

5 THE COURT: Defense ready? Mr. Griffin?

6 MR. GRIFFIN: Yes, sir, your Honor.

7 THE COURT: Ask the jury to join us, please.

8 (Whereupon, the jury came into open court at
9 approximately 2:38 p.m.)

10 THE COURT: All right. Let the record reflect the
11 jury and alternates are in the jury box.

12 Mr. Foreman and ladies and gentlemen of the jury,
13 we'll now proceed with the State's case.

14 Mr. Solicitor, you may call your next witness.

15 MR. WAGNER: Your Honor, we call Sergeant McMahan.

16 DAVID McMAHAN,

17 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

18 THE COURT: If you would, please, sir, give us
19 your full name, spelling your last name.

20 THE WITNESS: Yes, sir. David R. McMahan.

21 Spelling, M-c-M-a-h-a-n.

22 DIRECT EXAMINATION

23 BY MR. WAGNER:

24 Q Mr. McMahan, who do you work for?

25 A I work for the Oconee County Sheriff's Office.

1 Q What are your job duties there?

2 A I'm an investigator for the sheriff's office.

3 Q Do you work with Sergeant Tinsley and Captain
4 Reed?

5 A Yes, sir, I do.

6 Q Were you working in that capacity back on July 8,
7 2013?

8 A Yes, sir.

9 Q Did you get called to go out to the scene -- I
10 won't say scene of the stabbing, but the scene where
11 the victim was by the tire shop?

12 A Yes, sir. I received a phone call from my
13 captain, Captain Greg Reed. He advised me that I
14 needed to respond to that location, the tire shop, in
15 order to assist in the investigation of a stabbing.

16 Q When you got there, what did you see?

17 A When I got there, I saw there was a lot of blood
18 in the front steps of the business there and in the
19 general area where the steps was.

20 Q Was the victim still there?

21 A No, sir. The ambulance had taken him on to
22 Greenville Hospital just prior to my getting there.

23 Q What was your next step?

24 A My next step was I contacted my captain. He
25 advised me that he was aware that the victim was headed

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1 to Greenville to the trauma center, and that he asked
2 me to respond as well to Greenville.

3 Q Okay. Did you respond to the trauma center?

4 A I did along with another investigator.

5 Q Okay. When you got there, what did you do?

6 A When I got there, I located him. He was in the
7 critical care unit at that time being treated, so I did
8 respond to that area and I spoke with the nurses there
9 and found out that he was conscious and that it was
10 possible that I could talk to him.

11 Q Okay. Did you talk to him?

12 A Yes, sir, I did.

13 Q And were you able to find out what happened?

14 A Yes. I spoke with the victim, Mr. Kirkland. He
15 was alert, he was conscious when I was speaking with
16 him. I noticed visible serious wounds all about the
17 right side of his body. And he did, when I asked him
18 what happened, he did start telling me what had
19 happened to him.

20 Q Was he reluctant to tell you who did it?

21 A No, he told me right off that -- who did it. He
22 was just reluctant to tell me what happened.

23 Q Okay.

24 A There was two questions I asked him: Who did it
25 and what happened.

1 Q What did you ask him?

2 A I asked him, I said, "Who did this to you?" And
3 he said, "My cousin Quay did it to me." And the second
4 part, "Tell me what happened. Tell me the story, why
5 this -- what led up to this." And he first told me, "I
6 just come over there to smoke some weed with him and
7 have a good time, and I don't know why in the world he
8 did this to me." He said they weren't arguing or
9 anything of that nature. It was a surprise to him why
10 he was attacked.

11 Q Okay. Were you able to find out later why he was
12 reluctant to tell you?

13 A Yes, sir. During that conversation, I had spoken
14 again with my captain, Greg Reed. He informed me --

15 MR. GRIFFIN: Your Honor, objection. Hearsay.

16 THE COURT: Mr. Wagner?

17 MR. WAGNER: Your Honor, I guess let me rephrase.
18 I think Mr. Griffin, I think they had kind of already
19 gone into that when he was cross-examining the victim
20 as to that conversation, but.

21 THE COURT: Well, let's see. You're asking this
22 witness what another witness said?

23 MR. WAGNER: But he -- yes, sir, your Honor, but
24 Mr. Griffin had already talked to the victim as far as
25 what he had said. They had already gone into the --

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1 the conversation had already been testified to when the
2 victim testified as to what the victim said.

3 THE COURT: The victim hasn't testified.

4 MR. WAGNER: Yes, sir, Mr. Kirkland.

5 THE COURT: Oh, all right. Very good. I
6 understand. Yes. All right.

7 And let the record reflect Mr. Kirkland is in the
8 courtroom, so subject to cross-examination and recall.

9 Very well. You may proceed.

10 BY MR. WAGNER:

11 Q Sir, you were able to determine why he was
12 reluctant to --

13 THE COURT: Objection overruled.

14 BY MR. WAGNER:

15 Q -- tell you why?

16 A Yes. He was reluctant to tell me at first because
17 he was worried about the marijuana and the gun. That's
18 what he was worried about.

19 (WHEREUPON, State's Exhibit Numbers 10 through 22
20 were marked for identification.)

21 BY MR. WAGNER:

22 Q Let me show you what's been marked State's Exhibit
23 10 through, I believe, 22.

24 MR. GRIFFIN: The same objection I had to the
25 first set of photographs, the same nature.

1 THE COURT: All right. Let's have the witness
2 identify them.

3 THE WITNESS: Yes, sir. I recognize these
4 pictures.

5 THE COURT: Let's have them identify what they
6 are.

7 BY MR. WAGNER:

8 Q What are these, State's Exhibit 10 through 22?

9 THE COURT: And then go through each one.

10 THE WITNESS: Yes, sir. These are pictures that I
11 myself took at Greenville Hospital of the victim and
12 his injuries.

13 BY MR. WAGNER:

14 Q Do they fairly and accurately depict the victim as
15 he looked when you took the pictures that day?

16 A Yes, sir.

17 Q Have they been altered or tampered with in any
18 manner?

19 A No, sir.

20 MR. WAGNER: Your Honor, at this time we would
21 admit State's Exhibit 10 through 22.

22 THE COURT: All right. I'm going to permit the
23 defendant to voir dire the witness as to their
24 objection, if any.

25 MR. GRIFFIN: Your Honor, my objection earlier was

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1 (WHEREUPON, State's Exhibit Numbers 10 through 22
2 were admitted into evidence.)

3 BY MR. WAGNER:

4 Q Sergeant McMahan, let's start with State's
5 Exhibit 10.

6 THE COURT: Which one is this?

7 MR. WAGNER: State's Exhibit Number 10.

8 BY MR. WAGNER:

9 Q What is that a picture of, Sergeant McMahan?

10 A That is a picture of the chest, of the victim's
11 chest wound. And, of course, the medical procedure
12 that was used, it was a chest tube is what the nurse
13 described.

14 Q By the time you got there, had he already been
15 through some surgery?

16 A He was in the trauma unit of the critical care.
17 I'm not sure about any surgery at the time other than
18 he may have been being prepared for it.

19 Q State's Exhibit Number 11?

20 A Yes, sir. I recognize that. That wound is the
21 wound right there at the top of the abdomen that the
22 nurse had described as entering the body and nicking or
23 cutting into the liver area.

24 Q We're talking about right here, right?

25 A Yes, sir.

1 Q The light lines right here, what were those?

2 A Those were staples to close the wound.

3 Q Okay. It's easier to see on the actual picture
4 than it is on the overhead.

5 State's Number 12?

6 A Yes, sir. That picture, I panned out to get an
7 overall view of the injuries there.

8 Q And the injuries here?

9 A Yes, sir. That particular wound, I asked the
10 victim, Mr. Kirkland, I said, "What do you remember
11 about that particular wound?" If you will notice, it's
12 quite wide right there. He said as he was being
13 stabbed, he put his arm up in this nature to try to
14 stave off some of the oncoming stabs that was being
15 thrown at him, and that's where the wound, the knife
16 actually went through the meaty part of his forearm and
17 exited out the other end. It was a through-and-through
18 wound.

19 Q In your line of law enforcement, what would you
20 call that?

21 A Yes, sir. My experience in law enforcement,
22 that's called a defensive wound.

23 Q Was that wound consistent with a defensive wound?

24 A Yes, sir.

25 Q Was it consistent with what the victim told you?

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1 A Yes, sir, it was.

2 Q Let me show you State's Number 13. Is this a
3 different angle?

4 A Yes, sir, that's a different angle. It shows, as
5 I spoke of earlier, the entry of the knife and then the
6 exit through the meaty part. It completely went
7 through his arm.

8 Q And were there one wound or two?

9 A No, sir, it was one wound. It was an entrance
10 wound and it was an exit wound.

11 Q I mean, it went all the way through his arm, at
12 least part of it?

13 A Yes, sir, it did. It went all the way through his
14 arm.

15 Q State's Number 14?

16 A Yes, sir, I recognize that picture as well.

17 Q And what is that?

18 A It is a laceration that was described as one of
19 the major lacerations. And it's held together at that
20 point with two staples. And that's around the shoulder
21 area.

22 Q Number 15?

23 A That is also a wound. I believe that is in the
24 upper right portion of his chest. Also with staples.

25 Q State's Number 16?

1 A That, again, is another picture, an overall
2 picture and a picture of Mr. Kirkland's face, the
3 victim.

4 Q Number 17?

5 A Yes, sir. That's the victim, Mr. Kirkland. He
6 had some major wounds on his back, so he was assisted
7 and rolled over and I took pictures of those wounds as
8 well.

9 Q Were they up here?

10 A Yes, sir, right there in kind of the upper right
11 shoulder area, right in there.

12 Q Number 18 is a little bit closer view?

13 A Yes, sir. Those are the wounds in the back area
14 also consistent with his statement where he was trying
15 to get away, moving like this to try to get away from
16 the stab wounds.

17 Q State's Number 19?

18 A That's another wound in the right shoulder area,
19 right below his armpit right there.

20 Q State's Number 20?

21 A That's a second picture of his back trying to show
22 an overall view of the wounds in the back/shoulder
23 area.

24 Q 21?

25 A Yes, sir. That shows, as was stated earlier,

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1 wounds to the head. One right as we can see behind his
2 ear, and should be another wound in there as well.

3 Q I think you got that on 22 here.

4 A Yes, sir. That's a second wound.

5 Q Was it a laceration? Is that another staple?

6 A That's another staple to close up that wound, yes,
7 sir.

8 Q Were the wounds consistent with being all on the
9 right side of the victim?

10 A Yes, sir. As I spoke with Mr. Kirkland and
11 examined his wounds, all that was consistent with this,
12 the right side of the area, right in here.

13 Q After you interviewed the victim and had taken
14 these pictures, did you call Captain Reed?

15 A I did. I called my captain to inform him of what
16 information I was gathering such as that.

17 Q And did you and the other detective go back to the
18 sheriff's office and inform them about what you found
19 out --

20 A Yes, sir.

21 Q -- later that evening?

22 A Yes, sir. I had informed him over the phone as
23 well as spoke to him face-to-face when I got back to
24 the sheriff's office.

25 Q Thank you, Sergeant. That's all the questions I

1 have.

2 A Yes, sir.

3 THE COURT: Cross-examination?

4 CROSS-EXAMINATION

5 BY MR. GRIFFIN:

6 Q Who were you with at the hospital?

7 A Who was I with, sir?

8 Q Did you go there with somebody?

9 A Yes, sir. I went with Sergeant Will Freestate.

10 Q And you interviewed Mr. Kirkland back here?

11 A Yes, sir, I did.

12 Q All right. And he initially told you that -- he
13 states he first drove to the suspect's house to smoke
14 some weed?

15 A That's what he told me, yes, sir.

16 Q And he states he had no problem, and he had no
17 idea why he got attacked?

18 A Yes, sir, that's what he told me.

19 Q Okay. And then he changed his story after that.
20 Did y'all confront him with some evidence?

21 A Yes, sir. When I -- as I stated earlier, I
22 received information, some new information, and I told
23 Mr. Kirkland, I said, Mr. Kirkland, we're not -- at
24 this point we're not concerned about marijuana, stuff
25 like that. We're concerned about your condition that

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1 you're in and who did this to you, and that there was
2 information that surveillance cameras were on the scene
3 and there may be some video cameras, which is what was
4 told to us as stated earlier. And Mr. Kirkland said,
5 "I just want to tell you the truth, and that's when he
6 come out and told me."

7 Q So he finally admitted, when he knew he might have
8 been busted on some video, he went ahead and told you
9 about the weed and the pistol?

10 A He told me who did it. I mean, he never denied
11 that whatsoever from the beginning. He was just
12 reluctant because he was afraid he was going to be in
13 trouble for the marijuana.

14 Q All right. Did y'all ever arrest him for
15 conspiring to sell marijuana to somebody?

16 A No, sir.

17 Q All right. Did you ever tell anybody that you
18 were going to arrest him for possession with intent to
19 distribute?

20 A The victim you're speaking of?

21 Q Yeah.

22 A No, sir, I did not.

23 Q Did y'all ever find the marijuana?

24 A No, sir.

25 Q Where did you find the pistol?

1 A I believe it was testified that it was in the
2 glove box of the Crown Victoria.

3 Q Did y'all run a check on it to see if it had been
4 stolen?

5 A My role in the investigation was to interview the
6 victim, and I didn't take part in the gun.

7 Q All righty. Thank you.

8 A Yes, sir.

9 THE COURT: Re-examine?

10 MR. WAGNER: Nothing further, your Honor.

11 THE COURT: Very good.

12 You may step down. Thank you, sir.

13 MR. WAGNER: The State would call Sergeant
14 Tinsley.

15 MARGARET AMANDA TINSLEY,
16 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

17 THE COURT: All right. You may proceed.

18 DIRECT EXAMINATION

19 BY MR. WAGNER:

20 Q Sergeant Tinsley --

21 THE COURT: Excuse me. Sergeant, if you would,
22 please give us your full name for the record, spelling
23 your last name.

24 THE WITNESS: Margaret Amanda Tinsley. Tinsley is
25 T-i-n-s-l-e-y.

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Margaret Amanda Tinsley - Direct Exam by Mr. Wagner

1 THE COURT: Thank you, ma'am.

2 BY MR. WAGNER:

3 Q Who do you work for?

4 A The Oconee County Sheriff's Office.

5 Q How long have you worked for the sheriff's office?

6 A About nine and a half years, I think.

7 Q What are your job duties currently?

8 A I'm a detective in investigations.

9 Q Were they -- were you a detective back when this
10 stabbing happened?

11 A I was.

12 Q Were you on call that week?

13 A I was.

14 Q Explain to us what an average day as a detective
15 is being on call and how you ended up assigned to this
16 case as lead investigator.

17 A We rotate on-calls. And if you're on call and
18 something violent happens, then you're automatically
19 typically the lead investigator in that case. And
20 that's why I ended up getting this case that day. I
21 was on call.

22 Q What kind of cases do you normally work day to
23 day?

24 A Predominantly I work a lot of white collar crimes.
25 I work some crimes involving sex crimes against

1 children and child abuse cases, and we all work violent
2 crimes.

3 Q Ya'll kind of share those around?

4 A We do.

5 Q You were on call the week of July 8th, 2013?

6 A Yes.

7 Q And did you get assigned to work this attempted
8 murder case that we're here for today?

9 A Yes.

10 Q When did you first find out about it, how did you
11 find out about it, what did you do?

12 A We heard the call come out on the radio. One of
13 the investigators had a radio going, and we heard
14 dispatch dispatch officers to a stabbing. So we knew
15 it was -- it had just come in.

16 Q At some point in time after that did you develop
17 the defendant, Quay Cleveland, as a suspect?

18 A Yes.

19 Q Did y'all try to find him?

20 A Yes. It was told over the radio that the
21 defendant's name or the victim had said that the person
22 that stabbed him was Quay. And Sergeant McMahan had --

23 Q Did he know him?

24 A He had dealt with him previously, so he told us
25 that he had a guy nicknamed Quay, Laquavius Cleveland,

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1 and he thought maybe it was him. And he also lived on
2 Mill Hill. So that's where we started looking. That's
3 where we knew to kind of start looking in that
4 direction.

5 Q Were y'all able to locate the defendant?

6 A Not at first. He had left the scene. But another
7 officer, Philip Robertson, knew the family, knew Quay's
8 family, Laquavius' family, and he made contact with
9 them, and they got Laquavius and brought him to Philip
10 and Philip brought them to the -- brought him to the
11 sheriff's office.

12 Q Okay. And what happened when he came to the
13 sheriff's office with Philip, another officer? Was he
14 in his patrol car?

15 A He was.

16 Q Was he under arrest at the time?

17 A No.

18 Q Was he in handcuffs or anything?

19 A No. It was very preliminary, very early in the
20 investigation. We really just didn't know what we had.
21 We knew there was a guy that had been stabbed but
22 didn't know the extent of his injuries or his
23 condition. So it was very early on in the
24 investigation.

25 Q What did ya'll do first thing?

1 A First thing we did was really we sat him in an
2 interview room, me and Philip Robertson, and we got his
3 basic information and read his Miranda rights to him.

4 Q Okay. Let me show you what's been marked State's
5 Exhibit 1. Do you recognize that?

6 A I do.

7 Q What is that?

8 A It's our Miranda rights waiver. It's a form
9 that's got the Miranda rights on it. We read it to the
10 person and allow them to read it if they want to. They
11 initial every point, they sign it, and we witness it
12 and put a date and time and everything on it.

13 Q Now, if you're questioning a suspect about a
14 crime, before you're able to question him when he's in
15 custody, he's at the sheriff's office, do you have to
16 do that?

17 A Yes.

18 Q Do y'all use that form to make sure that you cover
19 everything that you need to cover with him that you
20 legally need to do?

21 A Yes.

22 Q What exactly -- how did you actually go about it,
23 and how do you go about it with every defendant, but
24 how did you go about it with Mr. Cleveland?

25 A Well, I just -- typically tell them, I tell

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1 everybody, since we're conducting an investigation and
2 we don't know where this may lead, we read just about
3 everybody their Miranda rights before we take a
4 statement from them because we don't know what
5 direction it's going to take once we begin to get
6 information from them. So I tell them that. And then
7 I fill out the place, the Oconee County Sheriff's
8 Office, the date, the 8th of July 2013, the time -- the
9 time was 5:50 p.m. -- and then -- you want me to read
10 the Miranda?

11 Q Yeah. Let me get -- is that the actual copy that
12 you used that night or that day?

13 A Yes.

14 Q And what time did you start it?

15 A 5:50.

16 Q So how did you go about -- you start up here at
17 the top?

18 A Uh-huh.

19 Q Okay. And tell us word-for-word how you went
20 about advising him.

21 A I said, "Before we ask you any questions, you must
22 understand your rights. You have the right to remain
23 silent. Anything you say can be used against you in
24 court. You have the right to talk to a lawyer for
25 advice before we ask you questions and have him with

1 you during questioning. If you cannot afford a lawyer,
2 one can be appointed for you before questions if you
3 wish. If you decide to answer questions now without a
4 lawyer present, you'll still have the right to stop
5 answering questions at any point in time."

6 The bottom part says, "I have read this statement
7 of my rights and understand what my rights are. I am
8 willing to make a statement and answer questions. I
9 understand and know what I'm doing. No promises or
10 threats have been made to me and no pressure or
11 coercion of any kind has been used against me." And
12 then he signed it, initialed each point to the side
13 over there. Philip witnessed it and I witnessed it at
14 5:52 p.m.

15 Q So it's his signature here?

16 A Uh-huh.

17 Q Philip Robertson signed it here?

18 A Yes.

19 Q You signed it here?

20 A Yes.

21 Q And you dated and timed it?

22 A Yes.

23 Q What's the "QC" down here on each one of those
24 rights that you read him?

25 A That would be for Quay. Quay is what we went by,

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1 so Quay Cleveland.

2 Q Did he initial those?

3 A Uh-huh.

4 Q That was him telling you that he understood it?

5 A That's right.

6 Q Have you had an opportunity to encounter people
7 that have been under the influence of alcohol or drugs
8 or anything during your time in law enforcement?

9 A Yes.

10 Q Do you think he was under the influence of alcohol
11 or drugs or anything when you talked to him that
12 evening?

13 A No. He didn't appear to be.

14 Q Did he respond to your questions?

15 A He did.

16 Q Did y'all offer him food or drink, deny him the
17 use of the restroom, do anything to get him to waive
18 his rights?

19 A No.

20 Q Did you promise him anything or threaten him in
21 any manner?

22 A No.

23 Q Did you hold out any hope for reward, promise of
24 leniency?

25 A No.

1 Q Did he agree to waive his rights and sign that
2 statement and agree to talk to you?

3 A He did.

4 Q Let me show you what's been marked State's
5 Exhibit 2.

6 A This is Laquavius' voluntary written statement
7 that he wrote.

8 Q Okay. Did you take that statement after you read
9 him his Miranda rights and filled out the rights form?

10 A Yes. I asked him some questions first. He told
11 us a little bit about what had happened, and I asked
12 him would he write us a voluntary statement, and he
13 said he would.

14 Q Is that statement in substantially the exact same
15 condition as it was --

16 A It is.

17 Q Has it been in your possession ever since?

18 A Yes.

19 Q How did you go about taking this statement from
20 him?

21 A Like I said, I just -- we had just asked him some
22 initial questions ahead of time before he wrote this
23 statement. He told us basically what had happened, and
24 we just asked him would he be willing to give us a
25 voluntary written statement. He said he would give us

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1 a statement, he would write one.

2 Q And who was present when this was going on?

3 A Philip Robertson and I were in the interview room
4 with him.

5 Q Just the three of y'all?

6 A Uh-huh.

7 Q Two police officers and Quay Cleveland?

8 A Uh-huh.

9 Q Did he go ahead and write you a statement?

10 A He did.

11 Q What did he say happened?

12 A Do you want me to just read this statement?

13 Q Please.

14 A "Monday, July 8th, brown Crown Victoria pulled up
15 at [REDACTED]" -- I think that's [REDACTED] -- [REDACTED]. Him,
16 Hakeem, got out. Me, Chris, my cousin, was sitting on
17 the porch having a conversation about the old days and
18 fun we used to have. Then after talking for about
19 15 minutes, him, Hakeem, asked me to come here.

20 "We sat in the car, and he asked me about \$200
21 that I owed him. I said to him, 'I ain't got it.' He
22 started saying, 'What the fuck you mean?' I said, 'I
23 ain't got it.' And he said I got a certain time. I
24 said, 'I ain't gonna have it by then.' That's when he
25 reached from his left pocket with a gun, .25, put it in

1 his right hand and cocked it with his -- cocked it back
2 with his left hand" -- the next page -- "and grabbed --
3 I grabbed my pocketknife and stabbed him two times in
4 his right arm. Then he said, 'Oh, hell no,' and I ran.
5 He busted one shot and I was running for my life. I
6 dropped the knife after I got" -- I'm not sure what
7 that says.

8 Then it says, "I heard him pull out the driveway
9 when I was running, trying to see where I was going so
10 he can cut me off of my direction."

11 Q Was that the end of the statement?

12 A That was the end of the statement.

13 Q Is that what he wrote?

14 A That's what he wrote.

15 Q What is this big X here at the bottom covering up
16 all the empty space?

17 A It's just to show that that was the end of the
18 statement and nothing else was added.

19 Q Do you put that on there or does he?

20 A I did. I put the X on there.

21 Q You put that on there so nobody else can add
22 anything to it?

23 A Right.

24 Q And does he sign it down here at the bottom?

25 A He did.

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1 Q He signed it?

2 A Uh-huh.

3 Q What happened after this statement was taken, what
4 did y'all do?

5 A At the time it was just me, Laquavius, and Philip
6 Robertson at the sheriff's office. The investigations,
7 everybody had pretty much that was involved had split
8 up and went different places. There were a couple
9 officers down at the house where the stabbing took
10 place, a couple officers were down working the crime
11 scene where -- the scene he ended up at the TGIF on
12 Shiloh Road, and there were a couple officers --
13 Sergeant McMahan and Will Freestate -- were at
14 Greenville. So we were just kind of really waiting on
15 everybody to get back to the sheriff's office and kind
16 of compound what information everybody had discovered
17 from where they were at. So we were just kind of
18 waiting.

19 So we -- Philip, Laquavius and I -- went back to
20 the -- CID investigations has got a conference room
21 that has got a television and refrigerator and things
22 like that, so we all three went back there and watched
23 television while we waited.

24 Q Did you have to wait several hours?

25 A Yes.

1 Q During that time did y'all offer him food or
2 anything to eat?

3 A We did. Philip took him to the restroom, and Greg
4 Reed, when he was on his way back to the sheriff's
5 office, called and asked if any of us wanted anything
6 to eat or drink. I asked Laquavius if he wanted
7 something to eat or drink, and he said no, just a sweet
8 tea to drink. And that's what I had, too, just a sweet
9 tea to drink. Neither one of us had anything to eat.

10 Q So he hung out with ya'll for several hours and
11 watched TV?

12 A Right.

13 Q What were you waiting to find out? Did you know
14 much about the case yet?

15 A I didn't -- all I knew is, like I said earlier, I
16 knew somebody had been stabbed. Didn't know the extent
17 of the injuries or his condition. I knew he had been
18 taken to Greenville, knew that something, a part of
19 whatever had happened happened there at Laquavius'
20 house, and that was even according to what Laquavius
21 had already told me. I knew that the victim had ended
22 up there at the place on Shiloh Road, but I didn't
23 really know a lot more detail than that.

24 Q Later that evening while y'all were still watching
25 TV and Sergeant McMahan got back, were you able to find

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1 out more about the case than you knew initially?

2 A Yes. When Sergeant McMahan got back, that's when
3 he told us about that Hakeem had been stabbed 11 times,
4 not two. And he told us that Hakeem had told him about
5 the selling of the marijuana and the gun, that they had
6 talked about that ahead of time, and that's really why
7 he had went there to begin with. So we didn't know
8 that until David McMahan got back, got us more
9 information, realized that this was -- and plus he,
10 Laquavius, had said initially it was a pocketknife.
11 But the injuries that -- because he had a digital
12 camera, took digital pictures so we can pull them up
13 and see, and the injuries seemed much larger than a
14 pocketknife could have caused.

15 Q Did you and Captain Reed decide to talk to
16 Laquavius Cleveland again?

17 A Yes. We took him back to the same interview room.
18 Philip Robertson, he worked the road at the time, so
19 Captain Reed, when he got back to the sheriff's office,
20 he let him go, go ahead and go home, and Captain Reed
21 and I went back to the interview room and talked to
22 Laquavius.

23 Q Let me show you what's been marked State's Exhibit
24 3.

25 A These are my notes that were taken during that

1 interview and in which Laquavius signed and I signed
2 and Captain Greg Reed also signed. And I dated it and
3 put the time on it.

4 Q When you say he signed it, how come you didn't
5 take a second written statement?

6 A Well, by then we began this interview at 1:15
7 a.m., and this interview ended -- well, my notes ended,
8 this interview ended at 1:58 a.m. And Laquavius, I
9 asked him would he mind writing us a written statement,
10 giving us another written statement. He just said he
11 was tired, he would rather not. I asked him, "Would
12 you mind signing my notes?" I read those notes to him,
13 and I said, "You let me know if there's anything that I
14 need to include, if there's something I didn't get
15 right I need to correct, just let me know and I'll
16 correct it." And after reading my notes to him, he
17 signed my notes as in this was the information that he
18 was telling us. He signed it, I signed it, and Greg
19 Reed signed it, and I timed and dated it.

20 Q At any time did you ever promise him anything or
21 threaten him in any manner to give you the signed
22 statement?

23 A Huh-uh.

24 Q Did you ever hold out any hope for reward or --

25 A No. We just wanted the truth is what it amounted

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1 to, and that's what we told him.

2 Q Did he ever at any time during the whole thing
3 ever ask for an attorney or tell you that he wanted to
4 cease questioning?

5 A No.

6 Q If he had done that, if he said he wanted to --
7 didn't want to talk to you anymore, what would you have
8 done?

9 A We would have stopped questioning until he had an
10 attorney present.

11 Q Did he ever ask for food or did you ever deny him
12 anything, food, bathroom?

13 A We offered it to him, but like I said, he had said
14 he wasn't hungry. They brought him back a sweet tea to
15 drink.

16 Q Okay. Had you been able to determine how long he
17 had been up as far as that day goes?

18 A He said that he and his cousin Chris had played
19 video games the night before, and he got up around noon
20 that day. He got up -- slept in until about noon.

21 Q So he got up at noon. The stabbing happened late
22 afternoon?

23 A About 4:30. A little after 4:30 I think is when
24 it happened.

25 Q Y'all were talking to him by around 6:00?

1 A Yes -- yes. He was at the sheriff's office. We
2 began that first interview where that Miranda was at
3 5:50 p.m. The call actually went out at 4:04 p.m., and
4 by 5:50 p.m. he was at the sheriff's office and I was
5 reading his Miranda.

6 Q And he actually started this third statement at
7 1:15 a.m.?

8 A Yes.

9 Q Finished it at 1:58 a.m., almost 2:00 in the
10 morning?

11 A Yes.

12 Q Some of that time, you said several hours, y'all
13 were watching TV and just hanging out?

14 A That's right.

15 Q Waiting to find out more?

16 A Right.

17 Q Was he staying there willingly and talking to you?

18 A Yes. In his -- when I first spoke with him in his
19 first interview, he had told me that there were cameras
20 at the house and all of it would be on video. And it
21 was through a security company, ADT. And he said,
22 "Well, I can't view it, but my mama knows how to view
23 it." Well, his mama was at work. And we called her at
24 work. It was broken. She worked in a plant, so it
25 didn't get real good service. But I told her that she

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1 -- she said she couldn't view it, but her boyfriend --

2 MR. GRIFFIN: Objection, your Honor. Hearsay as
3 to what the mother said.

4 THE COURT: Sustain the objection.

5 BY MR. WAGNER:

6 Q Was there any actual footage of what happened?

7 A No. The service had been terminated for several
8 months, so there was no video available.

9 Q So did that take a while to find all that out?

10 A Yes, it took a while.

11 Q Back to State's Exhibit 3. Is this your exact
12 notes that you took on the night of the 7th --
13 July 8th --

14 A Yes, that's my --

15 Q -- but actually by the time this was done, when
16 this thing was taken, it had actually rolled into the
17 9th?

18 A That's right. Those are my exact notes.

19 Q Are they still in the exact same condition as they
20 were and have been in your file ever since?

21 A They are.

22 Q What did the defendant tell you the second time
23 you talked to him when you confronted him with new
24 information that you found out?

25 A Right. Well, we told him, you know, we knew about

1 the text messages so we knew about why Hakeem had come
2 over. And he wasn't stabbed twice, he was stabbed 11
3 times, and it just didn't seem to add up. And he said,
4 well -- and he admitted he wasn't telling us the truth
5 the first go-round.

6 And I'll read my notes for you. It says, "Quay
7 has bought guns from Hakeem before, but those other
8 guns were not for Quay. Quay contacted Hakeem about
9 buying marijuana and the gun. The gun was for someone
10 else, not Quay. Quay had not intended or planned --
11 I'm sorry. Quay had intended or planned on getting the
12 gun and weed and running without paying him. Hakeem
13 caught Quay trying to steal the gun and weed, gave him
14 the 'What the fuck?' Look." I put that in quotes
15 because that's what he was saying, that's what he told
16 me. "Quay decided to stab Hakeem twice in the
17 shoulder. Didn't mean to hurt him bad, just enough to
18 let Quay run away. When Hakeem got to the house" --
19 and this is where I made him start from the very
20 beginning again and tell me. Says, "When Hakeem got to
21 the house, Quay went to the car, got the gun, took it
22 to the back of the house, fired it, fired the gun
23 toward the ground at the corner of the house while he
24 was standing at the corner of the house by the
25 driveway, walked back to the car, told Hakeem that he

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1 would go into the house to get the money." And you see
2 the side, there's a little side note there.

3 Q Are you talking about here?

4 A Yeah. "Quay asked -- Quay told me he asked a lot
5 of questions about the gun, how the gun worked, before
6 he test fired it and after he test fired it. So he
7 gave the gun back to Hakeem, and he told Hakeem that he
8 would go back into the house and get the money. He
9 gave Hakeem the gun before he went back into the house.
10 Quay went into the house, got the knife from the
11 kitchen because he did not want to hurt Hakeem with a
12 gun because a gun can do all kinds of damage." That's
13 what he specifically said. "He went back out to the
14 car. The weed and gun was on Hakeem's lap."

15 It's the next page. Quay walked to the passenger
16 side of the car. The door was already open. Hakeem
17 looked away from Quay toward the neighbor's house.
18 When Hakeem looked away, Quay leaned into the car and
19 was going to grab the gun and weed, but Hakeem looked
20 back at him and caught him and gave him 'What the
21 fuck?' Look. And Quay said that he thought that he was
22 caught.

23 Quay said from that moment, everything was an
24 adrenaline rush. Quay said he thought he stabbed
25 Hakeem only twice. He didn't mean to hurt him bad.

1 After he stabbed Hakeem, he ran away towards the
2 neighbors on the left of their woods, laid down and
3 watched the house. He stayed in the woods until he
4 started talking with or met up with Philip Robertson.
5 "Mr. Philip" he calls him. He doesn't know where the
6 knife fell to the ground at. He says the knife was
7 like the one Michael Myers used in the movie *Halloween*
8 with a black handle. Quay says he didn't use his full
9 force of strength when he stabbed Hakeem because he
10 didn't want the blade to penetrate deep. Quay states
11 he wishes he could take it all back.

12 Q Is that exactly what he told you the second time
13 ya'll talked to him that night?

14 A Yes.

15 Q Who was present with him?

16 A Captain Greg Reed was present in the room with me.

17 Q When you asked him to put it down in a second
18 written statement, he said he was tired?

19 A Right.

20 Q But he signed here basically adopting your notes
21 as his statement?

22 A Right.

23 Q And at that point in time did y'all cease talking
24 to him?

25 A Yes. Well, we told him he was under arrest and

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1 going to be charged and he said he understood.

2 Q With what he told you in the second statement, did
3 it corroborate what you already knew about the case and
4 found out?

5 A Yes. That's when Hakeem -- what Hakeem had said
6 and what Laquavius was saying matched pretty much exact
7 the same, so we knew that that was -- we were at the
8 root of the truth behind what happened.

9 Q Later on that next morning did you go obtain
10 warrants we're here for today for attempted murder and
11 possession of a knife during commission of a violent
12 crime?

13 A That same morning. Once we told him we were under
14 arrest, I typed the affidavits up, and we called Judge
15 Blake Norton out at -- I guess it was probably 2:30 in
16 the morning, maybe 3 o'clock in the morning, and went
17 ahead and got those warrants and went ahead and served
18 them on him that same morning. That same morning, it
19 was probably 2:30 or 3 o'clock in the morning when we
20 served him with those warrants.

21 Q Did you look for the knife?

22 A We did. We went back out and tried to look in the
23 area he said he laid. I took a metal detector out
24 there, and we also took one of the dogs of the
25 sheriff's office, a cadaver dog. We thought maybe it

1 would pick up on the blood left behind on the knife but
2 we couldn't find it.

3 Q Did you do any other type of forensic test?

4 A We sent the gun off for fingerprints. None came
5 back on it. And we did GSR on both Laquavius' hands.
6 The gunshot residue kit, we did it on both Laquavius'
7 and Hakeem's and it was negative results on both.

8 Q Is it common -- what's a GSR?

9 A A gunshot residue kit where you can tell --
10 hopefully it will pick up gunshot residue that's left
11 behind when someone fires a gun.

12 Q Is it common for those kind of tests to come back
13 negative?

14 A It is. It's common especially for a small caliber
15 weapon as a semiautomatic, it's common for them to not
16 come back showing any gunshot residue.

17 MR. WAGNER: Your Honor, at this time we would
18 move to admit, if they're not already in, State's
19 Exhibits 1, 2 and 3.

20 THE COURT: All right. Let's have the lights,
21 please.

22 All right. Plaintiffs -- or State's Exhibits 1, 2
23 and 3 will be admitted.

24 (WHEREUPON, State's Exhibit Numbers 1 through 3
25 were admitted into evidence.)

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1 THE COURT: Mr. Foreman, ladies and gentlemen of
2 the jury, there has been admitted into the record in
3 this case statements allegedly to have been made by the
4 defendant. Before you may consider these statements as
5 evidence for any purpose, you must determine four
6 questions.

7 First, did the defendant make the statement.
8 Second, was the defendant warned of his constitutional
9 rights. Third, did the defendant knowingly and
10 intelligently waive his constitutional rights. And
11 fourth, was the statement given voluntarily.

12 The fact that the Court has admitted a statement
13 into evidence should not be considered by you as any
14 evidence whatsoever that the defendant actually made
15 such a statement or that the required constitutional
16 safeguards were, in fact, provided and waived by the
17 defendant or that the statement was voluntarily given
18 because these issues are for you to determine. The
19 State must prove beyond a reasonable doubt each of
20 those four requirements I have just stated to you
21 before you may consider the statement as evidence for
22 any purpose whatsoever.

23 I'll more thoroughly charge you on the record, but
24 at this time understand that, although it has been
25 admitted, it is -- into evidence, the fact of whether

1 or not it is in fact what it says to be and whether
2 it's an accurate statement in accord with the
3 constitutional rights, that is for you to determine and
4 the State must prove beyond a reasonable doubt that
5 those matters were resolved.

6 All right. You may proceed.

7 BY MR. WAGNER:

8 Q One last question, Sergeant Tinsley. Why didn't
9 you charge the victim with anything?

10 A I honestly didn't think it was the right thing to
11 do. He had been stabbed 11 times. I felt like both
12 he, Hakeem, and Laquavius were equal participants in
13 the buying of that little bit of marijuana and that
14 gun. I didn't think it was the right thing to do
15 considering the circumstances of what happened to him.
16 He didn't deserve to be stabbed 11 times no matter what
17 he did. That's why I didn't think it was the right
18 thing to do, so I didn't charge him.

19 Q That's all the questions I have. Thank you,
20 ma'am.

21 THE COURT: Cross-examination.

22 CROSS-EXAMINATION

23 BY MR. GRIFFIN:

24 Q You testified that you thought Hakeem and
25 Laquavius were equal participants?

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1 A Yes.

2 Q Yes? Okay. You started this questioning right
3 around 5:48; is that correct, on July 8th?

4 A Right, uh-huh.

5 Q All right. He gave the first statement that you
6 alluded to soon thereafter?

7 A Yes. He started his written statement, the
8 voluntary statement, first written statement at
9 6:14 p.m.

10 Q Okay. And then the last one terminated right
11 around 2 o'clock in the morning the next day?

12 A Uh-huh.

13 Q Say "yes" or "no."

14 A Yes.

15 Q And that's approximately eight hours?

16 A It is.

17 Q Okay. And on the last statement that he gave, he
18 just, according to what you stated, that he just signed
19 the last page of the notes?

20 A He did.

21 Q This notepad doesn't contain any waivers as the
22 first one did, does it?

23 A No.

24 Q Okay. And you stated that the defendant said that
25 he was too tired to write another statement?

1 A Said he just didn't feel like it. Yep, said he
2 was tired and just didn't feel like it.

3 Q All right. And was his mother present during any
4 of this questioning?

5 A No.

6 Q Was he 16 years old?

7 A No, she didn't have to be.

8 Q But Laquavius, he was 16 years old?

9 A He was.

10 Q Okay. And you said in his second statement that
11 he just gave the gun back to Hakeem?

12 A Yes.

13 Q And that I believe in the statement he said one or
14 both of them shot the gun at some point?

15 A He said he did.

16 Q But you couldn't -- that's in that second
17 statement?

18 A Yes.

19 Q But there was no gunshot residue found on him?

20 A That's right.

21 Q Excuse me. I need a drink of water.

22 And how many officers were present during the
23 questioning while he was at the law enforcement center
24 there?

25 A The second one or first one?

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1 Q Both of them.

2 A Just the first one was me and Philip Robertson.

3 The second one was me and Greg Reed.

4 Q Okay. So there were at least three officers --

5 A No, there were two officers at one time.

6 Q Okay.

7 A Greg didn't sit in on the first one, and Philip
8 didn't sit in on the second one.

9 Q Over the course of the night, there were three
10 officers, you were present, and during the course of
11 the night at least two others were present?

12 A Just temporarily for Philip to be relieved by
13 Greg. Greg said for him to go on home.

14 Q Okay. Did anybody ever find the marijuana?

15 A No.

16 Q And did you run a check on the .25 auto to see if
17 it came back legitimate?

18 A We did. It didn't come back stolen.

19 Q And did Mr. -- did you ever speak to Mr. Kirkland?

20 A I did.

21 Q Did you ask him why he bought the pistol?

22 A After he got out of the hospital, he come up to
23 the sheriff's office, and I interviewed him there.

24 Q What did he say the reason for buying the pistol
25 was?

1 A Well, he wasn't buying the pistol. He was selling
2 it.

3 Q Okay. Did you ask how he came into contact,
4 possession of it?

5 A No. At his age he could -- and he wasn't a
6 convicted felon -- he could have that gun lawfully, so,
7 no, I didn't inquire.

8 Q Okay. And Mr. Cleveland, he was arrested after he
9 gave this second statement?

10 A Yes.

11 Q You had already taken him into formal custody at
12 that point?

13 A Uh-huh.

14 Q All right. During this whole -- and you spoke to
15 his mother at various points during the day and night,
16 the next day?

17 A Uh-huh.

18 Q You have to say "yes" or "no." The court
19 reporter --

20 A Yes. Yes.

21 Q Do you recall his mother ever trying to call you
22 up during the -- between the times he was being
23 questioned?

24 A Not that I'm aware of.

25 Q Okay. And where was Laquavius taken after he was

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1 formally arrested?

2 A He was taken to DJJ. At the time he was 16,
3 couldn't be housed at our jail, so he was taken down to
4 DJJ.

5 Q Department of Juvenile Justice?

6 A Yeah, Department of Juvenile Justice.

7 Q How long did he stay there?

8 A I'm not sure. I don't remember.

9 Q Was he held in the detention center?

10 A Yes. Judge Norton had given him a no bond because
11 I charged him as an adult. And this type of charge,
12 the magistrates don't issue a bond, so they had given
13 him no bond, so he stayed there until his bond hearing.

14 Q All right. Do you know when he was ever -- ever
15 had contact with an attorney?

16 A I don't know.

17 MR. GRIFFIN: That's all I have of this witness,
18 your Honor.

19 THE COURT: Re-exam.

20 REDIRECT EXAMINATION

21 BY MR. WAGNER:

22 Q Did the defendant have any defensive wounds on
23 him?

24 A No, he didn't have any injury whatsoever.

25 Q I think that's all the questions I have.

1 THE COURT: All right. You may step down.

2 MR. WAGNER: One more brief one, I think, Judge.

3 THE COURT: Very good.

4 MR. WAGNER: Call Captain Reed.

5 GREG REED,

6 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

7 THE COURT: If you would, please, sir, give us
8 your full name for the record, spelling your last name.

9 THE WITNESS: Greg Reed, R-e-e-d.

10 THE COURT: Thank you, sir.

11 DIRECT EXAMINATION

12 BY MR. WAGNER:

13 Q Captain Reed, who do you work for?

14 A Ocone County Sheriff's Office.

15 Q How long have you been working for the sheriff's
16 office?

17 A 29-plus years.

18 Q What are your current job duties there?

19 A I'm captain over criminal investigation, evidence,
20 also the three divisions that fall under the umbrella
21 of community services. I'm a captain and commander of
22 the SWAT entry team and also a diver on the sheriff's
23 underwater evidence recovery team.

24 Q Were you working as captain over investigations
25 back on July 8, 2013?

State v. Laquavius T. Cleveland 2013-GS-37-1043, 1044
Greg Reed - Direct Exam by Mr. Wagner

1 A Yes, I was.

2 Q Did you hear about the stabbing on Mill Hill and
3 what did you do?

4 A Once I heard about the stabbing there on the Hill,
5 Mandy or Sergeant Tinsley was already en route. I
6 proceeded that direction. I also talked with Sergeant
7 McMahan and Freestate, told them to go to where the
8 victim was, Mr. Kirkland, down Shiloh Road. I went to
9 the actual crime scene on Brown's Creek on Utica Mill
10 Hill.

11 Q And what did you do there? What was your
12 involvement there until you got back to the sheriff's
13 office later that evening?

14 A Actually, just looking and observing the scene,
15 seeing if we can find anything with any evidentiary
16 value, which we did find some blood droplets there on
17 the ground.

18 Q Was there a lot of blood in the car?

19 A There was a lot of blood in the car, and there was
20 just a few droplets on the ground.

21 Q Was that consistent with this stabbing taking
22 place with the victim being in the car?

23 A Yes. That's very consistent, yes.

24 Q At some point in time later that evening did you
25 end up heading back to the sheriff's department?

1 A Yes, I did. Later in the evening I had spoken
2 with McMahan and Freestate down at Greenville, and I
3 actually went back to the sheriff's office, was going
4 to go ahead and let the uniformed officer, Robertson,
5 go ahead and go to the house.

6 Q Did you talk with Sergeant Tinsley from your
7 vehicle?

8 A Yes, I did.

9 Q What did you ask her in regards to food?

10 A I asked Sergeant Tinsley if she or any of the
11 others up there wanted anything to eat. I knew it had
12 been a while, and I had been on the crime scene down
13 there, at which time she asked everyone. Philip didn't
14 want anything, Philip Robertson. The defendant,
15 Cleveland, didn't want anything but a glass of tea.
16 Sergeant Tinsley asked for a glass of tea, which I
17 brought two teas.

18 Q Approximately what time do you think you arrived
19 back at the sheriff's office?

20 A I don't know. Probably between 7:30 and 8:00,
21 somewhere in there.

22 Q Okay. And where was Sergeant Tinsley and where
23 was the defendant during that time frame?

24 A While I was at the crime scene?

25 Q When you got back.

State v. Laquavius T. Cleveland 2013-GS-37-1043, 1044
Greg Reed - Direct Exam by Mr. Wagner

1 A When I got back, if I remember correctly, they was
2 sitting, watching TV.

3 Q That went on, like they watched TV for a while?

4 A Actually, it wasn't much longer than that. I
5 actually think at that time I had spoken with the
6 defendant's mother about getting the ADT surveillance,
7 which I learned there was no surveillance. It had been
8 discontinued approximately two months before. And I
9 heard back from Greenville Hospital or from my
10 investigators at the hospital and found out that after
11 reading the statement that he had already written out
12 to Sergeant Tinsley, that the stuff in the statement
13 didn't match the crime scene or what we had learned at
14 the hospital at all. So at that time we decided to go
15 back in and go ahead and interview him again.

16 Q By that time was it after midnight?

17 A Oh, I'm sure it was, yes.

18 Q Let me show you what has been marked State's
19 Exhibit 3. Do you recognize that?

20 A Yes, I do.

21 Q Okay. What is that?

22 A Of course this is the handwritten note from
23 Sergeant Tinsley during the interview, and on back is
24 signed by the Defendant Cleveland and myself, witness.

25 Q Was Sergeant Tinsley taking those notes as the

1 defendant was talking to y'all the second time?

2 A That's correct.

3 Q Was she writing down what he said?

4 A That is correct.

5 Q Was all that done in your presence?

6 A Yes, it was.

7 Q Did she read his notes back to him in your
8 presence?

9 A Yes, she did.

10 Q Her notes, excuse me.

11 Did he say that's what his statement was?

12 A Yes, he agreed with the notes, and that's when he
13 signed it.

14 Q Were ya'll able to -- did anybody mention about
15 him putting those notes, putting that in a second
16 statement form as far as a written statement?

17 A Yes. He was asked if he would go ahead and write
18 this out in a statement, and he declined, saying he was
19 just tired, needing to get some rest, something to that
20 effect.

21 Q So at that point in time he signed the notes and
22 adopted them as his statement?

23 A That's correct.

24 Q Did y'all at any time ever promise him anything or
25 threaten him in any manner?

State v. Laquavius T. Cleveland 2013-GS-37-1043, 1044
Greg Reed - Cross-Exam by Mr. Griffin

1 A No, we did not.

2 Q Did you try to coerce him into giving a statement?

3 A No, we did not.

4 Q Did he ever ask for an attorney?

5 A No, he did not.

6 Q Did he ever ask to stop talking to you?

7 A No, he did not.

8 Q If he had, what would y'all have done?

9 A The interview would have ceased right then.

10 Q With what he told you in that second statement,
11 are you convinced that he gave you that statement out
12 of his own free will?

13 A Oh, most certainly.

14 Q And voluntarily?

15 A Yes.

16 Q Thanks, Captain. That's all the questions I have.

17 THE COURT: Cross-examine.

18 CROSS-EXAMINATION

19 BY MR. GRIFFIN:

20 Q This line of questioning lasted approximately
21 eight hours; is that correct?

22 A Well, to my recollection, I think the first
23 interview lasted for approximately an hour, hour and a
24 half, and then the second interview started at 1:15 and
25 was over at 1:58.

1 Q He was at the sheriff's office eight hours?

2 A Yes, sir, that's correct.

3 Q Okay. Do y'all normally hold suspects that long
4 for questioning?

5 A It determines on the circumstances.

6 Q Was this an unusual circumstance?

7 A No, sir. We actually was waiting on some type of
8 information to get in to where we actually could do the
9 questioning. We didn't know what to ask once we got
10 into the interview. The more you know, the better off
11 you are in the interview.

12 Q Okay. Was he free to leave at any point?

13 A Yes, sir. He could have left any time he wanted.

14 Q Did y'all tell him that?

15 A I don't know that he was ever told that. He was
16 never behind a -- we never kept him behind a locked
17 door. I mean, he actually sat for several hours
18 watching TV with Sergeant Tinsley and Mr. Robertson.

19 Q Okay. And did you ever have any discussions with
20 his mother about whether or not Mr. Kirkland was going
21 to be charged?

22 A I actually talked to her two times. The first
23 time that I spoke with her, she was at work. I had a
24 patrol officer go down, Officer McKee, to get her to
25 call this ADT so we can get them online to find out

State v. Laquavius T. Cleveland 2013-GS-37-1043, 1044
Greg Reed - Cross-Exam by Mr. Griffin

1 about the footage from the security cameras. That took
2 quite a while because we ended up having to wait on her
3 to take a break. Once she did, she got ADT on the
4 phone, and that service had not been active for
5 approximately two months or better.

6 The second time I talked to her was later in the
7 evening. I did allow the Defendant Cleveland to call
8 his mother from the sheriff's office, and I got her on
9 the phone.

10 Q What time did you get him to call his mother?

11 A I don't recall. It was after -- it was after --
12 after and yet before he was transported to DJJ.

13 Q It was after the statements were allegedly taken
14 but before he was transported?

15 A That is correct.

16 Q Okay. But did you ever tell her you were going to
17 arrest Mr. Kirkland on any of these charges -- any of
18 these occurrences?

19 A The second time that I spoke with her, I told her
20 that he had been charged and he was going to be allowed
21 to speak with her.

22 Q I mean Mr. Kirkland, not Mr. Cleveland.

23 A Do what now?

24 Q Mr. Hakeem Kirkland, did you ever tell his mother
25 that you were going to arrest him for his involvement

1 in this situation?

2 A That I was going to arrest Mr. Kirkland?

3 Q Yes.

4 A Did I tell who? I told no one that I would be,
5 no.

6 Q You didn't tell his mother that?

7 A No. Absolutely not.

8 Q All right.

9 MR. GRIFFIN: That's all I have, your Honor.

10 THE COURT: Redirect?

11 MR. WAGNER: Nothing further, your Honor.

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

13 MR. WAGNER: I need a second to look at these
14 exhibits and confirm.

15 THE COURT: Certainly.

16 MR. WAGNER: Your Honor, at this time the State
17 rests.

18 THE COURT: All right. Mr. Foreman, ladies and
19 gentlemen of the jury, the State has rested its case.
20 In other words, they have completed their
21 case-in-chief. I still need to take up some things
22 with the attorneys. I'm going to suggest that you go
23 back to the jury room and wait for a few minutes until
24 I find out exactly how we're going to proceed. And
25 then I'll either ask you to come back or excuse you for

STATE OF SOUTH CAROLINA
COUNTY OF OCONEE

IN THE COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA,)
)
 PLAINTIFF,)
)
 -VS-)
)
 LAQUAVIUS T. CLEVELAND,)
)
 DEFENDANT.)
 _____)

2013-GS-37-01043 - 01044

TRANSCRIPT OF RECORD

JULY 24, 2014
WALHALLA, SOUTH CAROLINA

BEFORE:

THE HONORABLE ALEXANDER S. MACAULAY

APPEARANCES:

ATTORNEYS FOR PLAINTIFF:

LINDSEY SIMMONS, ASSISTANT SOLICITOR
DAVID WAGNER, ASSISTANT SOLICITOR

ATTORNEY FOR DEFENDANT:

CHARLES GRIFFIN, ESQUIRE

SUSAN W. HUDGINS
CIRCUIT COURT REPORTER

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(No exhibits were marked during this portion of the trial)

1 Thursday, July 24, 2014:

2 **THE COURT:** Take your seats, please. We're back on the
3 case of State of South Carolina versus Laquavius Tyshawn
4 Cleveland. Is the State ready to proceed?

5 **MR. WAGNER:** Yes, sir.

6 **THE COURT:** Defense ready to proceed?

7 **MR. GRIFFIN:** Yes, Your Honor.

8 **THE COURT:** All right. First of all, Mr. Cleveland, if
9 you would, please stand. You understand that you're still
10 under oath from yesterday when I inquired about whether or
11 not you wished to testify or not?

12 **MR. CLEVELAND:** Yes, sir.

13 **THE COURT:** Have you had an opportunity to discuss this
14 matter with your attorney?

15 **MR. CLEVELAND:** Yes, sir. And I would not like to
16 testify.

17 **THE COURT:** But you've decided not to testify?

18 **MR. CLEVELAND:** Yes, sir.

19 **THE COURT:** Now were you satisfied with the advice that
20 your attorney gave you?

21 **MR. CLEVELAND:** Yes, sir.

22 **THE COURT:** All right. Do you wish to talk to your
23 lawyer anymore at this time about this -- that matter?

24 **MR. CLEVELAND:** Oh, no, sir.

25 **THE COURT:** All right. And you do not wish to testify

YASHICA CLEVELAND - DIRECT EXAMINATION BY MR. GRIFFIN

1 **THE COURT:** All right.

2 **MR. GRIFFIN:** --- the Defendant's mother.

3 **THE COURT:** Very good. All right. Ask the jury to
4 join us, please.

5 (Whereupon the jury entered the courtroom at 10:55 am)

6 **THE COURT:** All right. Let the record reflect that the
7 jury and alternates are in the jury box. Mr. Foreman,
8 ladies and gentlemen of the jury, as you know, the State
9 closed its case yesterday. And we will go forward now with
10 the Defense case. I recognize Mr. Griffin for his witness.

11 MR. GRIFFIN: I'd call Yashica Cleveland.

12 **Yashica Cleveland**, being
13 duly sworn testified as follows;

14 **THE COURT:** If you would, please, ma'am, give us your
15 full name for the record, spelling your last name.

16 MS. CLEVELAND: Yashica Nicole Cleveland, C-l-e-v-e-l-
17 a-n-d.

18 **THE COURT:** Very good. Thank you, ma'am.

19 Direct Examination by Mr. Griffin:

20 Q. All right. Ms. Cleveland, I believe you're the
21 Defendant here, Laquavius' mother?

22 A. Yes, sir.

23 Q. And you recall the afternoon/evening of July 8th, 2013,
24 last year?

25 A. Like what time? Any time?

YASHICA CLEVELAND - DIRECT EXAMINATION BY MR. GRIFFIN

7

1 Q. Any time in the afternoon ---

2 A. I just got a call from my sister.

3 Q. Okay. And where were you during this period?

4 A. I was at work.

5 Q. All right. And did you learn that Laquavius had been
6 taken to the law enforcement center here in Oconee?

7 A. No, sir.

8 Q. Did you ever know that?

9 A. No, ---

10 Q. Did you ever find that out?

11 A. No, sir.

12 Q. Did you ever call -- did you ever call down there to
13 find out if he was down there?

14 A. I called the sheriff's department. Personal assistant
15 told me he was at the Oconee Law Enforcement. They said
16 that's where they was going to take him. Called down there
17 and nobody said he was down there, call the sheriff's
18 department. Called the sheriff's department dispatch ---

19 Q. Slow down, please.

20 **THE COURT:** I would suggest that maybe you stand
21 somewhere -- and it'll also help you to speak up a little
22 bit so that the court reporter can get your testimony, but
23 so that the jury can see the witness. Very good. Thank
24 you, Mr. Griffin.

25 Q. Did you learn that -- you had heard that Laquavius had

YASHICA CLEVELAND - CROSS EXAMINATION BY MR. WAGNER

8

1 been taken down there by some third party, correct?

2 A. Yes, sir.

3 Q. Okay. And did you call down there to find out?

4 A. Yes, sir. I called the Oconee Police Department and I
5 called the sheriff's department. And nobody said they had
6 seen Laquavius there.

7 Q. Okay. And did you call all through the evening?

8 A. Yes, sir, I did.

9 Q. All right. And I don't think you were able to speak
10 with him until the wee hours of the morning?

11 A. Yes, sir, between the hours of two and three in the
12 morning.

13 Q. Okay. That's when you finally heard from him?

14 A. Yes, sir.

15 Q. Okay. And at that point you realized he'd been
16 arrested?

17 A. No, I -- yeah, ---

18 Q. You found out ---

19 A. Yes, sir, between two and three in the morning I found
20 out he was -- had been arrested.

21 Q. Okay. That was on the -- that's all I have.

22 **THE COURT:** Cross exam.

23 **Cross Examination by Mr. Wagner:**

24 Q. Ms. Cleveland, you were convicted back in 2005 with
25 possession of crack cocaine, is that correct?

YASHICA CLEVELAND - CROSS EXAMINATION BY MR. WAGNER

9

1 A. Um-hum (affirmative).

2 Q. Okay. And again in 2005 of possession of crack
3 cocaine?

4 A. Um-hum (affirmative).

5 Q. Another drug charge in 2007?

6 A. Um-hum (affirmative).

7 Q. Unlawful neglect of a child in 2009?

8 A. Um-hum (affirmative).

9 Q. Second count of unlawful neglect of a child in 2009?

10 A. Um-hum (affirmative).

11 Q. And again the same charge in 2010?

12 A. Um-hum (affirmative).

13 Q. And on this day you were at work the whole time,
14 correct?

15 A. Yes, sir.

16 Q. Okay. So you -- so you weren't there when the victim
17 came over to the house where Quay was?

18 A. No, sir. I have been there when he came over there.

19 Some days I was ---

20 Q. I know. But you had left, I mean, he -- on the day in
21 particular when he was texting back and forth with his
22 cousin, ---

23 A. Um-hum (affirmative).

24 Q. --- the victim, -- I'm trying to get the thing up here
25 where we can see it. If you'll remember yesterday, this was

YASHICA CLEVELAND - CROSS EXAMINATION BY MR. WAGNER

10

1 the victim up here talking.

2 A. Um-hum (affirmative).

3 Q. And then Quay said, ma's here, and okay, that's cool,
4 and you can't meet me nowhere. Because he was wanting -- he
5 didn't want you there when this stuff was going on, right?

6 I mean, if he was saying you were there, that was sometime
7 right around three something before you left for work.

8 A. I leave every day for work at 3:30.

9 Q. Okay. So you had left. And they were texting each
10 other back and forth. And he was saying, ma's here, can you
11 meet me somewhere else? But then you left at 3:30.

12 A. I guess. I don't know, I mean, just by doing that, I
13 guess, I wasn't, I mean, I don't go through his phone.

14 Q. Okay. But you weren't there when the victim came over
15 to the house ---

16 A. Uh-uh (negative).

17 Q. --- and all this transpired?

18 A. Uh-uh (negative).

19 Q. Okay. And you'd gone to work. And you work til when?

20 A. I work from four to twelve every day, but you've got to
21 be on your machine fifteen minutes early.

22 Q. Okay. Do you remember talking to Phillip Robertson?

23 A. No, I don't remember ---

24 Q. From the sheriff's office?

25 A. No, sir, I don't remember.

YASHICA CLEVELAND - CROSS EXAMINATION BY MR. WAGNER

11

1 Q. Okay. Do you remember talking to Ms. ---

2 A. Yes.

3 Q. --- Tinsley?

4 A. She came on my break to do the polygraph test, sign for
5 the polygraph test.

6 Q. Do you remember talking to Anita McKee?

7 A. I know it was her and another guy come on for the -- to
8 sign for the paper for the polygraph test.

9 Q. All right. I guess my question is the sheriff's office
10 did call you? I mean, you did know that Quay was up at the
11 sheriff's office?

12 A. No, nobody told me Quay was at the sheriff's office.
13 They said Quay was still at my house. Nobody told me Quay
14 went to no sheriff's office and nobody -- the sheriff took
15 him to the sheriff's office.

16 Q. Okay. Do you remember talking to Greg Reed ---

17 A. As to -- between the hours two and three.

18 Q. Okay. But were you aware too that even though he's
19 sixteen, under the law they don't have to call you, and they
20 don't have to tell you that he could talk to them on his
21 own?

22 A. No, I didn't know that. I prefer that they call me and
23 let me know what's going on with my son.

24 Q. Okay. And but you do remember talking to people from
25 the sheriff's office that day?

YASHICA CLEVELAND - CROSS EXAMINATION BY MR. WAGNER

12

1 A. Like I said, with the signing paper to give them
2 permission to do the polygraph test, to take the lie
3 detector test. And it's between two and three because I was
4 looking -- I was calling everywhere looking for Quay up til
5 I found out where he was at.

6 Q. Okay.

7 A. 'Cause at the same time he was under house arrest
8 bracelet, and I'm in charge -- was in charge of Quay.

9 Q. Okay. No further questions, ma'am.

10 **MR. GRIFFIN:** That's all I have of this witness, Your
11 Honor.

12 **THE COURT:** Very well. You may step down. Thank you,
13 ma'am.

14 A. Um-hum (affirmative).

15 **THE COURT:** All right. You may call your next witness.

16 **MR. GRIFFIN:** That's all I have, Your Honor. The
17 Defense rests.

18 **THE COURT:** All right. Any reply?

19 **MR. WAGNER:** No, sir.

20 **THE COURT:** All right. Mr. Foreman, ladies and
21 gentlemen of the jury, a defendant has a Constitutional
22 right to remain silent and require the State to meet its
23 burden of proof beyond a reasonable doubt. The assertion of
24 the Constitutional right not to testify or present evidence
25 must not be considered by you in your deliberations.

CLOSING ARGUMENTS - MS. SIMMONS

27

1 mentioned earlier, both the State and the Defense has now
2 rested and that the -- we'll have final argument by the
3 State, and the Defense will argue and then the State will
4 close. And after that, of course, I'll give the charge on
5 the law in the case -- on these cases. All right.

6 I'll recognize now the Solicitor's Office for their
7 closing arguments.

8 **MS. SIMMONS:** Thank you, Your Honor. May it please the
9 Court.

10 **THE COURT:** Ms. Simmons.

11 **MS. SIMMONS:** Mr. Griffin. It's almost good afternoon,
12 ladies and gentlemen. We've reached now the point in the
13 trial where I'm going to have two opportunities to talk to
14 you. But the first time I will speak to you, we're just
15 going to discuss the law and how it applies in this case.
16 I'm going to discuss what you will be deliberating as far as
17 the charge the Judge will give you.

18 And Mr. Griffin's going to speak to you again on his
19 closing argument. And then I'll have an opportunity to come
20 back and speak to you as to the specific evidence you heard
21 in this case and why I believe the Defendant's guilty. But
22 for now we're just going to have a quick overview of the
23 law.

24 The Defendant in this case is charged with attempted
25 murder. And the Judge is going to explain this to you

CLOSING ARGUMENTS - MS. SIMMONS

28

1 further, but I want you to understand that attempted murder
2 is a person who with the intent to kill attempts to kill
3 another person with malice aforethought either express or
4 implied.

5 You brought your common sense with you. I think you
6 know what attempting to kill someone is and some of these
7 definitions. But intent and malice have specific legal
8 definitions.

9 Intent can be proved by four things in this case. Any
10 of these four would suffice. It's purpose, knowledge,
11 recklessness or criminal negligence. Knowledge being you
12 know what you're doing and you choose to do it. Purpose
13 being you -- an example, you took a knife and went to the
14 car with the purpose of hurting someone. Recklessness, you
15 understand the definition of this. And criminal negligence
16 can be acting with a deadly weapon in a negligent way that
17 harms someone. So there's four ways intent can be proven in
18 this case.

19 Malice can be either express or implied. You can
20 overtly say I want to kill you. That is -- that is express
21 malice. Implied malice can be -- you can imply malice from
22 the intent to kill, the infliction of serious bodily harm or
23 acting with a depraved heart. A depraved heart is basically
24 a simple indifference to human life and carelessness as to
25 what you were doing.

CLOSING ARGUMENTS - MS. SIMMONS

29

1 You can infer malice from the use of a deadly weapon.
2 The deadly weapon in this case would be the large knife that
3 was used. It can also be a wrongful act intentionally
4 without just cause or excuse. That would be that you acted
5 in a wrongful manner and you were not justified in doing so.

6 And then wrongful intent to injure another with a
7 wicked heart or a depraved spirit intent on doing wrong
8 meaning that you had ill-will in your heart and you intended
9 to cause great bodily harm to this person. There's a lot of
10 different ways intent and malice can be proven in this case.

11 We believe, the State believes that we have proved
12 intent and malice to you because the Defendant had to take
13 the affirmative steps of going into the house -- leaving the
14 car, going into the house, picking out a knife, coming back
15 to the car and then choosing to stab the victim not once,
16 but eleven times. Each time the knife was used and each
17 injury the knife caused, each of those were done with malice
18 and intent.

19 The Judge is going to charge you on some lesser
20 included offenses. While it's the State's position that
21 lesser included offenses do not apply in this case, I want
22 to briefly go over those with you.

23 The first lesser included you're going to hear is
24 assault and battery of a high and aggravated nature. That
25 is a great bodily injury to someone without the elements of

CLOSING ARGUMENTS - MS. SIMMONS

30

1 malice or intent, that you injured someone in a way that
2 could have -- was likely to cause death or great bodily
3 injury, but you didn't necessarily intend to kill them. So
4 it takes out one element from attempted murder when you drop
5 down to assault and battery of a high and aggravated nature.

6 Assault and battery, first degree, is the next lesser
7 included you're going to hear. And that is an offer or
8 attempt to injure someone that could have resulted in great
9 bodily injury.

10 In this case the State submits that that would not be
11 appropriate because this was not an offer or attempt to
12 injure someone with great bodily -- that would have produced
13 great bodily injury. This is an actual completed act that
14 the great bodily injury did occur. So there was no offer or
15 attempt, there was a completion.

16 The last lesser included you'll hear from the Judge
17 about is assault and battery in the second degree. And that
18 requires moderate bodily injury to have resulted. Moderate
19 bodily injury does not involve the risk of death or serious
20 injury to your body.

21 And it's the State's position that eleven stab wounds,
22 inflicted in the way they were, these were not nicks, these
23 were serious wounds that actually hit organs, that there is
24 no way that those wounds can be considered moderate bodily
25 injury. The only reasonable conclusion is that they're

CLOSING ARGUMENTS - MS. SIMMONS

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1 great bodily injuries.

2 If you chose to convict the Defendant of attempted
3 murder or assault and battery of a high and aggravated
4 nature, those first two charges I just discussed with you,
5 you will move on to the charge of possession of a weapon
6 during the commission of a violent crime.

7 Attempted murder and assault and battery of a high and
8 aggravated nature are determined by your Legislature under
9 the South Carolina law to be violent crimes. If you are
10 convicted of a violent crime, you can consider was the
11 violent crime committed while in the possession of a weapon.
12 Possession of a weapon in this case would be the knife that
13 was in -- that was used to inflict the great bodily injury.

14 The Judge is also going to charge you on lots of things
15 regarding the law. It's a lengthy charge. And I submit to
16 you, pay careful attention because it is complicated.

17 But one of the things he is going to also charge you on
18 is reasonable doubt. And reasonable doubt is the kind of
19 doubt that would cause a reasonable person to hesitate to
20 act. It is not beyond all doubt.

21 And I submit to you, the most important tool you
22 brought with you as jurors is your common sense. And if you
23 use your common sense while applying a reasonable doubt
24 standard, that is -- that is the standard that you should
25 use. Reasonable doubt is not beyond all doubt.

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1 The Judge is also going to tell you -- discuss with you
2 because there are some statements that were given in this
3 case, he's going to discuss with you voluntariness and the
4 elements you will have to go over while determining if the
5 statements that were given in the case were voluntary and
6 given as a result of a non-coercive environment.

7 I do want to remind you that there are no special
8 questioning requirements for juveniles in South Carolina.
9 Miranda warnings are the same whether you're sixteen or
10 sixty.

11 And the law in South Carolina is written that if you
12 are charged with attempted murder, the law presumes you were
13 an adult at the age of sixteen and treats you as an adult.
14 You should look at this case no differently based on the
15 Defendant's age.

16 There's no requirement that a parent has to be present
17 under the law when a sixteen year old is questioned by law
18 enforcement. There's not even a requirement that the parent
19 has to be present if the Defendant is fourteen.

20 So you have a lot to think about. And I'm going to get
21 a chance to talk to you -- come back and discuss the
22 evidence in this case. Keep in mind the elements of the
23 crime in this case as you hear both closing arguments. And
24 again, the Judge will charge you on the law at the end of
25 the case as well. I'll be back to talk to you in a few

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1 minutes. Thank you.

2 **THE COURT:** Mr. Griffin.

3 **MR. GRIFFIN:** May it please the Court. Again, my name
4 is Charles Griffin. I'm representing Mr. Cleveland here.

5 In the opening I told you there were a number of
6 discrepancies involved in this case. I think you heard them
7 on the -- when the 911 tape was played. It was about four
8 different versions by the victim of what occurred here.

9 It's unfortunate that Mr. Cleveland [sic] got injured
10 in this case. He went to the residence to sell marijuana
11 and a gun to a sixteen year old juvenile and apparently some
12 altercation occurred.

13 We're not quite clear what occurred. Based on the
14 statements of Mr. Kirkland, initially he didn't know who did
15 it, or what went on, or how it happened or things of that
16 nature. And later on it was I went over there to smoke some
17 weed and he jumped on me. A number of different
18 discrepancies in his version of events here.

19 But also Mr. Cleveland [sic], he never had been charged
20 with any crimes here. And he went to the house armed with a
21 deadly weapon, with marijuana apparently to engage in
22 whatever activity he was engaging in. And thereafter
23 something happened and he was injured.

24 And I believe Mr. Cleveland, I mean, Mr. Kirkland
25 basically was engaging in some behavior they had no business

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1 engaging in. And it's unfortunate that he was injured, but
2 one could say that they assumed the risk by engaging in
3 something going wrong, arguments occurring or whatnot
4 happened there, pretty unclear.

5 Mr. Cleveland, I believe he was held for about eight
6 hours, apparently gave -- the State has proffered some
7 statements that he gave. At the time he was a juvenile,
8 sixteen years old.

9 I believe Mr. Kirkland was somewhat older, an adult.
10 He had the presence of mind to put the pistol back in the
11 glove compartment, but never could come -- never could
12 figure out what happened to the marijuana he was riding
13 around with.

14 But, thereafter, Mr. -- the Defendant was subject to
15 eight hours of being held without counsel or his mother
16 present during questioning. I believe the Judge is going to
17 charge you that on juveniles that basically they're subject
18 -- to confessions --subject to the totality of the
19 circumstances to determine whether they're voluntary or not.

20 And the law is that special caution should be used when
21 assessing the voluntariness of juvenile confessions,
22 particularly when they're prolonged or repeated questioning
23 or when the interrogation occurs in the absence of a parent,
24 lawyer or other family adult and that the waiver must be
25 voluntary, product of free and deliberate choice rather than

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1 intimidation, coercion or exception. Lengthy interrogation
2 or incommunicado incarceration could be strong evidence of
3 coercion.

4 I believe there was some testimony by an officer that
5 Mr. Cleveland was tired, that the second statement wasn't
6 drafted, there's no statement -- signature that was
7 voluntary, he just signed some notes that were prepared by
8 the officer. And under the law you must find beyond a
9 reasonable doubt that the statement was given voluntarily.

10 The bottom line is he was held for eight hours and
11 until -- his mother wasn't called until he was already
12 arrested about 2:00 in the morning.

13 I believe also there's going to be some additional
14 lesser included offenses as the solicitor stated, assault
15 and battery high and aggravated nature, assault and battery,
16 first degree, assault and battery, second degree.

17 A while back the Legislature kind of changed the format
18 of assault and battery in this State. The lesser included
19 offenses are what can be additionally -- what can be found
20 by the jury instead of finding the more severe -- more
21 enhanced offense of attempted murder.

22 There's really no intent to kill here anybody as in the
23 statute and that Mr. Kirkland went over there with a pistol.
24 He said he bought pistols for protection. Selling pistols
25 -- apparently buying them to resell. I don't know if he was

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1 buying them for his protection or what was going on with it.

2 But what we have here is that this never would have
3 occurred if he hadn't gone over there with criminal
4 intentions in mind. And he has never been charged with
5 anything.

6 So also getting back to the lesser included offenses
7 that include -- one includes great bodily injury, meaning
8 bodily injury which causes substantial risk of death or
9 which causes serious permanent disfigurement or protracted
10 loss or impairment of the function of a bodily member or
11 organ.

12 We don't have any kind of permanent disfigurement or
13 protracted loss of any -- there's been no doctor to testify
14 as to whether or not he suffered any significant loss or
15 impairment of any functions of any bodily member or organ.

16 Moderate bodily injury means physical injury requiring
17 treatment to the organ system of the body other than skin,
18 muscles and connective tissues except where there is
19 penetration of the skin, muscles and connective tissues that
20 requires surgical repair of a complex nature when the
21 treatment of the injury requires the use of regional or
22 general anesthesia. Basically here Mr. Kirkland basically
23 had some wounds sewn up, basically just from what I could
24 tell that required some type of general regional anesthesia.

25 But those are the choices you will have when you get

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1 back to the jury room on these issues of the lesser included
2 offenses. And we would ask in mind that you carefully
3 consider and weigh what occurred here and especially who
4 instigated or how this -- how this whole situation arised.

5 It never would have occurred if this adult gentleman
6 had -- didn't go over there with a pistol and marijuana to
7 sell to a juvenile. It's unfortunate he got injured. Like
8 I said, there was some altercation occurred at some point
9 and that we would ask that you genuinely carefully consider
10 all of the elements of each offense.

11 And it's our contention that Mr. Cleveland -- Mr.
12 Cleveland is not guilty of the offense of attempted murder.
13 There was no intent to kill anybody here. And basically
14 given the circumstances surrounding this whole matter, he
15 should be found not guilty. Thank you.

16 **THE COURT:** Ms. Simmons.

17 **MS. SIMMONS:** Thank you, Your Honor. Ladies and
18 gentlemen, this is my final opportunity to speak with you.
19 Before I talk to you about the State's case I want to
20 address some issues that were brought forth by the Defense.

21 The Defense has made a lot of issue with this
22 juvenile's confession and Miranda. The Defendant didn't
23 need his mom to commit this crime. He actually made sure
24 she wasn't there on his text messages before he had the
25 victim come over.

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1 If you're grown up enough to stab another person eleven
2 times, you are grown up enough to talk with law enforcement
3 without your mother being present. You're grown up enough
4 to want to buy a gun and drugs, you are grown up enough to
5 meet with the police.

6 I would remind you under South Carolina law sixteen
7 years of age is an adult, and he's charged criminally as an
8 adult. Just because his biological age may be sixteen does
9 not mean that is how smart he is or how street smart he is
10 and that he understands the criminal justice system.

11 The biggest thing the Defense has done in this case is
12 what I call villainization of the victim. The victim in
13 this case told you he's only got a criminal history for
14 drinking under age.

15 He was only twenty-one years old when this crime was
16 committed against him. He could legally possess a gun then.
17 He was twenty-one. He was not thirty as the Defense
18 asserted to you in their opening statements.

19 And most importantly, the victim was not at the Wal-
20 Mart in Seneca trying to sell guns and marijuana to little
21 school children. He was going to the Defendant's house, who
22 was his relative, who had arranged for him to bring this gun
23 and this marijuana.

24 And Sergeant Tinsley, herself, told you charging the
25 victim in this case was not appropriate and wasn't the right

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1 thing to do. He is the victim in this case. He is not a
2 defendant and you should not treat him as such.

3 What kind of message would the sheriff's department
4 send if they said, oh, I'm sorry, you had a gun and drugs,
5 you deserved to be stabbed? That makes no sense at all. It
6 would discourage people from reporting illegal activity.
7 Just because the victim had a gun and drugs does not mean it
8 was okay for the Defendant to stab him not once, not twice,
9 but eleven times.

10 The Defense has also made some allusion to self-defense
11 in this case. There is not one smidgen of self-defense in
12 this matter. And the Judge is not going to charge you on
13 the issue of self-defense. And you should not even consider
14 self-defense.

15 The victim told you he never acted in an aggressive
16 manner towards the Defendant. The Defendant, Sergeant
17 Tinsley told you, had absolutely no defensive wounds. All
18 the victim's wounds were concentrated on the right side of
19 his body, which is consistent with being attacked from the
20 passenger's side of the car, coming from that side and
21 ending up in a defensive posture.

22 If you look at the wounds when you see the pictures,
23 you can see they start here and they kind of begin to move
24 up like if I was upright when I saw someone coming at me and
25 he gets me in the chest and the shoulder, but as I realize

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1 what's happening, I start to move in a defensive posture to
2 try to protect myself and get away.

3 You're going to notice the next wounds are a wound that
4 comes all the way through the arm like I'm trying to block
5 the knife. The knife went all the way through. Then they
6 start to move down my back and end up with the wounds in the
7 top of my head because I'm bent over trying to protect
8 myself. There is no evidence other than the fact that these
9 are defensive wounds by a man who was trying to protect
10 himself from what the Defendant, himself, described as a
11 knife like the one Michael Myers used in Halloween.

12 The Defense has also made an issue of this lengthy
13 interrogation that the Defendant had. The Defendant stayed
14 up all night playing video games with his buddy and then
15 slept til noon on the day this happened. So the point his
16 interrogation started, he had only been awake for six hours.
17 And arguably, he's used to being up all night because he
18 plays video games all night.

19 The long interrogation was based on the fact that law
20 enforcement was gathering their evidence, gathering their
21 information and trying to find out exactly what happened.
22 And the fact -- the Defendant went to the restroom, he had a
23 drink, they offered him food and he sat with Sergeant
24 Tinsley watching TV for a significant period of time while
25 they were waiting on additional evidence to be brought back

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1 to the sheriff's department.

2 This was not some oppressive police environment like
3 you see on TV where he was unmercifully questioned for eight
4 hours. He was not questioned for nearly the amount of time
5 he was actually in police custody. And you heard no
6 indication that threats or coercion were used to elicit this
7 confession from him.

8 Now I want to move on and talk about exactly what you
9 heard from the prosecution in this case. You heard the
10 victim's testimony in this case. And you heard what he said
11 from the witness stand. It's your job to determine if he
12 was credible and consistent.

13 I submit to you what he told you in the statement he
14 gave to law enforcement has been consistent this entire
15 time. And it's consistent with the evidence in this case
16 and his injuries. His testimony is clear and to the point
17 and honest.

18 The delay and the hesitation of reporting who did this
19 to him may not seem reasonable to a lot of people, but to
20 him it was reasonable. Number one, he had a gun and drugs.
21 And number two, this was his cousin. He couldn't fathom why
22 he would do it to him and he didn't really want to get him
23 in trouble. But he also tried to kill him. So he did come
24 -- he did give -- was forthcoming with who committed this
25 crime.

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1 You're going to have the text messages in the jury room
2 also. I want to remind you that the victim was not some
3 criminal mastermind in all of this. He was the one who was
4 solicited to bring the gun and the marijuana to the
5 Defendant's house. He did not start this.

6 This man is covered in wounds. They are clearly
7 defensive wounds. You also heard from Sergeant McMahan who
8 went to the hospital and talked to the victim and assessed
9 the wounds in this case. He took a lot of pictures. And
10 you're going to have those in the jury room with you.

11 And I want to show you exactly what I was talking about
12 when -- these are defensive wounds. You can see right here,
13 the wound is through the arm. And you can also see right
14 here, there is a chest wound. It's consistent with your
15 moving and you're -- and the injuries wrap around your body.

16 This is the arm where the knife goes all the way
17 through and comes out the other side. Then you flip over to
18 the victim's back and you're looking under the arm where it
19 would be exposed if you were trying to protect yourself.
20 Your back, your shoulder. And these wounds finish up
21 underneath your ear and in the top of your head. All these
22 things were documented by Sergeant McMahan.

23 You also heard from Sergeant Tinsley in this case. She
24 took two statements from the victim -- from the Defendant.
25 The first statement he told her there was some sort of

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1 altercation, I acted in self-defense, but then the evidence
2 didn't point to that. She went back and talked to him
3 again.

4 The second statement matches what evidence she had and
5 the victim's account. She told you she didn't threaten him,
6 she didn't intimidate him, she didn't raise her voice at
7 him. You observed her demeanor and credibility during the
8 course of this trial. And be the judge of it yourself.
9 Does she appear to be someone who would threaten and coerce
10 a confession from someone? I submit to you not.

11 When you look at the Defendant's second statement --
12 let's talk about what he said. I intended on claiming and
13 getting the gun and weed and money without paying him.
14 Hakeem caught Quay trying to steel the gun and weed and gave
15 him the what the fuck look. Quay decided to stab Hakeem. I
16 didn't mean to hurt him bad. Didn't mean to hurt him bad?
17 He stabbed him eleven times.

18 Then he gives a little more detail. He went to the
19 car. When he initially got there he got the gun and took it
20 to the back of the house and test fired it. Then he went
21 later and goes into the house, got a knife from the kitchen
22 and then went back to the car and stabbed the victim. While
23 he was looking away he began to stab him.

24 Everything was an adrenaline rush. And he thought he
25 stabbed him only twice. But then he ran away and hid in the

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1 woods. Ladies and gentlemen, the second statement is the
2 truth of what happened here with the exception of the fact
3 that he doesn't want to admit that he stabbed his cousin
4 eleven times.

5 You also heard from Captain Reed in this case. There
6 were no threats or intimidation from him to get the second
7 statement. He got the Defendant a drink. And he says he
8 would have immediately stopped questioning if he had wanted
9 an attorney.

10 You also heard the 911 call in this case. The 911 call
11 corroborates the evidence you've seen and the victim's
12 account. The victim does not sound like an aggressor in the
13 911 call. After some prompting he does tell what happened
14 and his cousin was involved. And he expresses concern
15 seeing this trial again.

16 This is not someone who went out that day intent on
17 engaging in reckless behavior that would have resulted in
18 the attempted murder. He is not a hardened criminal. You
19 had a chance to observe him throughout the course of this
20 trial and the 911 call.

21 You also heard from Cindy Blackwell. She doesn't have
22 a dog in this fight. She told you she was at her produce
23 stand, she'd got some nursing training and blood spurting
24 out of his head when he gets to her. There's blood
25 everywhere.

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1 I believe she also told you, thought he would die
2 before somebody got help. And then she told you it was a
3 life threatening event. Ladies and gentlemen, there's
4 nothing in this evidence that suggests anything other than
5 this is a great bodily injury and attempt to take someone's
6 life.

7 That was corroborated by Joe Anderson, who testified as
8 an expert in this case. He works for Oconee Medical Center.
9 He told you about the stab wounds, the blood, even tried to
10 get a life flight for this victim because the injuries were
11 so severe, needed to be in the trauma center within the
12 golden hour to save his life. It's clear that the Defendant
13 intended to kill Hakeem that day. There's no question that
14 there's great bodily injury here.

15 You were sworn by the Judge at the beginning of this
16 case to uphold the law. You can't judge the victim by his
17 lifestyle. Just because you may not understand the life in
18 which they live does not mean you can judge it. You only
19 apply the law as it is given to you. You were sworn to
20 apply the law.

21 No one deserves to be stabbed eleven times and left in
22 a bloody heap with an injured liver and a punctured lung.
23 Hakeem never threatens the victim -- the Defendant in this
24 case in any way, shape or form. He even told you, if he'd
25 needed money, I would have given it to him.

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1 I submit to you that selling a gun and a little bit of
2 marijuana is in a totally different league than trying to
3 kill someone. Selling a gun and having a little bit of
4 marijuana is like playing on a little league baseball team.

5 When you try to kill someone and commit attempted
6 murder, you're playing with the major league baseball team.
7 You cannot judge these people by those standards. This
8 Defendant chose to play on the major league baseball team.

9 Think about how much time and how much thought goes
10 into stabbing someone eleven times. The Defendant had to
11 walk to the house, look for a knife, get that knife, bring
12 it back out to the car and choose to stab Hakeem eleven
13 times. With every single swipe of the knife, each blow
14 could be fatal to Hakeem.

15 Eleven times. Let's think about it, one, two, three,
16 four, five, six, seven, eight, nine, ten, eleven. Malice
17 and intent with every single swipe of that knife and every
18 time that knife penetrated Hakeem's skin. Eleven stab
19 wounds, ladies and gentlemen.

20 There is only one verdict in this case. And it is
21 guilty of attempted murder and possession of a weapon during
22 the commission of a violent crime. Thank you.

23 **THE COURT:** Mr. Foreman, ladies and gentlemen of the
24 jury, as jurors in this case you have certain functions and
25 responsibilities to perform which are entirely separate and

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1 distinct from mine as the trial judge. I am prohibited by
2 the Constitution of our State from charging you on the facts
3 of this case. I am also prohibited from discussing the
4 facts of the case with you or in any way intimating what my
5 feelings, if any, are about the facts of this case.

6 It is your responsibility and yours alone to pass upon
7 all issues of fact presented in the case. I would therefore
8 charge you that if during the course of the trial or during
9 my charge you have been given or left with an impression or
10 feeling that I do have a personal feeling about the facts of
11 the case, I would specifically instruct you to disregard
12 that feeling or impression.

13 Moreover, you are the sole judges of what the testimony
14 -- and not the arguing of counsel. It is also your duty and
15 yours alone to weigh the testimony and evidence in the case
16 and to pass upon the credibility or believability of the
17 witnesses.

18 In this connection you have the right to believe all
19 that a witness tells you or disbelieve all that a witness
20 tells you. You have the right to believe a part of what a
21 witness tells you and disbelieve a part of what a witness
22 tells you. You have the right to take into consideration
23 any bias, prejudice or interest you feel a witness might
24 have in the case. I say this merely to emphasize that the
25 weight you see fit to give all the testimony, to the

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1 credibility of the witnesses as well as all the issues of
2 fact are for your sole determination.

3 As judges of the facts you are the sole judges of the
4 credibility, that is the believability of the witnesses who
5 have testified in this case. In passing upon their
6 credibility you may take into consideration many things,
7 such as the appearance and manner of the witness on the
8 stand, sometimes referred to as the demeanor of the witness.

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

18 As jurors you have the right to believe a small portion
19 of a witness' testimony and discard the larger or vice
20 versa. You may believe all of a witness' testimony or not.
21 Most certainly you do not determine the matter of
22 credibility or believability by counting up the number of
23 witnesses who may have testified on behalf of the parties.

24 Now, the rules of evidence ordinarily do not permit
25 witnesses to testify to opinions or conclusions. An

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1 exception to this rule exists for witnesses we call expert
2 witnesses. A witness, who by education and experience has
3 become expert in some art, science, profession or calling
4 may state an opinion as to a relevant or material matter in
5 which the witness claims to be an expert. They may also
6 state the reasons for the opinion.

7 You should consider any expert opinion received in
8 evidence in this case. And like any other evidence, give it
9 the weight you think it deserves. If you decide that the
10 opinion of an expert is not based on sufficient evidence, or
11 experience, or education or if you conclude that the reasons
12 given in support of the opinion are not sound or the opinion
13 is outweighed by other evidence, you may disregard the
14 opinion entirely.

15 An expert witness' testimony is to be given no greater
16 weight than any other witness simply because the witness is
17 an expert. Further, you're not required to accept an
18 expert's opinion even though it is not contradicted.
19 Throughout this entire process you have but one single
20 objective, and that is to seek the truth regardless of from
21 what witness the testimony may have come.

22 Now, by the same Constitution and law which makes you
23 the finders of the facts and evidence as I've discussed with
24 you, I am, as the Judge, made the sole and only instructor
25 in the law. You must accept as correct the law which I

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1 charge and apply to it the evidence as you find it and reach
2 your verdict.

3 If I should make an error in the law as I instruct it
4 to you, there's another time and place that error can be
5 considered, and if necessary, corrected. But for the
6 purpose of this case today, you must accept the law as I
7 charge it to you to be the correct law.

8 And finally I charge you in this regard, that you, nor
9 for that matter, I might -- should we be concerned with the
10 law -- what we think -- with what we think the law ought to
11 be, but rather what I charge you -- charge you the law is.

12 The Defendant has pled not guilty to this indictment.
13 And that plea puts the burden upon the State to prove the
14 Defendant guilty. A person charged with a criminal offense
15 in South Carolina is never required to prove himself
16 innocent.

17 I charge you that it is an important rule of law that
18 the Defendant in a criminal trial, no matter what the
19 seriousness of the charge may be, will always be presumed to
20 be innocent of the crime for which the indictment or
21 indictments were issued unless guilt has been proven by the
22 evidence satisfying you of the guilt beyond a reasonable
23 doubt. This presumption of innocence does not end when you
24 begin your deliberations, but it accompanies the Defendant
25 throughout the trial and until you reach a verdict of guilt

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1 based upon the evidence satisfying you of that guilt beyond
2 a reasonable doubt.

3 The presumption of innocence is like a robe of
4 righteousness placed about the shoulders of the Defendant
5 which remains with the Defendant until it has been stripped
6 from the Defendant by evidence satisfying you of the
7 Defendant's guilt beyond a reasonable doubt.

8 The presumption of innocence is not a mere legal
9 theory. It's not just a legal phrase. It is a substantial
10 right, which every defendant is entitled to unless you, the
11 jury, are satisfied from the evidence of the Defendant's
12 guilt beyond a reasonable doubt.

13 What is a reasonable doubt? A reasonable doubt is the
14 kind of doubt that would cause a reasonable person to
15 hesitate to act. I instruct you then and emphasize the fact
16 that the Defendant did not testify or put up evidence is not
17 a fact to be considered by you in any way in your
18 deliberation and in your consideration of the question of
19 whether the State has proven the Defendant is guilty or not
20 guilty of the charges in the indictments. It must not be
21 considered by you in any manner whatsoever.

22 A defendant has the Constitutional right to remain
23 silent. And that exercise -- and the exercise of this right
24 must not be considered by you in your deliberations. I
25 repeat, under your oath, you are to draw no conclusion

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1 whatsoever from the fact that the Defendant in this case did
2 not testify.

3 The fact that the Defendant did not testify should not
4 even be discussed in the jury room. The burden of proof as
5 I have stated to you is on the State. The Defendant is not
6 required to prove his innocence. The burden of proof
7 remains on the State to prove guilt beyond a reasonable
8 doubt.

9 There are two types of evidence which are to be --
10 which are generally presented during a trial, direct
11 evidence and circumstantial evidence. Direct evidence is
12 the testimony of a person who claims to have actual
13 knowledge of a fact such as an eyewitness. It is evidence
14 that immediately establishes the main fact to be proved and
15 does not require a deduction.

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

22 Crimes may be -- crimes may be proven by circumstantial
23 evidence. The law makes no distinction between the weight
24 or value to be given to either direct or circumstantial
25 evidence. However, to the extent the State relies on

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1 circumstantial evidence, all of the circumstances must be
2 consistent with each other and when taken together point
3 conclusively to the guilt of the accused beyond a reasonable
4 doubt. Circumstances merely portray the Defendant's
5 behavior as suspicious, the proof has failed.

6 The State has a burden of proving the Defendant guilty
7 beyond a reasonable doubt. This burden rests with the State
8 regardless of whether the State relies on direct evidence,
9 circumstantial evidence or some combination of the two.

10 You should weigh all the evidence in the case. After
11 weighing all of the evidence if you are not convinced of the
12 guilt of the Defendant beyond a reasonable doubt, you must
13 find the Defendant not guilty.

14 A statement allegedly to have been made by the
15 Defendant has been admitted into evidence in this case.
16 While the Court has determined that the statement is
17 admissible, I instruct you that you make the ultimate
18 decision on whether or not the Defendant even made the
19 statement.

20 If the statement -- if the Defendant did not make the
21 statement, you must determine, or excuse me, if the
22 Defendant did make the statement, you must determine whether
23 the statement was made by the Defendant voluntarily and of
24 his own free will. This means that the statement was not
25 caused by pressure, force, fear, threat, coercion or

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1 intimidation or by hope, or promises, leniency or a reward
2 of any kind.

3 In determining whether the statement was voluntary you
4 should consider both the characteristics of the Defendant
5 and the details of the questioning. Some of the factors
6 that you must consider are, one, the age of the Defendant,
7 the Defendant's education or lack of education, the
8 Defendant's mental ability or capacity, the Defendant's IQ
9 or intelligence, the Defendant's background and environment,
10 the place and length of detention, the nature of the
11 questioning and the advice or lack thereof to the Defendant
12 of his Constitutional rights including, but not limited to,
13 the right to remain silent, that any statement could be used
14 against him in a court of law, the right to have a lawyer
15 present, that if he could not afford a lawyer, a lawyer
16 would be appointed to represent him without cost, and that
17 he could stop making a statement at any time.

18 You must carefully consider all of the surrounding
19 circumstances before you can give any weight to an alleged
20 statement. The State has the burden of proving beyond a
21 reasonable doubt that the alleged statement was voluntary.
22 If you determine it was, you may give the statement any
23 further consideration that you deem proper. You must decide
24 that the weight, if any, should be -- that should be given
25 to the alleged statement.

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1 If you determine that the alleged statement was not the
2 free and voluntary statement of the Defendant, you should
3 not consider the statement at all.

4 The State has proffered, as I say, a -- the State has
5 proffered statements claimed to have been made by the
6 Defendant. You must find that these statements were
7 voluntarily made by the Defendant. And this voluntariness
8 must be established by the State beyond a reasonable doubt.

9 Statements of juveniles are reviewed under the totality
10 of the circumstances. In a juvenile case the totality
11 approach requires an evaluation of the juvenile's age,
12 experience, education, background and intelligence as well
13 as the circumstances regarding the confession.

14 Special caution should be used in insuring the -- or
15 assessing, excuse me, special caution should be used when
16 assessing the voluntariness of a juvenile confession
17 particularly when there is prolonged repeated questioning or
18 when the interrogation occurs in the absence of a parent,
19 lawyer or other friendly adult.

20 A waiver must be voluntarily in the sense that it was
21 the product of a free -- the waiver must be voluntary in the
22 sense that it was the product of a free and deliberate
23 choice rather than the intimidation, deception or coercion.
24 Lengthy interrogations or incommunicado incarceration could
25 be strong evidence of coercion. Now, a confession of a

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1 juvenile is not per say involuntarily simply because it is
2 obtained without the presence of counsel, of a parent or
3 other interested adult.

4 Now, in order to establish criminal liability, intent
5 is required. For example, the mental state required to be
6 proven by the State for a particular crime must be purpose,
7 intent, knowledge or recklessness. Criminal intent must be
8 proven by the State beyond a reasonable doubt. Criminal
9 intent is always a matter that must be determined by the
10 jury from the circumstances surrounding the situation.

11 There is no way to prove intent to a mathematical
12 certainty. There is no way to -- medical science can't
13 dissect a person's brain and determine what the person had
14 in mind. So the law says that criminal intent may be
15 inferred from the circumstances shown to have existed. This
16 is how to make a determination of whether or not the element
17 requiring intent was present.

18 It's not necessary to establish intent by direct or
19 positive evidence. But attempt may be established by
20 inference in the same way as any other fact by taking into
21 considerations the acts of the parties and all the facts and
22 circumstances of the case.

23 Criminal intent is a mental state, a conscious
24 wrongdoing. It is up to you to determine what the Defendant
25 intended to do based on the circumstances shown to have

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1 existed.

2 Criminal intent is a state of mind that operates
3 jointly with an act or commission of a crime. Criminal
4 intent is a mental state. Criminal liability is normally
5 based upon the concurrence of two factors, an evil meaning
6 mind and an evil doing hand.

7 Suspicion, however, is not -- however strong is not
8 enough to sustain a conviction. The evidence presented by
9 the State must be substantial evidence that tends to prove
10 the guilt of the Defendant beyond a reasonable doubt.

11 Now, there are two indictments in this case. The
12 Defendant, Laquavius Tyshawn Cleveland, is charged with
13 attempted murder and possession of a weapon during the
14 commission of a violent crime pursuant to sections 16-3-29
15 and 16-23-49 -- 490 of the South Carolina code of law,
16 respectively.

17 I'll remind you that the fact the Defendant was
18 arrested, charged and indicted in this case is not evidence
19 in this case and cannot be considered by you as evidence of
20 guilt in this case. Nor does it create any presumption or
21 inference of guilt.

22 This document of indictments are simply formal written
23 instruments which contain the charges made against the
24 Defendant. It is the formal documents or they are the
25 formal documents by which the case is brought into this

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1 court.

2 An indictment number, or excuse me, the Defendant is
3 charged in one of these indictments with attempted murder.
4 And in order to prove this crime the State must prove that
5 the Defendant attempted to kill another person with malice
6 aforethought, either express or implied.

7 Now, malice is hatred, ill-will or hostility towards
8 another person. It is the intentional doing of a wrongful
9 act without just cause or excuse with the intent to inflict
10 an injury or under the circumstances that law will infer an
11 evil intent.

12 Malice aforethought does not require that malice exists
13 for any particular time before the act is committed, but
14 malice must exist in the mind of the Defendant just before
15 and at the time the act is committed. Therefore, there must
16 be a combination of previous evil intent and the act.

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

22 Express malice is shown when a person speaks or words
23 which express hatred or ill-will for another or when the
24 person prepared beforehand to do the act which was later
25 accomplished. For example, lying in wait for a person or

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1 any of the other acts of preparation going to show that the
2 deed was within the Defendant's mind would be express
3 malice. Malice may be inferred from conduct showing a total
4 disregard for human life or conduct which is likely to cause
5 death or great bodily harm depending on the facts and
6 circumstances of each case.

7 If facts are proved beyond a reasonable doubt raise
8 sufficient, excuse me, if facts are proved beyond a
9 reasonable doubt sufficient to raise an inference of malice
10 to your satisfaction, this inference must -- would be simply
11 an evidentiary fact to be considered by you, the jury, along
12 with the other evidence in the case. And you may give it
13 the weight you decide it should receive.

14 A specific intent to kill is not an element of
15 attempted murder, but there must be a general intent to
16 commit serious bodily injury. Intent means attending result
17 would actually occurs, not accidentally or involuntarily.
18 Intent may be shown by acts and conduct of the Defendant and
19 other circumstances which you may naturally and reasonably
20 infer intent.

21 Evidence of the character of the act -- the character
22 of the instrument used, the manner in which it was used, the
23 purpose to be accomplished and the resulting wounds or
24 injuries may be considered in determining the intent which
25 the act was committed. Intent may also be inferred from

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1 what -- when it is demonstrated that the Defendant
2 voluntarily and wilfully commits an act, the natural
3 tendency which is to destroy another's life.

4 Now, possession of a weapon during the commission of a
5 violent crime under section 16-23-490, which the Defendant
6 is charged with is the, excuse me, the Defendant is charged
7 with possession of a weapon during the commission of or
8 attempt to commit a violent crime.

9 Now this State, excuse me, the State must prove beyond
10 a reasonable doubt the Defendant visibly displayed a knife
11 during the commission of a violent crime. A knife means an
12 instrument, a tool with a sharp cutting blade whether or not
13 fastened to a handle, which can be used to inflict a cut,
14 slash or wound.

15 In order to find the Defendant guilty of possession of
16 a weapon during the commission of a violent crime you must
17 first determine the Defendant guilty of either committing a
18 violent crime or attempting to commit a violent crime. Now,
19 attempted murder or the lesser included offense of assault
20 and battery of a high and aggravated nature are by statute
21 violent crimes in South Carolina. Now, the State must prove
22 beyond a reasonable doubt that the weapon further advanced
23 or held in the commission of the crime.

24 If you as jurors have a reasonable doubt as to whether
25 the State has met the burden of proof in showing all the

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1 elements of the crime of attempted murder, you should then
2 consider the lesser included offenses of assault and battery
3 of a high and aggravated nature, assault and battery in the
4 first degree and assault and battery in the second degree.
5 If you have a reasonable doubt as to whether the State has
6 met its burden of proof in showing all the elements of the
7 crime of any of the lesser included offenses, you should
8 find the Defendant not guilty.

9 As I say, under South Carolina law we have a principal
10 known as lesser included offenses. If you find that the
11 State has failed to prove the Defendant committed the
12 offense of attempted murder, you may then consider whether
13 or not the State has proved beyond a reasonable doubt that
14 the Defendant committed assault and battery of a high and
15 aggravated nature.

16 A person commits the offense of assault and battery of
17 a high and aggravated nature if the person unlawfully
18 injures another person and great bodily injury to another
19 person results or the act is accomplished by means likely to
20 produce death or great bodily injury. Great bodily injury
21 means bodily injury which causes a substantial risk of death
22 or which causes serious permanent disfigurement or
23 protracted loss or impairment of the function of a bodily
24 member or organ.

25 Now, assault and battery in the first degree, if you

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1 find that the Defendant [sic] has failed to prove the
2 Defendant committed the offense of assault and battery of a
3 high and aggravated nature, you may then consider the State
4 has proved beyond a reasonable doubt that the Defendant
5 committed assault and battery in the first degree.

6 A person commits the offense of assault and battery in
7 the first degree if the person unlawfully offers or attempts
8 to injure another person with the present ability to do so
9 -- do so and the act is accomplished by means likely to
10 produce death or great bodily injury. Now, great bodily
11 injury means injury which causes a substantial risk of death
12 or which causes serious permanent disfigurement or
13 protracted loss of impairment of the function of a bodily
14 member or organ.

15 If you find the State has proved -- has failed to prove
16 that the Defendant committed the offense of assault and
17 battery in the first degree, you then may consider whether
18 the State has proved beyond a reasonable doubt the Defendant
19 committed assault and battery in the second degree. A
20 person commits the offense of assault and battery in the
21 second degree if the person unlawfully injures another
22 person or offers or attempts to injure another person with
23 the present ability to do so and moderate bodily injury to
24 another person results or moderate bodily injury to another
25 person could have resulted.

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1 Moderate bodily injury unlike great bodily injury means
2 physical injury requiring treatment to an organ system of
3 the body other than the skin, muscles and connective tissues
4 of the body except when there is penetration of the skin,
5 muscles and connective tissues that require surgical repair
6 of a complex nature or when the treatment of the injuries
7 requires the use of regional or general anesthesia.

8 If you have a reasonable doubt of the Defendant's guilt
9 after considering all the evidence, then you must find the
10 Defendant not guilty on that indictment. On the other hand,
11 if you have no reasonable doubt of the Defendant's guilt
12 after considering all of the evidence, then you must find
13 the Defendant guilty on that particular indictment.

14 Mr. Foreman, ladies and gentlemen of the jury, you have
15 been selected as fair and impartial jurors sworn to
16 impartially try and determine the facts of the case. And
17 when you comply with your oath to do so, then you will have
18 -- then no one will have a right to criticize your verdict
19 and you will have fully discharged your duty as jurors.

20 You should not be influenced by opinions or expressions
21 of opinions, if any, which you have heard on the outside.
22 But you are to decide this case according to the testimony
23 that you have heard from the lips of the sworn witnesses
24 along with the other evidence that may have been introduced.

25 You must not consider as evidence any statement of

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1 counsel made during the trial. However, if the counsel of
2 the parties have stipulated to any fact or fact has been
3 admitted by the counsel, you will regard that fact as being
4 conclusively proved as to the party or parties making the
5 stipulation or admission.

6 As I said earlier, you are the judges of the facts in
7 this case. And you are to determine only if the Defendant
8 is guilty or not guilty upon the testimony and evidence
9 presented in the trial after applying the law as I've given
10 it to you.

11 If from the evidence you have a reasonable doubt as to
12 whether or not the Defendant is guilty, it is your duty to
13 acquit and write the words -- two words not guilty. Under
14 the oath you took you swore to try this case based only and
15 solely on the testimony, and evidence and law presented and
16 heard in the courtroom. It is your duty to lay aside all
17 bias, or prejudice or sympathy you may have in reaching your
18 verdict. You have no friends to reward or enemies to punish
19 in this case.

20 I might note the word verdict comes from the Latin term
21 *veredicto*, which means to speak the truth. Abide by your
22 oath and return a verdict which does, in fact, speak the
23 truth.

24 Mr. Foreman, I have prepared a verdict form for you to
25 use in your deliberations for the jury. As you note, there

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1 are two indictments. Now, the first indictment is
2 indictment number 2013-GS-37-1043. Now that is the
3 indictment for -- charges attempted murder.

4 Now, do remember, attempted murder has lesser included
5 offenses. In other words, you will start with the charge in
6 the indictment, attempted murder. And if it does not have
7 all the elements of attempted murder, then you would go to
8 the lesser included offense of assault and battery of a high
9 and aggravated nature.

10 And if you find that it does not include all the
11 elements of assault and battery of a high and aggravated
12 nature, then you would go to the lesser included offense of
13 assault and battery, first degree, or then to assault and
14 battery in the second degree if it does not have all of the
15 elements of first degree. But if you find that the
16 Defendant is not guilty of any -- the principal charge of
17 attempted murder or any of the lesser included offenses or
18 if the State has not proven guilt beyond a reasonable doubt
19 as to any of those offenses, then you must find the
20 Defendant not guilty.

21 So, therefore, as you will notice it says, we, the
22 jury, unanimously find on indictment number 2013-GS-37-1043
23 that the Defendant, Laquavius Tyshawn Cleveland, is guilty
24 of attempted murder. If you do not find that he was guilty
25 of attempted murder, then you could consider the lesser

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1 included offense of assault and battery of a high and
2 aggravated nature.

3 If you do not find that they have proved beyond a
4 reasonable doubt all the elements of assault and battery of
5 a high and aggravated nature, then you can include -- you
6 can consider lesser -- the lesser included offense of
7 assault and battery in the first degree.

8 If you find that they have not established all of the
9 elements of the assault and battery in the first degree
10 beyond a reasonable doubt, then you may consider assault and
11 battery in the second degree.

12 However, if they have not -- when I say they, that
13 means the State, has not proven beyond a reasonable doubt
14 all of the elements of any of those, either the principal or
15 the lesser included offenses, then your verdict would be not
16 guilty.

17 Whatever your verdict is it must be unanimous. And
18 although that you will be the one who will check the jury's
19 verdict on the verdict form, all members of the jury will
20 have to agree to that verdict before you do that. But once
21 you have reached a verdict, then, Mr. Foreman, if you would,
22 check the appropriate verdict on the verdict form.

23 Now, there's a second indictment. If you find the
24 Defendant guilty for attempted murder or guilty of assault
25 and battery of a high and aggravated nature, as to

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1 indictment 2013-GS-37-1043, that's the first verdict --
2 that's the first indictment in this case, and those would be
3 the first two verdict charges or offenses charged, which are
4 violent offenses, then you would proceed to indictment
5 number 2013-GS-37-1044, which is the second indictment.

6 If you find the Defendant guilty of assault and battery
7 in the first degree, guilty of assault and battery in the
8 second degree or not guilty as to the indictment number
9 2013-GS-37-1043 then you would stop your deliberation and go
10 no further. You would sign the verdict form. In other
11 words, if you find that any of the bottom three lesser
12 included offenses to include not guilty, then you would stop
13 and just sign the verdict form.

14 However, as I say, if you find the Defendant is guilty
15 of the first two or one of the first two, attempted murder
16 or guilty of assault and battery of a high and aggravated
17 nature, then you would go to page 2. On page 2 you have
18 indictment number 2013-GS-34 [sic]-1044, which charges
19 possession of a weapon during the commission of a violent
20 crime.

21 Now, the violent crimes are only attempted murder and
22 assault and battery of a high and aggravated nature. But if
23 you find guilty of either one of those crimes, then your
24 verdict would be either we, the jury, unanimously find on
25 indictment number 2013-GS-37-1044 that the Defendant,

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1 Laquavius Tyshawn Cleveland, is guilty of possession of a
2 weapon during the commission of a violent crime or not
3 guilty.

4 Whatever your verdict is, you're to be unanimous as to
5 both indictments. Once you've completed the verdict form in
6 accordance with the instructions, if you would, please, sign
7 your name above the line provided, knock on the door and we
8 will return and receive your verdict.

9 Now, I'm going to one more time ask you to retire to
10 the jury room and do not begin your deliberations until you
11 receive the verdict form and all the exhibits that have been
12 introduced into evidence. Once you receive that from the
13 bailiff, then, of course, you can proceed with your
14 deliberations. And once you have reached a verdict as to
15 both indictments or the indictments that you are supposed to
16 under the instructions, then you will knock on the door and
17 we will return and receive your verdict.

18 Now, as I say, do not begin your deliberations until I
19 -- I have to take up some matters with the attorneys first.
20 But once the bailiff brings you the verdict form and the
21 exhibits, then you may start.

22 I'm going to have to ask the alternates to stay with us
23 though, if you would, please. The other twelve members of
24 the jury, if you would retire to the jury room at this time.
25 Do not begin your deliberations until I send in the verdict

1 form and the exhibits.

2 (Whereupon the jury exited the courtroom at 12:59 pm)

3 **THE COURT:** All right. Are there any exceptions to the
4 charge or any requests for additional charges from the
5 State?

6 **MR. WAGNER:** No, sir.

7 **THE COURT:** From the Defense?

8 **MR. GRIFFIN:** No, sir.

9 **THE COURT:** All right. Of course, this is subject to
10 the previous rulings on the request for charges. All right.
11 If you would, please, look over the exhibits and be sure
12 that everything goes back that's supposed to, but what's not
13 supposed to go back doesn't.

14 Also, as I understand, Ms. Simmons, the verdict form is
15 sufficient?

16 **MS. SIMMONS:** Yes, Your Honor.

17 **THE COURT:** Is that correct, Mr. Griffin?

18 **MR. GRIFFIN:** Yes, sir.

19 **THE COURT:** All right. Very good.

20 Ladies, I think you understand why you were chosen
21 because this case has gone over -- well, really three days
22 because we started on Monday. And if one or two of the
23 members of the jury were unable to continue to serve, then,
24 of course, it would have been necessary for one of you to
25 fill in or both of you, if necessary.

1 And as I say, I do thank you on behalf -- did you leave
2 anything in the jury room? Also, you might -- if you want
3 to, the lunches have been ordered. Does anybody know? The
4 lunches have been ordered. So if you want to wait until
5 they come, then you can, of course, do that as well. You
6 can come back into the courtroom if you want to do that.
7 Very good.

8 If you left something back there in the courtroom the
9 bailiff will take you or the deputy will take you back to
10 the jury room to collect your things. All right. Both
11 bailiffs are back there. Just tell them that you have
12 something that you want to collect.

13 Again, thank you so much. And do enjoy the rest of the
14 summer and this weekend when it comes.

15 (Whereupon the alternates exited the courtroom)

16 (Whereupon the jury began deliberations at 1:05 pm)

17 **THE COURT:** All right. ladies and gentlemen, it's now
18 in the jury's hands. I will say this, though, I do
19 appreciate the professional way both parties, State and
20 Defense, represented their positions, very professionally
21 done. And that's one of the things I'm going to miss when I
22 step down is good attorneys. All right. With that we'll
23 stand at ease awaiting a verdict.

24 (Whereupon court was in recess at 1:06 pm)

25 (Whereupon court reconvened at 2:02 pm)

VERDICT OF THE JURY

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1 **THE COURT:** You may take your seats, please. Thank you
2 very much. All right. I understand the jury's reached a
3 verdict. Is there anything from the State before we return
4 the jury?

5 **MR. WAGNER:** No, Your Honor.

6 **THE COURT:** From the Defense?

7 **MR. GRIFFIN:** No, sir, Your Honor.

8 **THE COURT:** All right. Ask the jury to join us,
9 please.

10 (Whereupon the jury entered the courtroom at 2:02 pm)

11 **THE COURT:** All right. Let the record reflect the
12 jury's in the jury box. Mr. Foreman, I understand the jury
13 has reached a verdict.

14 **MR. FOREMAN:** Yes, Your Honor.

15 **THE COURT:** If you would, please, hand it up to the
16 bailiff.

17 (Pause)

18 **THE COURT:** Madame Clerk, if you would, publish the
19 verdict, please.

20 **MADAME CLERK:** Yes, sir. In the matter of the State of
21 South Carolina versus Laquavius Tyshawn Cleveland, on
22 indictment number 2013-GS-37-1043, attempted murder, we, the
23 jury, unanimously find on indictment number 2013-GS-37-1043
24 that the Defendant, Laquavius Tyshawn Cleveland, is guilty
25 of attempted murder.

VERDICT OF THE JURY

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1 On indictment number 2013-GS-37-1044, possession of a
2 weapon during the commission of a violent crime, we, the
3 jury, unanimously find on indictment number 2013-GS-37-1044
4 that the Defendant, Laquavius Tyshawn Cleveland, is guilty
5 of possession of a weapon during the commission of a violent
6 crime.

7 Ladies and gentlemen of the jury, if this was your
8 verdict and remains your verdict, please indicate so by
9 raising your right hand.

10 (Whereupon all jurors raised their right hand)

11 **MADAME CLERK:** Let the record reflect that all members
12 of the jury have raised their right hand.

13 **THE COURT:** Is there anything from the State before I
14 discharge the jury?

15 **MR. WAGNER:** No, sir.

16 **THE COURT:** From the Defense?

17 **MR. GRIFFIN:** No, sir.

18 **THE COURT:** Mr. Foreman, ladies and gentlemen of the
19 jury, I am never interested in a verdict, only how that
20 verdict is reached.

21 And although it looks like I'm doing everything in the
22 world up here except paying attention, as I've mentioned to
23 the alternates, I've sort of developed a knack of keeping up
24 with what's going on in a courtroom. And I noticed that all
25 of you paid very careful and close attention to all of the

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1 **THE COURT:** All right. Is the State ready?

2 **MR. WAGNER:** Yes, sir.

3 **THE COURT:** Defense?

4 **MR. GRIFFIN:** Yes, sir.

5 **THE COURT:** All right. If you'll come around, please.

6 Yes, ma'am.

7 **MS. SIMMONS:** Your Honor, here are the sentencing

8 sheets. They've been signed by Mr. Griffin, but the

9 Defendant has not signed them.

10 (Pause)

11 **THE COURT:** All right. You are Laquavius Tyshawn

12 Cleveland, is that correct?

13 **MR. CLEVELAND:** Yes, sir.

14 **THE COURT:** All right. Madame Solicitor, what's the

15 prior record of the Defendant?

16 **MR. WAGNER:** Your Honor, juvenile ---

17 **THE COURT:** Or Mr. Solicitor.

18 **MR. WAGNER:** --- back on February 28 of 2011 he was

19 convicted in front of Judge Edwards or sentenced by Judge

20 Edwards on 8/2 of 2011 for discharging a firearm into a

21 dwelling and malicious injury to real property valued at two

22 thousand dollars or less.

23 Currently -- he also, not long after that in 2013 or

24 2012, excuse me, he was arrested on another shooting into a

25 dwelling and four counts of attempted murder that are still

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1 pending. Those were waived up from juvenile court around
2 the time that these charges occurred. So they are still
3 pending. And that's the extent of his prior record due to
4 his age of sixteen.

5 **THE COURT:** All right. So he's had one conviction and
6 what is it, two pending -- and a pending charge?

7 **MR. WAGNER:** Yes, sir.

8 **THE COURT:** Four charges?

9 **MR. WAGNER:** Yes, sir. Three counts -- four counts of
10 attempted murder that are still pending and discharging a
11 firearm into a dwelling. Those are still pending in our
12 office. The other two were convictions in 2011. Judge
13 Edwards sentenced him on those.

14 Judge Ballenger, we did -- our office did a waiver here
15 in Family Court. And Judge Ballenger waived him up to
16 General Sessions on these other charges that are pending.

17 **THE COURT:** I see. All right. Mr. Griffin, what do
18 you say on behalf of Mr. Cleveland? I also would like to
19 hear from anybody else. Does law enforcement have anything
20 it would like to add on this case?

21 **SERGEANT TINSLEY:** What I'd like to add is that for the
22 Court, the Judge to consider that the victim was the
23 Defendant's cousin who he knew well. They talked every
24 other day. For you to consider if he's capable of stabbing
25 him unprovoked and what he may be capable of doing to

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1 someone else that he did not know.

2 THE COURT: Yes, ma'am. Anybody else on behalf of the
3 State?

4 MS. SIMMONS: Judge, I would just like to add that the
5 Defendant was out on an ankle monitor for his other ---

6 THE COURT: Yeah, ---

7 MS. SIMMONS: --- charges.

8 THE COURT: --- I heard his mother testify to that.

9 MS. SIMMONS: Judge, we believe a substantial jail time
10 sentence is appropriate based on the facts of this case. I
11 understand that he is -- he's a young person, but he has
12 shown already at this young age that he's very dangerous.

13 THE COURT: The maximum sentence on the attempted
14 murder is thirty years?

15 MS. SIMMONS: Yes, Your Honor.

16 THE COURT: And on the possession of a weapon during
17 the commission of a violent crime is up to five years, ---

18 MS. SIMMONS: Yes, Your Honor.

19 THE COURT: --- can be either consecutive or
20 concurrent?

21 MS. SIMMONS: Yes, Your Honor.

22 THE COURT: All right. Mr. Griffin.

23 MR. GRIFFIN: Your Honor, I've only known Mr. Cleveland
24 briefly. He's been sitting over in the County jail, I
25 believe, for about a year.

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1 And he -- in my dealing with him, he seems like he's a
2 decent young man at this point given the fact that he's
3 grown up in a broken home. And given his youth and sixteen
4 years old, we would ask that the Court sentence -- give
5 minimum sentence given the fact he's -- of his youth.

6 And I believe he's been sitting over there for a year.
7 And I think he's learned to realize that whatever things
8 happen have consequences at this point. And I'd like to ask
9 that his mother address the Court, if she will.

10 **THE COURT:** Ms. Cleveland. Yes, ma'am.

11 **MS. CLEVELAND:** I just ask that, I mean, 'cause he been
12 through a lot and I blame myself for it. But like this has
13 really affected my kids because they have to come up here
14 and see him like at the jail. So I just ask that you give
15 probation or something, you know. I just can't stand my son
16 going down the road like this. And I'll do any and
17 everything to help him.

18 **THE COURT:** Thank you, ma'am.

19 **MR. GRIFFIN:** I believe we have some other relatives in
20 the courtroom as well.

21 **THE COURT:** Anyone else?

22 (No response)

23 **THE COURT:** Mr. Cleveland, anything you have to say?

24 **MR. CLEVELAND:** I apologize, you know. This time right
25 here and I've had time to think in the cell. Didn't go out

SENTENCE OF THE COURT

80

1 as much as I wanted to. Had a lot to think about.

2 I understand made me a man, made me a young man. Made
3 me realize like what I want to think about my future
4 decisions and how I want to be.

5 Like my mama said, I got little brothers I got to be a
6 role model to. So it's time for me to step up and be a man.
7 And I'm willing to take forward on those steps and do
8 whatever I can to make, you know, teach them not to go down
9 the same road I did.

10 (Pause)

11 **THE COURT:** All right. Anything else from the State?

12 **MS. SIMMONS:** No, Your Honor.

13 **THE COURT:** From the Defense?

14 **MR. GRIFFIN:** Not at this time, Judge.

15 **THE COURT:** Indictment number 2013-GS-37-1044, it's the
16 sentence of the Court that the Defendant, Laquavius Tyshawn
17 Cleveland, be committed to the State Department of
18 Corrections for a term of twenty-two years, plus pay the
19 costs and assessments as applicable.

20 Indictment number 2013-GS-37-1043, it's the sentence of
21 the Court that the Defendant, Laquavius Tyshawn Cleveland,
22 be committed to the State Department of Corrections for a
23 term of five years. The second sentence to run consecutive
24 to the first sentence.

25 Special conditions on both sentences that the Defendant

SENTENCE OF THE COURT

81

1 to undergo drug and alcohol testing and treatment, substance
2 abuse counseling as directed and to obtain his GED. Good
3 luck to you, sir.

4 (Hearing ended at 2:23 pm)

5 (End of requested transcript of record)



OCONEE COUNTY SHERIFF'S DEPARTMENT

300 South Church Street
WALHALLA, SOUTH CAROLINA, 29691

YOUR RIGHTS

Place DCSO
Date October 7-8-13
Time 5:50pm

CC BEFORE WE ASK YOU ANY QUESTIONS, YOU MUST UNDERSTAND YOUR RIGHTS.

CC YOU HAVE THE RIGHT TO REMAIN SILENT.

CC ANYTHING YOU SAY CAN BE USED AGAINST YOU IN COURT.

CC YOU HAVE THE RIGHT TO TALK TO A LAWYER FOR ADVICE BEFORE WE ASK YOU ANY QUESTIONS AND TO HAVE HIM WITH YOU DURING QUESTIONING.

CC IF YOU CANNOT AFFORD A LAWYER, ONE WILL BE APPOINTED FOR YOU BEFORE ANY QUESTIONS IF YOU WISH.

CC IF YOU DECIDE TO ANSWER QUESTIONS NOW WITHOUT A LAWYER PRESENT, YOU WILL STILL HAVE THE RIGHT TO STOP ANSWERING AT ANY TIME.

CC I HAVE READ THIS STATEMENT OF MY RIGHTS AND I UNDERSTAND WHAT MY RIGHTS ARE. I AM WILLING TO MAKE A STATEMENT AND ANSWER QUESTIONS. I UNDERSTAND AND KNOW WHAT I AM DOING. NO PROMISES OR THREATS HAVE BEEN MADE TO ME AND NO PRESSURE OR COERCION OF ANY KIND HAS BEEN USED AGAINST ME.

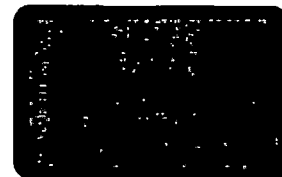
SIGNED

WITNESS

WITNESS

TIME

Francis W. Hatcher
Philip K. Ketchum
Mandy Tinsley
5:52pm



VOLUNTARY STATEMENT

DATE 7-8-13 PLACE OCSO TIME STARTED 6:14 p.m.I, the undersigned, Lagunaris Tashawn Cleveland, am 16 years of age, my date and place of birth being the [redacted] day of [redacted], at OconeeI now live at [redacted], SenecaBefore answering any questions or making statements, Mandy Tinsley and Phillip Robertson

a person who identified himself as a Oconee County Sheriff Deputy
 duly warned and advised me, and I know and understand that I have the following rights: That I have a right to remain silent and I do not have to answer any questions or make any statements at all; that any statement I make can and will be used against me in court or courts of law for the offense or offenses concerning which the following statement is hereinafter made, that I have the right to counsel with a lawyer of my choice before or at anytime during any questioning or statements I make; that if I cannot afford to hire a lawyer, I may request and have a lawyer appointed for me by the proper authority, before or at anytime during any questioning or statements that I make, without cost or expense to me; that I can stop answering any questions or making any statements at anytime that I choose, and call for the presence of a lawyer to advise me before continuing any more questioning or make any more statements, whether or not I have already answered some questions or made statements.

I do not want to talk to a lawyer, and I hereby knowingly and purposely waive my right to remain silent, and my right to have a lawyer present while I make the following statement to the aforesaid person, knowing that I have the right and privilege to terminate any interview at any time hereafter and have a lawyer present with me before answering any more questions or making any more statements, if I choose to do so.

I declare that the following voluntary statement is made by my own free will without promise of hope or reward, without fear or threat of physical harm, without coercion, favor or offer of favor, without leniency or offer of leniency, by any persons whomsoever.

Mandy Tinsley from Oconee County Sheriff's Office pulled up to 4402 Brown Street, him Chykeem and ask me and Chykeem (my cousin) was sitting on the porch, having a conversation about the old case. I told me used to have three other talking who about Kevin Jim Chykeem ask me to come here we got in the car and he asked me about \$200 that I owed him. I said to him that I said and it be started saying what the fuck you mean, I said I can't get it he said I got a certain time I said I can't have it say that that's what he tested from his left pocket with a gun (25) and it in his right hand and cooked it back with

I certify I have received a copy of this statement Lagunaris Cleveland
 I have read each page of this statement consisting of 2 page(s), each page of which bears my signature, and corrections, if any, bear my initials, and I certify that the facts contained herein are true and correct. I further certify that I made no request for the advice or presence of a lawyer before or during any part of this statement, nor at any time before it was finished did I request that this statement be stopped. I also declare that I was not told or prompted what to say in this statement.

This statement was completed at 6:41 p.m. on the 8th day of July, 20 13.

Notary Public for S.C.

My Commission Expires 3/2017WITNESS: Mandy TinsleyWITNESS: [redacted]

Signature of person giving voluntary statement

**VOLUNTARY STATEMENT
USED FOR ADDITIONAL PAGES ONLY**

PAGE # 2

^{left} ^{stated}
 I was left behind then I stated my
 pocket knife and I hit him 2 times in
 his right arm then he said a hell no
 and I ran he runs one stat and I was
 running for my life

I started the knife after I got out to run
 I heard him all over the drive way when I
 was running trying to see where I was
 going so he came out me off of my direction

I certify I have received a copy of this statement & Benjamin Moore
 I have read each page of this statement consisting of 2 page(s), each page of which bears my signature, and corrections, if any, bear my initials,
 and I certify that the facts contained herein are true and correct. I further certify that I made no request for the advice or presence of a lawyer before
 or during any part of this statement, nor at any time before it was finished did I request that this statement be stopped. I also declare that I was not
 told or prompted what to say in this statement.

This statement was completed at 6:41 p .M. on the 8th day of July, 20 13.

Richard White
 Notary Public for S.C.

My Commission Expires 3/20/17

WITNESS: Mandy Trusley

WITNESS: _____

& Benjamin Moore
 Signature of person giving voluntary statement

OCONEE COUNTY SHERIFF'S OFFICE
Case Number

RECORD OF INTERVIEW

Name Laguavis Tyshawn ClevelandDate of Birth 11-1-96

Address

Phone

Involvement

#

☐ Suspect☐ Owner☐ Tenant☐ Witness☐ Fire☐ Police☐ E. M. S.☐ OtherInterview Location: OCSODate: 7-9-13Time: 1:15amID NUMBER ☐☐SSN ☐☐

HEIGHT

WEIGHT

HAIR

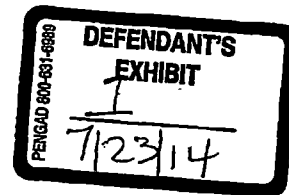
EYES ☐☐

EDUCATION

READ AND WRITE ☐☐EMPLOYMENT ☐☐ALCOHOL OR DRUGS ☐

- Quavy has bought guns from Hylkeem before but those other guns were not for Quavy. Quavy contacted Hylkeem about buying marijuana & the gun. The gun was for someone else, not Quavy. Quavy had intended/planned on getting the gun & weed & running w/o paying him. Hylkeem caught Quavy trying to steal the gun & weed, ~~so~~ (Gave him the "What the fuck" look) & Quavy decided to stab Hylkeem twice in the shoulder - didn't mean to hurt him bad, just enough to let Quavy run away. When Hylkeem got to the house, Quavy went to the car, got the gun, took it to the back of the house, fired the gun toward the ground at corner of house by driveway; walked back to the car, told ~~him~~ ^{Hylkeem} that he would go into the house to get the money - (He handed Hylkeem the gun before he went to the house). Quavy went into the house, got the knife from the Kitchen because he did not want to hurt Hylkeem w/a gun b/c a gun can do all kinds of damage. He went back out to the car. The weed & gun was on Hylkeem's lap,

Quavy asked a lot of questions about how the gun worked before and after he test shot it. back into

DATE July 8, 2013PLACE Walhalla, S.C.

STATEMENT OF CONSENT

L.C. I, Laguavies Cleveland do hereby this date voluntarily and without duress, coercion, unlawful influence or inducement, or promise of clemency, or immunity, consent to an examination on the polygraph.

L.C. I fully realize that I am not required to take this examination and that I have the right to first consult an attorney or anyone else I wish before either signing this form or taking the examination. I voluntarily request and authorize the polygraph examination to proceed with the examination and I consent to his use of electronic hearing and recording devices.

L.C. The examiner has my permission and consent to ask me such questions during the pre-examination interview and on the actual examination as he deems necessary to verify my past work record, financial condition, military service, basic honesty and integrity, and any other area that is pertinent to this examination.

L.C. I authorize the examiner to report the entire results of this examination to Walhalla County Sheriff's Office either orally or in writing, and I forever release, hold harmless and discharge the polygraph examiner, LARK AND ASSOCIATES POLYGRAPH SERVICES, INC., and said recipients of the results from any and all suits, actions, and causes of actions at law, claim, demand, or liability, or damage flowing from the taking of the examination or the operation of all recording devices, the rendered oral and written opinions and statements, and/or all future action taken by the above based on the examination.

L.C. I represent that I am in good physical and mental condition and I know of no physical or mental ailment which might be impaired by the examination.

L.C. I understand fully that I can terminate this examination at any time I desire.

L.C. I have carefully read and understand all of the foregoing and I sign this document freely and voluntarily.

Michael A. Spivey
Examiner

Laguavies Cleveland
Signature of Person Examined

Witness

L.C. This examination now being over, I took same voluntarily, was well treated, and there were no threats or harm done to me, nor any promises made to me during this examination, either in connection with the examination or signing of this document or any other document. I was not asked any questions which I consider to be personal or private in nature. I certify that the location and conditions under which this examination was administered were satisfactory.

Witness

Signature of Person Examined

Time

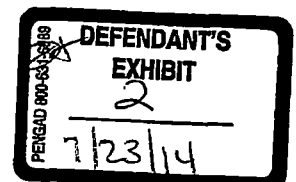
DATE July 8, 2013PLACE Seneca, S.C

Parent's or Guardian's Consent For Minor To Receive Polygraph Test

I, Yashica Cleveland, hereby state that I am the parent/
 guardian of Loganarius Cleveland, a minor. I do hereby give permission
 for the said minor to submit to questioning on the polygraph instrument; such test to be given by
 Lark and Associates Polygraph Services, Inc.

Signature Yashica Cleveland
 Parent/ Guardian

Witness [Signature]
 Witness _____



COPY

STATE OF SOUTH CAROLINA)	IN GENERAL SESSIONS COURT
COUNTY OF OCONEE)	2013A3710400559; 2013A3710400560
THE STATE OF SOUTH CAROLINA,)	
vs)	
LAQUAVIUS TYSHAWN)	MOTION TO SUPPRESS
CLEVELAND,)	ADMISSIONS/CONFESSIONS
DEFENDANT.)	
_____)	

The Defendant, by and through his undersigned counsel, submits this Motion to Suppress any and all alleged admissions and/or confessions made by the Defendant in this matter.

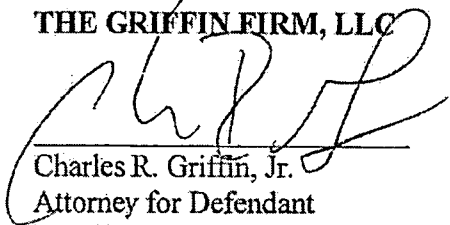
The grounds for the motion include:

Any alleged admissions or confessions made by the Defendant in this matter were not constitutionally voluntary within the meaning of the Fourteenth Amendment to the United States Constitution and were taken in violation of and prohibited by the Fifth Amendment to the United States Constitution.

I So Move.

THE GRIFFIN FIRM, LLC

By:


 Charles R. Griffin, Jr.
 Attorney for Defendant
 210 N. McDuffie St. Ste. 103
 Anderson, South Carolina 29621
 (864) 231-8870
 Attorney for Defendant

Anderson, South Carolina
 January 24, 2014

Sent 2/20/14

DOCKET NO. 2013GS37

01043

The State of South Carolina

County of Oconee

COURT OF GENERAL SESSIONS

OCT 28 2013

Term

THE STATE

vs.

LAQUAVIUS TYSHAWN CLEVELAND

BLS

Indictment for

MURDER/ATTEMPTED MURDER

SC Code: 16-03-0029

CDR Code: 3410

WITNESSES

Mandy Tinsley, Oconee Co Sheriff's Dept.

DAVID B. SMITH

ARREST WARRANT NUMBER

2013A3710400559

ACTION OF GRAND JURY

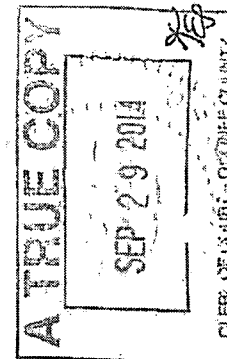
True Bill

Foreperson of Grand Jury
Date: OCT 28 2013

VERDICT

Guilty

Foreperson of Petit Jury
Date: 7/24/14



2013 OCT 30 PM 1 15

FILED OCONEE, SC
BEVERLY H. WHITEFIELD
CLERK OF COURT

ENTERED
LB
COMPUTER

STATE OF SOUTH CAROLINA)
COUNTY OF Oconee)

INDICTMENT

OCT 28 2013

At a Court of General Sessions, convened on _____, the Grand Jurors of
Oconee County present upon their oath:

MURDER/ATTEMPTED MURDER

That **Laquavius Tyshawn Cleveland** did in Oconee County, South Carolina, on or
about July 8, 2013, did unlawfully with malice aforethought and with the intent to
kill, attempted to kill Hykeem Kirkland, to wit: defendant did stab victim with a
knife numerous times about the chest, side, back and neck. This is in violation of
16-3-29 of the South Carolina 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.


ASSISTANT SOLICITOR

DOCKET NO. 2013GS3701044

WITNESSES

253

Mandy Tinsley, Oconee Co Sheriff's Dept.

DAVID B. SMITH

The State of South Carolina

County of Oconee

COURT OF GENERAL SESSIONS

OCT 28 2013

Term

THE STATE

vs.

LAQUAVIUS TYSHAWN CLEVELAND

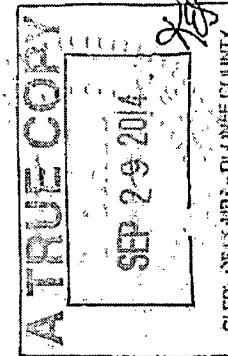
BLS

Indictment for

WEAPONS / POSS. WEAPON DURING VIOLENT
CRIME, IF NOT ALSO SENTENCED TO LIFE
WITHOUT PAROLE OR DEATH

SC Code: 16-23-0490

CDR Code: 0549



2013 OCT 30 PM 1 15

FILED OCONEE, SC
BEVERLY H. WHITFIELD
CLERK OF COURT

ENTERED
LB
COMPUTER

ARREST WARRANT NUMBER

2013A3710400560

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury
Date: OCT 28 2013

VERDICT

Guilty

Foreperson of Petit Jury
Date: 7/24/14

STATE OF SOUTH CAROLINA)
COUNTY OF Oconee)

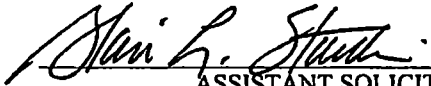
INDICTMENT

At a Court of General Sessions, convened on OCT 28 2013, the Grand Jurors of Oconee County present upon their oath:

WEAPONS / POSS. WEAPON DURING VIOLENT CRIME, IF NOT ALSO
SENTENCED TO LIFE WITHOUT PAROLE OR DEATH

That **Laquavius Tyshawn Cleveland**, did in Oconee County, South Carolina, on or about **July 8, 2013**, while committing the crime of attempted murder, a crime of violence, have in his possession a knife, all in violation of Section 16-23-490, Code of Laws of South Carolina, (1976, as amended).

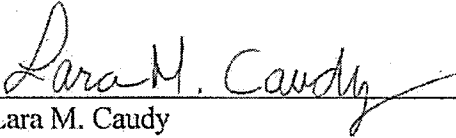
Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


ASSISTANT SOLICITOR

CERTIFICATE OF COUNSEL FOR APPELLANT

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

October 22, 2015


Lara M. Caudy
Appellate Defender

RECEIVED

OCT 22 2015
SC Court of Appeals

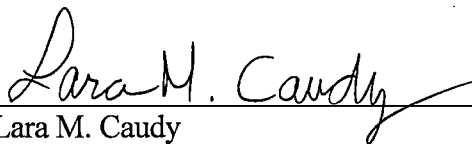
South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

CERTIFICATE OF COUNSEL FOR APPELLANT

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

October 22, 2015



Lara M. Caudy
Appellate Defender

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

ATTORNEY FOR APPELLANT

RECEIVED
OCT 22 2015
SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

ORIGINAL

Appeal from Oconee County

Alexander S. Macaulay, Circuit Court Judge

THE STATE,

V.

LAQUAVIUS T. CLEVELAND,

APPELLANT

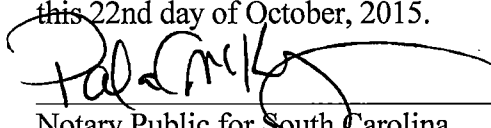
APPELLATE CASE NO. 2014-001842

CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon David Spencer, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 22nd day of October, 2015.


Cruise Mitchell
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 22nd day of October, 2015.


Notary Public for South Carolina

My Commission Expires: July 24, 2022.