

STATE OF SOUTH CAROLINA

In The Court of Appeals

 ORIGINAL

APPEAL FROM RICHLAND COUNTY

Roger L. Couch, Circuit Court Judge

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RESPONDENT SC Court of Appeals

THE STATE,

v.

DOMINIQUE M. ROSS,

APPELLANT

APPELLATE CASE NO. 2014-000958

RECORD ON APPEAL

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1 Q You mentioned that you bruised when you were  
2 grabbed?

3 A Yes.

4 Q Is there any type of medical conditions that you  
5 have that would cause you to bruise easily?

6 A Yes.

7 Q Would you explain those to the jury?

8 A I have a condition called von Willowbrand disease.

9 THE COURT REPORTER: I'm sorry, what kind?

10 A Von Willowbrand. Von Willowbrand disease is a  
11 platelet disorder that causes me to either bleed  
12 freely or catch bruises from any kind of physical  
13 contact.

14 Q How did you get over to Jamie Sherman's house  
15 again?

16 A Amber Richardson.

17 Q And who was supposed to pick you up that night had  
18 this not happened?

19 A Amber Richardson.

20 Q Were you talking to Amber about picking you up?

21 A Yes. I talked to her prior that day and before I  
22 got out of her car.

23 Q Okay, Ms. Ross. Do you still keep in contact with  
24 your ex-girlfriend, Ms. Dixon?

25 A Dotson. A few weeks ago she wrote me on Facebook

1 before I recently got locked up.

2 Q But besides that, you don't keep in regular  
3 contact?

4 A No.

5 Q But she took you to the hospital the next morning?

6 A Yes, sir.

7 Q But they wouldn't let you see him?

8 A No.

9 Q Did you have any reason to believe that maybe Jamie  
10 wouldn't want to see you?

11 A No.

12 Q Thank you.

13 MR. LEONARD: No further questions, Your  
14 Honor.

15 THE COURT: You may recross, Ms. Campbell.

16 MS. CAMPBELL: Okay. Just a couple of  
17 questions, Your Honor.

18 THE COURT: Yes, ma'am.

19 RECROSS-EXAMINATION

20 BY MS. CAMPBELL:

21 Q So you were wearing this tank top because you had  
22 been playing basketball that day?

23 A No. I was wearing a tank top because I had just  
24 got out the shower.

25 Q So you went home and showered, like you testified?

1 A Yes.

2 Q And then to go over to see Jamie you wore a tank  
3 top in January?

4 A Yes.

5 Q Okay. And you mentioned this condition you have  
6 that makes you bleed easily. Were you bleeding  
7 that night?

8 A No.

9 Q And the bruising that was on your arm that you  
10 testified about?

11 A Yes.

12 Q Did you show it to the police officers?

13 A I did.

14 Q And Deputy Stone, you had never had any bad  
15 dealings with him or anything, have you?

16 A No.

17 Q Thank you.

18 MS. CAMPBELL: I don't have anything further.

19 THE COURT: All right, ma'am, you may step  
20 down.

21 (Witness steps down.)

22 THE COURT: All right. The Defense may call  
23 its next witness.

24 MR. STANLEY: Your Honor, the Defense rests.

25 THE COURT: Does the State wish to call any

1 witnesses in reply?

2 MS. CAMPBELL: Your Honor, can we have just a  
3 minute to consider that?

4 THE COURT: Yes.

5 (Pause.)

6 MS. WALKER: Your Honor, we would like to call  
7 Deputy Stone to the stand.

8 THE COURT: Come forward and be sworn, sir.

9 (Witness approaches.)

10 THE BAILIFF: Place your left hand on the  
11 Bible and raise your right hand.

12 (Witness complies.)

13 THE CLERK: Do you solemnly swear or affirm  
14 that the testimony you are about to give in this  
15 case will be the truth, the whole truth, and  
16 nothing but the truth, so help you God?

17 THE WITNESS: I do.

18 THE CLERK: Please have a seat, and state your  
19 full name for the record.

20 (Witness seated.)

21 THE COURT: State your name again for us, sir.

22 THE WITNESS: Corporal James Stone.

23 THE COURT: Thank you.

24 Your witness, Ms. Walker.

25 MS. WALKER: Thank you, Your Honor.

1 JAMES STONE,  
2 after being duly sworn, testified as follows:

3 DIRECT EXAMINATION

4 BY MS. WALKER:

5 Q Good morning, sir.

6 A Good morning.

7 Q You testified earlier in this trial that you  
8 responded to the crime scene that night?

9 A Yes, ma'am.

10 Q Did you make contact with the Defendant in this  
11 case?

12 A I did.

13 Q Did you have a conversation with her?

14 A Briefly.

15 Q And did you make notes so that you could remember  
16 what she told you?

17 A Correct.

18 Q Can you tell this jury what she told you happened  
19 that night?

20 A After we had Jamie sent to the hospital for his  
21 safety, we had a conversation with her.

22 She told me that -- I asked her what happened.  
23 She said she heard a knock at the door. It wasn't  
24 her house, so she didn't want to just open the door  
25 and let him in, so she asked who it was.

1           Whoever was on the other side of the door said  
2           it was Amp.

3           She said she went back to the bathroom and she  
4           told Jamie Amp was at the door.

5           And Amp, whoever this Amp is, I was told it  
6           was somebody that used to work for him, and that is  
7           when the entry happened, the shooting, all that  
8           went down.

9           Q     When you were talking to her, did she say anything  
10           like, Hey, I am bruised all over, look at this,  
11           this is what they did to me?

12          A     No, ma'am.

13          Q     Did you see any bruising on her that night?

14          A     No, ma'am.

15          Q     If you had seen any bruising on her that night,  
16                 would that be something that was relevant for you  
17                 to let other investigators know?

18          A     I would have added her to a victim sheet and done  
19                 an injury report with it.

20          Q     But you didn't do that in this case?

21          A     No, ma'am.

22          Q     I think you testified earlier that you get your car  
23                 washed at Jamie Sherman's car wash?

24          A     I have been there maybe three times over the past  
25                 eight years. I have had my car washed there.

1 Q But you know Jamie Sherman?

2 A Uh-huh.

3 Q Do other deputies get their car washed there?

4 A Yes.

5 Q Are you and Jamie Sherman friends?

6 A No.

7 Q Do y'all hang out on the weekends?

8 A Not at all.

9 Q Do you have any bias or prejudice towards this  
10 Defendant?

11 A None at all.

12 Q When you were frequenting Jamie Sherman's car wash,  
13 had you seen him selling drugs, selling alcohol out  
14 of that car wash, or selling other things he wasn't  
15 supposed to sell, would you have turned a blind eye  
16 to that?

17 A No, ma'am. I arrest a lot of people. No -- zero  
18 tolerance.

19 Q Thank you, sir. I don't have any further  
20 questions.

21 A Thank you.

22 THE COURT: You may cross-examine.

23 CROSS-EXAMINATION

24 BY MR. STANLEY:

25 Q Good morning.

1 A Good morning.

2 Q I just want to be brief about this. Are you  
3 aware -- or do you recall Dominique getting a DNA  
4 swab in this case? Did she consent to give DNA?

5 A I'm not 100 percent. I think I remember it being  
6 talked about. I don't know any other way to answer  
7 your question.

8 Q Okay. And so you don't recall if she had a DNA  
9 swab on her upper arm?

10 A No. I don't think we would get DNA from there. I  
11 could be wrong. I'm not a crime scene analyst. I  
12 don't know, is the answer I have got for you.

13 Q Okay. So you don't know if she told another  
14 officer, Officer Holt, about problems with her  
15 upper arm?

16 A No.

17 Q And talking about Jamie Sherman's car wash, were  
18 you aware that he had been arrested in 2009 for  
19 illegal distribution of recordings?

20 A Uh-huh.

21 Q And you said you never heard of illegal activity at  
22 Jamie Sherman's car wash?

23 A I didn't say I had never heard of it. She asked if  
24 I had seen it would I have taken action. The  
25 answer is, yes, I would have arrested anybody that

1 did any crime in my presence.

2 Q Okay. So did -- do people normally sell drugs in  
3 your presence?

4 A It has happened.

5 Q No further questions.

6 A Thank you.

7 THE COURT: Anything further from the witness?

8 MS. WALKER: Nothing, Your Honor.

9 THE COURT: You may step down, sir.

10 (Witness steps down.)

11 THE COURT: Any objection to his being  
12 excused?

13 MR. STANLEY: No, Your Honor.

14 THE COURT: You are free to go. Thank you,  
15 sir.

16 THE WITNESS: Thank you, sir.

17 (Witness excused.)

18 THE COURT: Does the State wish to call  
19 additional reply witnesses?

20 MS. WALKER: None from the State, Your Honor.

21 THE COURT: All right. Ladies and gentlemen  
22 of the jury, that completes the presentation of  
23 evidence in this matter. And I told you that when  
24 we reached this stage of the proceedings the  
25 attorneys would be allowed to make closing

1 statements directly to you concerning this matter.

2 Before we do that, there are some things I  
3 have to take up with them, so I'll be doing that at  
4 this time outside of your presence.

5 So I'll ask you to step back to the jury room.  
6 And, as always, I'll ask you not to discuss  
7 anything about the case until I have asked you to  
8 begin your deliberations.

9 You may retire to the jury room at this time.  
10 Thank you very much.

11 (WHEREUPON, the jury retires to the jury  
12 room at 9:19 a.m.)

13 THE COURT: All right. Any motions at this  
14 time?

15 MR. LEONARD: Your Honor, at this time we  
16 would renew our directed verdict motions as well as  
17 our motions in limine, and any objections and  
18 motions made during trial.

19 THE COURT: All right. The renewal of the  
20 motions and objections is noted, and the Court  
21 would make the same rulings at this time.

22 MR. LEONARD: Thank you, Your Honor.

23 THE COURT: Now, I received the Requests to  
24 Charge. My review of your Requests to Charge would  
25 indicate that I intend to charge everything

1 law in our opening we can mention the facts as  
2 well. And I will be glad to give him that case.

3 MR. LEONARD: Thank you, Your Honor.

4 THE COURT: All right. They are not limited  
5 to simply stating the law and sitting down. In  
6 other words, there would be no use in doing that.

7 MS. WALKER: I'm finished, Your Honor. Thank  
8 you.

9 THE COURT: All right. Let's bring the jury  
10 in.

11 THE BAILIFF: Yes, Your Honor.

12 (WHEREUPON, the jury came into open  
13 court at 9:43 a.m.)

14 THE BAILIFF: The jury is seated, Your Honor.

15 THE COURT: All right, ladies and gentlemen of  
16 the jury, at this point in time the attorneys will  
17 be allowed to make their final statement or closing  
18 argument to you.

19 And at this time the State will be going  
20 first.

21 You may proceed, Ms. Campbell.

22 MS. CAMPBELL: May it please the Court?

23 THE COURT: Yes, ma'am.

24 MS. CAMPBELL: Thank you.

25 CLOSING STATEMENT

1 MS. CAMPBELL: Good morning.

2 THE JURY: Good morning.

3 MS. CAMPBELL: The first thing I want to do on  
4 behalf of the State of South Carolina and citizens  
5 of Richland County and the victim, Jamie Sherman,  
6 is to thank you for your service in this case.

7 I know when you showed up on Monday you might  
8 have tried to think, you know, what kind of case  
9 might I be on. It might be a car wreck, it might  
10 be a contract dispute, or maybe even like somebody  
11 that had a stolen car.

12 I think -- and all of y'all paid close  
13 attention this week and I think you have come to  
14 learn that this is a very important case. It is  
15 very important to the State of South Carolina, it  
16 is important to the Defendant, and it is important  
17 to Jamie Sherman. Because all the State is asking  
18 for in this case is justice. All we're asking for  
19 in this first of the upcoming trials in this case  
20 is justice for Jamie Sherman. Holding the  
21 Defendant responsible for her choices and her  
22 actions.

23 Because it doesn't get much worse than this.  
24 Because the miracle in this case is that Jamie  
25 Sherman is alive. It cost him his eye. But,

1           ironically, to get up here and say he is lucky?  
2           You heard from Dr. Bynoe. That woman and her  
3           relatives and her girlfriend cost him his eye.

4           Now, I'm going to get up here and I'm going to  
5           talk to you a little bit about the law in the case.  
6           And I'm going to go over some stuff. And then you  
7           are going to hear from Defense counsel. And then  
8           you will hear from Ms. Walker. Because the burden  
9           of proof is on the State of South Carolina, as it  
10          should be, to prove this Defendant guilty beyond a  
11          reasonable doubt.

12          Now, if I misstate the law, it is not  
13          intentional. You listen, because once you have  
14          heard from all of us, the judge is going to  
15          instruct you on exactly what the law is that you  
16          are to apply to the facts in this case.

17          And the roles in this courtroom are very well  
18          defined. The State's role is to bring forth all  
19          the admissible, relevant evidence as far as the  
20          crime that occurred back on January 8th. The  
21          Defense's role is simply that, to defend his  
22          client. The judge's role is to determine what is  
23          admissible, what all you can consider in this case.

24          But, ladies and gentlemen, there is no dispute  
25          in this courtroom, the most important role is

1       yours. Because you, each of you individually and  
2       then collectively when you get back in that jury  
3       room, must determine what happened on January 8th,  
4       what is believable about what really happened back  
5       on January 8th.

6               Now, once you consider this case, the  
7       evidence, and you have heard everything you can  
8       consider in making that determination, you must  
9       base it on the evidence. And the evidence, ladies  
10      and gentlemen, is the sworn testimony, the  
11      credible, believable testimony, the exhibits. And  
12      all of this will go back with you. That is  
13      evidence. What is not evidence, fishing  
14      expedition, innuendo, smear campaign, or just plain  
15      wishful thinking to try to divert your attention  
16      from the cold, hard facts in this case.

17             Questions by the lawyers, remarks are not  
18      evidence. You must determine -- and in this case,  
19      ladies and gentlemen, it all boils down to  
20      credibility, because either Jamie Sherman, along  
21      with her girlfriend and her relatives, and  
22      everybody else at the Sheriff's Department has  
23      conspired to make this up to frame poor Dominique  
24      Ross, because either you believe her version or  
25      what the facts support.

1           Now, I want to apologize if over the course of  
2 the last several days if we have done anything,  
3 Ms. Walker has done anything to offend you in any  
4 way. Sometimes we get clumsy in our questioning,  
5 inartful, in a rush to get the information out. It  
6 was not intentional on our part. Please, please  
7 don't hold anything we may have done to offend you  
8 against Jamie Sherman and his day in this  
9 courtroom.

10           Now, criminal cases are unique, as you have  
11 noticed over the last several days. There have  
12 been multiple references to reports, to medical  
13 records, to experts who gave opinions and wrote  
14 reports. And none of that is admissible.

15           Because in criminal cases the law recognizes  
16 that the Defendant, it is his right to confront  
17 each and every witness that comes before him. That  
18 is why everything is done with live testimony, so  
19 that you have the opportunity to observe the  
20 witness and to judge their credibility.

21           You haven't heard of any depositions in this  
22 case. You heard statements which weren't  
23 admissible, but the live testimony is, and things  
24 of that nature. And that is the reason for it.  
25 Because the Defendant has a right to confront each

1 and every witness. And you have the right to judge  
2 the credibility of each and every witness who is  
3 contributing to this.

4 Now, in that same vein, you have heard of  
5 other officers and stuff that may have witnessed a  
6 statement, or something like that. There is a  
7 thing called cumulative evidence. The State can't  
8 just bring up the same people to say -- or  
9 different people to say the same thing over and  
10 over. It is called cumulative evidence.

11 But what we have brought before you, ladies  
12 and gentlemen, is every relevant witness in this  
13 case who had something to add as far as what  
14 happened on that night.

15 Now, the judge will instruct you, the burden  
16 of proof is on the State of South Carolina to prove  
17 this Defendant beyond a reasonable doubt.

18 And let me repeat that. It is on the State to  
19 prove him guilty, just as it should be. And I  
20 submit, ladies and gentlemen, in this courtroom,  
21 with this evidence, and this case, that is a burden  
22 the State welcomes.

23 Now, what is proof beyond a reasonable doubt?  
24 The judge may instruct you that proof beyond a  
25 reasonable doubt, the easiest way to define it is

1 proof that would cause a reasonable man to hesitate  
2 to act.

3 But our courts have gone a little farther in  
4 defining what a reasonable doubt is. And when you  
5 make a determination or when you are trying to  
6 determine back there if the State has met its  
7 burden, as I submit it has, you can consider this  
8 language.

9 The judge will instruct you that in civil  
10 cases there is a certain level of proof, but in  
11 criminal cases it is a higher level of proof, just  
12 as it should be.

13 Proof beyond a reasonable doubt is proof that  
14 leaves you firmly convinced of the Defendant's  
15 guilt. There are very few things in this world  
16 that we know with absolute certainty. And in  
17 criminal cases the law does not require proof that  
18 overcomes every possible doubt.

19 If, based on your consideration of the  
20 evidence, you are firmly convinced that the  
21 Defendant is guilty of the crime charged, you must  
22 find him -- or her in this situation -- guilty.

23 If, on the other hand, you think there is a  
24 real possibility that she is not guilty, you must  
25 give her the benefit of the doubt and find her not

1 guilty.

2 All the State has to prove is that -- proof  
3 that leaves you firmly convinced of the Defendant's  
4 guilt. The law recognizes you can't overcome every  
5 possible doubt. And I submit, ladies and  
6 gentlemen, in this case, with this evidence, the  
7 proof is overwhelming. But that is not the burden.

8 Now, the judge will instruct you that when you  
9 go back there you are going to have three different  
10 verdicts to come to, because more than one crime  
11 can be committed at one time. So there are three  
12 different charges that you can consider in this  
13 case. There is armed robbery, burglary in the  
14 first degree, and attempted murder. And all those  
15 are encompassed in the acts that occurred on that  
16 day.

17 And the judge will also instruct you -- and  
18 I'll get back to this in a minute -- that under a  
19 theory of law, when two or more people band  
20 together to commit a crime, the hand of one is the  
21 hand of all. The roles may be very different. One  
22 may be just the getaway driver. Amber Richardson.  
23 One may be just the lookout. One may be just the  
24 inside guy. But each and every one of those are  
25 responsible for the crimes committed in furtherance

1 of that plan. And I'll get back to that.

2 Now, the judge will instruct you on the  
3 definition of armed robbery. It is codified in our  
4 statutes.

5 And the law says that a person who commits a  
6 robbery -- and what is robbery? Robbery is just  
7 stealing from a person. In this case it didn't  
8 have to come off his person, it was in his house,  
9 but it was near enough to him that he was in  
10 control of that money. Robbery is stealing from a  
11 person, in this case, while armed with a pistol,  
12 dirk, slingshot, metal knuckles, razor, or other  
13 deadly weapon, or the law even recognizes that when  
14 someone comes in and acts like he has a weapon,  
15 while alleging, either by action or words, he or  
16 she was armed while using a representation of the  
17 deadly weapon or any object which a person present  
18 during the commission of the robbery reasonably  
19 believed to be a deadly weapon is guilty of armed  
20 robbery.

21 This isn't a case where it involves a toy gun  
22 or someone putting their hands in their pocket and  
23 acting like they have a gun. This was a real live  
24 gun. It cost him his eye. Luckily, not his life.  
25 So there is no question this is an armed robbery.

1           And I submit, nobody is going to get up here  
2           and argue that this wasn't an armed robbery. I  
3           could be wrong. But those are the elements: A  
4           person who commits a robbery, while armed, or while  
5           alleging to be armed. Those are the elements of an  
6           armed robbery.

7           The next charge that the judge is going to  
8           instruct you that you must consider -- and he may  
9           have them in a different order than I do -- is  
10          burglary in the first degree.

11          And what is burglary in the first degree?  
12          Very simply, ladies and gentlemen, burglary is a  
13          person who enters a dwelling -- and there is no  
14          dispute this is where Jamie Sherman lives, and it  
15          was a house or a dwelling -- without consent, and  
16          with intent to commit a crime in the dwelling, and  
17          that either -- and there is what is called  
18          aggravating circumstances. We don't have to prove  
19          all of these that I'm getting ready to go through,  
20          we just have to prove one. But in this case it is  
21          so egregious there were multiple aggravating  
22          circumstances involved. That either when effecting  
23          entry or while in the dwelling or in immediate  
24          flight, he or she, or an accomplice in the crime is  
25          armed with a deadly weapon or explosive; or, when

1 in effecting entry -- and, remember, these are  
2 or's, I don't have to prove every one of these,  
3 although I submit in this case we have -- while in  
4 the dwelling or immediate flight, he or she or an  
5 accomplice in the crime causes physical injury to a  
6 person who is not a participant in the crime, or,  
7 when in effecting entry or while in the dwelling or  
8 in immediate flight he or she or an accomplice in  
9 the crime uses or threatens the use of a dangerous  
10 instrument, or, when effecting entry or while in  
11 the dwelling or in immediate flight he or she or an  
12 accomplice entering or remaining occurs in the  
13 nighttime. Any one of those is enough to make it  
14 burglary in the first degree.

15 And in this case, ladies and gentlemen, they  
16 didn't break the door down. And look very  
17 carefully at burglary in the first degree. You  
18 don't have to. When a person enters a dwelling.  
19 And the reason for that is the law recognizes that  
20 people can gain entry into someone's home in  
21 various ways to execute illegal activity inside.

22 And in this case it is classic. And the judge  
23 will also instruct you on what entering without  
24 consent means.

25 It means to enter without the consent of the

1 person in lawful possession -- and there is no  
2 dispute, this wasn't her house, this was Jamie's  
3 house -- or, to enter by using deception, artifice,  
4 trick, or misrepresentation to gain consent to  
5 enter from a person in lawful possession.

6 This was a plan. Her role was to go in there  
7 and get him in the shower. Was that deception,  
8 artifice, trick, or a misrepresentation? She told  
9 Jamie she just wanted to hang out.

10 Enters without consent. She entered by using  
11 deception, artifice, trick, or misrepresentation.  
12 And that is exactly how she got in. And that is  
13 how she let the others in.

14 And that is the law, or some of the law, which  
15 the judge will instruct you.

16 Now, the final indictment -- and, again, I  
17 don't know what order the judge may charge you  
18 on -- is attempted murder. And, very simply, the  
19 statute reads as follows:

20 A person who, with intent to kill,  
21 attempts to kill another person with  
22 malice aforethought either express or  
23 implied, that constitutes the offense of  
24 attempted murder.

25 Now, some of those terms the judge will define

1 for you. Attempts to kill another person with  
2 malice aforethought, either express or implied.

3 And the term malice, what does that mean? And  
4 the easiest way that I always remember is very  
5 simply thinking of malice, and the word, the base  
6 word is the word malicious. Were the Defendants  
7 acting maliciously?

8 And I submit, ladies and gentlemen, this case  
9 reeks of malice. It doesn't get any more malicious  
10 than to shoot someone in the face.

11 The judge will instruct you on some of this.  
12 Malice is a wrongful intent to injure another. It  
13 indicates a wicked or a depraved spirit intent on  
14 doing wrong. It is the doing of a wrongful act  
15 intentionally and without just cause or excuse.

16 Malice is defined as the formed purpose and  
17 design to do a wrongful act under circumstances  
18 that exclude any legal right to do it.

19 In its legal sense, it does not necessarily  
20 import ill-will towards the individual injured, it  
21 signifies rather a general malignant recklessness  
22 of the lives and safety of others or a condition of  
23 the mind which shows a heart regardless of social  
24 duty and fatally bent on mischief.

25 Again, rather a general malignant recklessness

1 of the lives and safety of others or a condition of  
2 the mind which show a heart regardless of social  
3 duty and fatally bent on mischief.

4 And I submit when those men entered that day  
5 they were going to do whatever it took. Killing  
6 Jamie Sherman was within that realm of whatever it  
7 took so that they could get to that safe.

8 Malice may be either express or implied. And  
9 those aren't two different kinds. The judge will  
10 say there is nothing to the meaning of the word  
11 malice. They don't imply different kinds of  
12 malice, but merely the manner in which one -- the  
13 only kind known to law may be shown to exist by  
14 positive inference, evidence or inference.

15 Express malice has been defined as the type of  
16 malice such as laying in wait, having a plan in  
17 place. Or, the law recognizes that not in every  
18 case that someone is going to walk up to another  
19 person, pull out the gun, and then say the words, I  
20 am trying to kill you.

21 So that is how you are able to infer malice.  
22 The law recognizes that it may not always be  
23 expressed such as that.

24 So implied malice occurs when a wanton,  
25 reckless disregard for human life or a reasonably

1 prudent man would have known better according to  
2 common experience that there was a present and  
3 strong likelihood that death would follow from the  
4 contemplated act.

5 When you hear the word malice aforethought,  
6 what does aforethought mean? Although it must be  
7 aforethought, there is no requirement it must be  
8 exist for any appreciable length of time before the  
9 commission of the act. And we'll get back to that.

10 The judge will further instruct you, or he may  
11 use words similar to this, again:

12 In its positive sense, the term malice  
13 may mean hatred, ill-will, or hostility  
14 towards another. In its legal sense,  
15 however, malice does not necessarily  
16 mean ill-will towards the individual  
17 injured. It signifies a general  
18 malignant recklessness of the lives and  
19 safety of others or a condition of the  
20 mind which shows a heart regardless of  
21 social duty and fatally bent on  
22 mischief.

23 It can be the wrongful intent to injure  
24 another and indicates a wicked or  
25 depraved spirit, a spirit intent on

1           doing wrong.

2           Now, the judge will instruct you for the  
3 Defendant to be guilty under hand of one, hand of  
4 all, we don't have to show a specific intent to  
5 kill. A specific intent to kill is not an element  
6 of attempted murder, but there must be a general  
7 intent to commit serious bodily injury.

8           Intent means intending the result which  
9 actually occurs, not accidentally or involuntary.  
10 And this isn't a case where the gun just went off.  
11 Jamie Sherman was on the other side of that door  
12 holding them off, and they needed to get to him, so  
13 they made it happen. And there was no question he  
14 was on the other side of the door holding it shut.

15           Intent may be shown by acts and conduct of the  
16 Defendant and other circumstances from which you  
17 may naturally and reasonably infer intent.

18           Intent may also be inferred when it is  
19 demonstrated that the Defendant voluntarily and  
20 willfully commits an act, the natural tendency of  
21 which is to destroy another's life.

22           The judge will then instruct you on malice  
23 aforethought. And I submit, ladies and  
24 gentlemen -- and you'll hear the judge, when he is  
25 talking about attempted murder, he is not going to

1 talk that they had to have a motive, although in  
2 this case the motive was robbery. He will instruct  
3 you that it doesn't have to be premeditated. They  
4 didn't have to plan on going in there and actually  
5 shooting him in the face. That is what happened.  
6 That is not what would make it murder.

7 Because malice aforethought, once they got in  
8 there and they figured out that Jamie Sherman  
9 wasn't giving up easily, they then made the choice  
10 of how to make sure they got what they came for.

11 Malice aforethought does not require that  
12 malice exist for any particular time before the act  
13 is committed. Malice must exist in the mind of the  
14 Defendant just before and at the time the act is  
15 committed.

16 When they were pushing against that door and  
17 they decided that the only way they were going to  
18 get to him was to shoot him, that is malice  
19 aforethought. Therefore, there must be a  
20 combination of the previous evil intent and the  
21 act, just before -- it does not require that malice  
22 exist for any particular time before the act is  
23 committed, it must exist just before and at the  
24 time.

25 The judge will instruct you the hand of one is

1 the hand of all. That is part of our law in this  
2 state.

3 It is the law of this state that if a crime is  
4 committed by two or more persons who were acting  
5 together in the commission of an offense, the act  
6 of one is the act of one or both, or all. If two  
7 or more combine together to commit an unlawful act  
8 and in the execution of that criminal act a  
9 homicide is committed by one of the actors as a  
10 probable or natural consequence of the act done in  
11 pursuance of the common design, all present  
12 participating in the unlawful undertaking are as  
13 guilty as the one who committed the fatal act if  
14 both are together, acting together, assisting each  
15 other in the commission of the offense.

16 And the underlying offense here was the  
17 robbery. The burglary and the robbery are the  
18 underlying offenses.

19 The law says that under those circumstances  
20 the act of one is the act of all, and, as it is  
21 sometimes said, the hand of one is the hand of all.

22 It doesn't matter if the plan didn't include  
23 the shooting on the front end. If they are in  
24 there executing the robbery, which they were, and  
25 the shooting occurs, the attempted murder, then

1 everyone involved is responsible.

2 If two or more persons were acting together in  
3 the commission of the offense, the act of one is  
4 act of both or all.

5 By way of illustration, two people can be  
6 guilty of killing another, of murder, when only one  
7 of the two had an instrumentality or means of  
8 committing the crime, there was only one weapon,  
9 and only one of the two used the instrumentality to  
10 cause the death or injury. If both are together,  
11 acting together, assisting each other in the  
12 commission of the offense, the law says the act of  
13 one is the act of all and the hand of one is the  
14 hand of all. And listen carefully to the judge's  
15 instructions.

16 Now, in this state there are different kinds  
17 of evidence. There is direct evidence and there is  
18 circumstantial evidence.

19 Direct evidence is typically eyewitness  
20 testimony, which you have here. Eyewitness  
21 testimony from Jamie Sherman, from the  
22 Co-Defendant, from Simone Patterson, from people  
23 who were there at different points and had  
24 observations. It is the kind of evidence that is  
25 perceived through the senses: What you see, what

1       you hear, what you taste, what you smell, things  
2       like that. That is eyewitness testimony. Direct  
3       evidence.

4               But there is also circumstantial evidence.  
5       The law recognizes there are two types of evidence:  
6       Direct and circumstantial evidence.

7               Direct evidence is the testimony of a person  
8       who asserts or claims to have actual knowledge of a  
9       fact, such as an eyewitness.

10              Circumstantial evidence is proof of a chain of  
11       facts and circumstances indicating the existence of  
12       a fact.

13              The law makes absolutely no distinction  
14       between the weight or value to be given either  
15       direct or circumstantial evidence, nor is a  
16       greater degree of certainty required of  
17       circumstantial evidence than of direct evidence.

18              You should weigh all the evidence in the case.  
19       After weighing all the evidence, if you are not  
20       convinced of the guilt of the Defendant beyond a  
21       reasonable doubt, you must find the Defendant not  
22       guilty.

23              If, on the other hand, you are convinced of  
24       the Defendant's guilt beyond a reasonable doubt,  
25       you must find him or her guilty.

1           Circumstantial evidence. The phone records.  
2           Circumstantial evidence of who was involved. The  
3           text messages.

4           The judge will also instruct you, and he  
5           instructed you earlier about expert witnesses.  
6           Generally when a person such as myself comes to  
7           court, I can't testify as an expert or give my  
8           opinion. If a person is qualified does, such as  
9           Dr. Bynoe, such as Terri Gleason, they have special  
10          training in certain fields, and they are allowed to  
11          come in here and give you an opinion. And that is  
12          what happened in this case.

13          In every case, ladies and gentlemen, the State  
14          must prove the Defendant was acting with criminal  
15          intent. And what is criminal intent? The judge  
16          may instruct you that simply it is a conscious  
17          wrongdoing.

18          Now, the law recognizes that we can't dissect  
19          someone's brain and formulate exactly what was in  
20          their mind at the time. We can't calculate it to  
21          some mathematical certainty. But you can look at  
22          the facts and circumstances surrounding the act of  
23          the Defendant and her cohorts in determining  
24          whether criminal intent was present. And I submit,  
25          ladies and gentlemen, criminal intent is not an

1 issue in this case.

2 The judge will also instruct you that mere  
3 presence at the scene of a crime is not guilty.  
4 Dominique Ross was not merely present at the scene  
5 of a crime. She was there. She had a role. She  
6 executed her role. She enabled them to get in and  
7 get to Jamie Sherman and do the robbery. She was  
8 the one that had access, she was the one that had  
9 the knowledge, and she was the one that could get  
10 them in there. That was her role. There is no  
11 mere presence.

12 Presence at the scene of a crime by  
13 prearrangement to aid, encourage, or abet in the  
14 perpetration of a crime constitutes guilt as a  
15 principal. The judge will instruct you on that.

16 And the final thing I want to talk about is  
17 credibility. And you have heard everything. And  
18 when I was listening yesterday as they were  
19 replaying that 9-1-1 tape and the Defendant sounds  
20 hysterical -- and think about it, she was. Things  
21 didn't go quite like she thought. When she came  
22 back in there, there is blood everywhere. It is  
23 literally shooting out of his face. In her mind  
24 there is no way he is going to survive this. That  
25 is when she thought, I'll just look around for a

1 little extra. Was she looking for some more money?  
2 Was she looking for whatever she felt like taking?  
3 And how do you think she felt when she looked  
4 around and Jamie Sherman got up?

5 And at that point she went into Plan B because  
6 she needed to act better than she ever had. She  
7 needed to be hysterical, because she was upset,  
8 because she was there. He knew who she was.

9 MR. STANLEY: Your Honor, this is outside the  
10 scope of the law. This isn't real argument.

11 THE COURT: I think she was commenting on  
12 circumstantial evidence. I'll allow to her to  
13 continue to comment on circumstantial evidence.

14 MS. CAMPBELL: Thank you, Your Honor.

15 THE COURT: You may proceed.

16 MS. CAMPBELL: And she gave the performance of  
17 a lifetime. But she messed up: He never asked me  
18 to call 9-1-1.

19 The first thing you hear is him going, Please  
20 call 9-1-1.

21 Why is he having to say that? Does that  
22 corroborate what he told you?

23 She goes to Plan B. And it is a performance.  
24 Credibility. This case, as in most of them, boil  
25 down to credibility. And in this case, very

1 simply, ladies and gentlemen, it is not really  
2 about reasonable doubt, because either you believe  
3 Dominique Ross or you believe Jamie Sherman.

4 Or maybe their defense is, Jamie Sherman, he  
5 just deserved it. Just ignore it. I mean, he got  
6 convicted of selling some DVDs. Why not just shoot  
7 him? He doesn't count.

8 Ladies and gentlemen, I submit that is  
9 offensive. Trash the victim is your defense?  
10 Credibility, believability. The judge will  
11 instruct you, you can believe one against many,  
12 many against one, part of what a witness says, none  
13 of what a witness says, all of what a witness says.  
14 Determine, what is their bias? What do they have  
15 to gain? Why would Jamie Sherman want to frame  
16 this poor innocent girl if she didn't have anything  
17 to do with it? That was his friend. Why would he  
18 want to frame her? What does that get for him? To  
19 come here in court two years later and get to tell  
20 you about the worst night of his life, that he was  
21 lucky enough to survive?

22 Bias, prejudice, something to gain, something  
23 to lose. Credibility. Are the stories consistent?  
24 Did she have trouble assembling everything to get  
25 the facts down to remember exactly how she told

1 Deputy Stone?

2 Even in the 9-1-1 call: Do you know who did  
3 this? Remember? She didn't say somebody, they  
4 said they were named Amp. She says, I don't know.  
5 Because she is still working on her story.

6 Why does she not want to go home to Amber?  
7 She gets the police to drop her off at an address  
8 that can't be associated with where she lived with  
9 her.

10 Credibility, ladies and gentlemen. I beg you,  
11 judge Jamie Sherman. Judge Amber Richardson, who,  
12 for some unknown reason, is collaborating with  
13 Jamie Sherman, the police, the telephone company,  
14 in framing poor innocent Dominique Ross.

15 And in doing that, she'll go so far as to  
16 implicate herself. She is willing to go to jail  
17 just to frame poor Dominique Ross. I submit at  
18 least Amber Richardson had a conscience and told  
19 the truth.

20 And what a coincidence. The phone records,  
21 that they didn't even have at that time, just  
22 happened to corroborate the Clear Talk message,  
23 which it happened, luckily, one of the few  
24 companies that even keeps the text messages.  
25 Everything went down.

1           Guilt beyond a reasonable doubt? I beg you,  
2 all the State is asking is to hold Dominique Ross  
3 responsible. She fled. She tried to get away.

4           The judge will instruct you that when you go  
5 back there each of you individually and  
6 collectively will have to reach a unanimous  
7 verdict. It is not about retribution, it is only  
8 about justice.

9           And despite what they may tell you about Jamie  
10 Sherman, he and every other citizen in this county  
11 deserves justice.

12           Very simply, ladies and gentlemen, we submit  
13 that the only verdict that will speak the truth is  
14 to hold her responsible of her choices, her  
15 actions, and find her guilty.

16           Thank you.

17           THE COURT: The Defense may proceed.

18           MR. STANLEY: Thank you, Your Honor.

19           THE COURT: Mr. Stanley.

20           MR. STANLEY: May it please the Court?

21           THE COURT: Yes, sir.

22                           CLOSING STATEMENT.

23           MR. STANLEY: Solicitor? Ladies and gentlemen  
24 of the jury?

25           Jury service, I consider jury service a lot

1           like military service. You have been told when to  
2           stand up, when to sit down, when to listen, where  
3           to go, what time to be here.

4                     And now you have taken an oath, an oath to  
5           evaluate, to look to see whether the State proved  
6           beyond a reasonable doubt that Dominique Ross  
7           committed these acts.

8                     In this country we set the burden of proof  
9           very high. This is based on the belief -- and I  
10          still hope it is true -- that it is better for an  
11          innocent person not to go to jail than for -- than  
12          a guilty person to be set free.

13                    It is also recognition that very few people  
14          have the money, resources, or people to prove  
15          themselves innocent.

16                    Being entitled to a verdict of not guilty does  
17          not mean you have to like the Defendant, but you  
18          are duty-bound to ask yourselves, Did the State  
19          prove beyond a reasonable doubt that she committed  
20          these actions.

21                    I like to -- in our justice system there are  
22          different burdens of proof. I can describe to you  
23          different burdens of proof and how that relates to  
24          proof beyond a reasonable doubt.

25                    So, excuse me for my poor sketching. At the

1 lowest level we have probable cause. Probable  
2 cause is basically a reasonable basis that a crime  
3 has been committed.

4 When somebody gets pulled over for speeding,  
5 when somebody gets arrested, that is probable  
6 cause. That is the lowest level that our justice  
7 system has.

8 Now, on a second level we have what is called  
9 the preponderance of the evidence. The  
10 preponderance of the evidence is whether or not the  
11 greater weight of the evidence tilts one way or the  
12 other. It is mostly seen in civil trials where  
13 money is involved, where one person is suing the  
14 other person for money, so you can have a little  
15 bit more weight than the other to be able to find  
16 for that person, whoever is asking for the money.

17 Next is clear and convincing evidence. Again,  
18 we get higher. We get a higher burden of proof.  
19 And that is when it is substantially more likely  
20 than not that whatever they are alleging is true.  
21 This is mostly seen in the family law  
22 circumstances, where if the government wants to  
23 take a child away from somebody or terminating  
24 parental rights, that is what they have to prove:  
25 Substantial, more likely than not, evidence.

1           And then we have the next level: Beyond a  
2 reasonable doubt. I'd like to consider it in the  
3 logic of the law that they are asking for something  
4 greater than the government is going to take away  
5 your child. The next level. A very strong burden.

6           Another way to say it is to a reasonable moral  
7 certainty. You have to be sure that this is what  
8 happened and that the Defendant committed the crime  
9 and the State proved those facts.

10           There is no certainty in this case. The major  
11 evidence presented by the State are: The  
12 statements, the testimony of Jamie Sherman; the  
13 testimony of Amber Richardson; the text messages  
14 and phone records; and the 9-1-1 phone call.

15           First off, something terrible happened to  
16 Jamie Sherman. I'm not -- we're not here to smear  
17 him. We're here to be able to, like the State, be  
18 able to judge his credibility and what happened  
19 that day.

20           And I will say that his version is difficult  
21 to believe. Why do I say that? As part of the  
22 evidence in the case there was the phone records  
23 and 9-1-1 phone call.

24           If you notice, the text message between Amber  
25 Richardson and her cousin -- Amber Richardson, the

1           getaway driver, and her little cousin, Simone  
2           Patterson -- 9:19 and 40 seconds: Are they about  
3           to do it? Okay.

4           And then you heard testimony that the 9-1-1  
5           phone call was placed at 9:20 and 20 seconds.  
6           Okay.

7           So what does that mean? That means that there  
8           was a 40-second window for all this to happen. Or  
9           maybe there was a little bit greater window.  
10          However, that means that it is still a very, very  
11          short window.

12          And in that time window the door has to be  
13          open. The men have to come in. They have to go  
14          after the victim. They go directly at the victim.  
15          He testified that they were walking towards the  
16          victim. They have to shoot the victim. They have  
17          to open the door. They have to get him out. They  
18          have to speak with him. They have to go into his  
19          room to find out what is going on in his room.  
20          They have to get the cash box. They have to bring  
21          it to him. He confirms that it is the cash box.  
22          And then they have to leave.

23          All of this, though, also has to happen,  
24          though, is that Dominique Ross has to come from  
25          outside the home, that she ran all the way around,

1           that she ran to the back, she has to come back, she  
2           has to go through all the cabinets, she has to go  
3           through all the stuff that he is saying, make some  
4           terrible comments, fake dial 9-1-1, and then also  
5           then call 9-1-1. All that has to happen in that  
6           short window.

7                     And you heard -- you heard the 9-1-1 phone  
8           call. She is absolutely hysterical. You can't --  
9           you can't fake that kind of emotion. You can't  
10          fake that raw emotion.

11                    And especially during that time period she is  
12          obsessing what is going on, she is obviously trying  
13          to call 9-1-1, she is obviously taking care of the  
14          victim. She testified that she got a towel for him  
15          to cover his eye, and also actually went outside to  
16          go find an ambulance. There might be some  
17          confusion going on here, but she is going -- she is  
18          helping him and she is calling 9-1-1.

19                    And to further that, EMS was actually  
20          dispatched or got the call at 9:21. That  
21          buttresses the whole -- that is the whole  
22          situation.

23                    Now, let's talk about the testimony of Amber  
24          Richardson. She admitted being the getaway driver  
25          in this case. She is facing significant time in

1        prison. She knew -- by the time she is making the  
2        story, March 8th, she knew that Dominique had  
3        already been in jail. She knew what the police  
4        wanted to hear. She did not tell the truth. She  
5        told you she didn't tell her at all about her  
6        cousin involved. She didn't -- she didn't -- she  
7        admitted -- she said, Oh, well, these text messages  
8        were mine, that I was talking to Dominique, I was  
9        going in -- she was going in, she was going out.  
10       That didn't happen.

11                She definitely had a social life or a lot of  
12        drama going on in her life at the time. She was  
13        being -- had problems with her mom. She had  
14        problems with her apartment. She had problems with  
15        money. She had a lot going on.

16                In the words of the godfather, when she spoke  
17        to the police, she got an offer she couldn't  
18        refuse. She got nine days in jail.

19                MS. WALKER: Objection, Your Honor. There was  
20        no offer made to Amber Richardson that is in  
21        evidence.

22                MR. STANLEY: I was just making allusion to  
23        the godfather.

24                THE COURT: So you are figuratively speaking?

25                MR. STANLEY: Yes, Your Honor.

1 THE COURT: Okay. As long as we have that  
2 understanding. You may proceed.

3 MS. WALKER: Thank you, Your Honor.

4 MR. STANLEY: And, ladies and gentlemen of the  
5 jury, I am not alleging that she had any deal with  
6 the State. I am alleging, though, that she only  
7 got nine days in jail for this.

8 You also have to remember that Jamie Sherman  
9 and Amber's statements have to match, or they have  
10 to be together, at least on some certain key  
11 critical points.

12 Amber Richardson described men with masks on  
13 their head. She didn't say that they were on their  
14 head. Jamie Sherman said that you can see their  
15 hair. Okay.

16 Jamie Sherman described a black male that was  
17 6'1", 170 to 180, tall, slender, medium skin, low  
18 afro, and a mustache, scraggly beard. Okay.

19 Amber Richardson does not describe anybody of  
20 this caliber. Amber Richardson said, I didn't see  
21 the third guy. She definitely saw him a lot longer  
22 than the 40 seconds that Jamie Sherman might have  
23 seen him.

24 The second suspect they say -- Jamie Sherman  
25 says is taller, 6'1", 6'2", skinny, 160 to 170, he

1 is the one with the gun. Okay.

2 Amber Richardson describes the man with the  
3 gun as Dexter McNeill. He is dark skinned with  
4 braids, 6'1" -- 6 foot to 6'1".

5 Well, what did Investigator Unger describe?  
6 Excuse me. Investigator Unger described him as  
7 being 6'2", 260. That is a hundred pounds off.

8 Lastly, there is a shorter suspect, light  
9 skinned, with dreads. Amber Richardson said  
10 dreads, short like 5'5", heavy like 220, 230. She  
11 is describing this man. He is not light skinned.  
12 And in his actual arrest warrant he was like 180.  
13 Again, that is a 50 pound difference in  
14 descriptions.

15 And, again, Amber Richardson can't describe  
16 the man with the afro, scraggly beard, and  
17 mustache.

18 Simone Patterson. Two or three people. I'm  
19 not sure. Can't describe any of them.

20 In order for Amber's story -- the State talked  
21 about phone records. During January 8th and 9th  
22 Dominique called a lot of numbers in North  
23 Carolina. She was from North Carolina. And, yes,  
24 including her aunt who happened to be married to a  
25 man named Dexter McNeill. She stayed with that

1           aunt. They were close. Dominique Ross had no  
2           family in Columbia. She -- you saw her. She is a  
3           pretty quiet girl. But when you are with your  
4           family you get more comfortable.

5           And I will tell you what, young people talk on  
6           the phone a lot. And the record will reflect that  
7           she was talking on the phone, texting, doing things  
8           that people do.

9           Going back to Jamie Sherman, or mostly the  
10          investigation, you know that the investigation is  
11          primarily driven by two things: The statements of  
12          Jamie Sherman and the statements of Amber  
13          Richardson.

14          You heard some testimony about Jamie Sherman  
15          having some -- at least some close connection with  
16          the police force. There was a family friend that  
17          he knew. This investigation happens on -- starts  
18          on January 9th. He makes a statement on  
19          January 17th.

20          Nothing happens until a month later, until  
21          February 16th. I would be frustrated. That is a  
22          -- if nothing is happening in your case, I  
23          understand the frustration. There is a switch in  
24          investigators, and that investigator just looked at  
25          the statements, knocked it down.

1           And you know what he says? He looks at the  
2 statements, he sees a little bit more details, and  
3 he said: Okay, let's make an arrest. Let's make  
4 some movement on this case.

5           And he does. He signs it, gets the arrest  
6 warrant very soon afterwards. And then Dominique  
7 Ross is found five days after the arrest warrant in  
8 North Carolina.

9           So let's talk about flight. Okay. The police  
10 during that whole month period never call. Never  
11 call Dominique Ross. Okay. Yes, she is a suspect,  
12 so don't call her.

13           Well, let's go to places where we know she is  
14 probably not at, or she might not be at. Let's go  
15 to Brook Pines Apartments. Let's go to another  
16 apartment complex. Let's go to Jamie Sherman's  
17 house, let's see if she is there.

18           But, did they actually call anybody that they  
19 had the phone records for? Did they ask Dionne  
20 Dotson where Dominique might be? Did they do a  
21 thorough investigation of where she could be? They  
22 just assumed that she is on her way to flight.

23           She experienced a traumatic event. She wanted  
24 to go be back where her family was. And she wasn't  
25 hiding. They found her quick.

1           And there is a lot of talk about, you know,  
2 she didn't have her cell phone and she didn't --  
3 they don't know that. They don't know whether or  
4 not it was found with her when she got arrested.  
5 That is not part of their investigation.

6           So when they go on and on about, oh, she threw  
7 away her phone, she did all that. Well, no. She  
8 was a young college student. She told you, she  
9 didn't have money. Why in the world would she be  
10 throwing her phone away? You know, that is her  
11 main means of communication. That is not  
12 plausible.

13           Now, talking -- going back to the text  
14 messages. Amber testified that she sent a text,  
15 erased her phone.

16           Now, me and Captain McDonald disagreed on who  
17 sent that text. Well, I tell you what, if you look  
18 at those phone records, that is during the time she  
19 is talking to 9-1-1. How is she going to text and  
20 call 9-1-1? How is she going to text -- or talk --  
21 text and talk to 9-1-1 when she is absolutely  
22 hysterical?

23           Those are -- those are Amber Richardson's text  
24 messages. And Amber Richardson was communicating  
25 with her cousin, Simone Patterson, during this

1 crime.

2 You saw Simone up there. She didn't know  
3 anything about this. Yet, she was texting during  
4 the middle of the crime.

5 Their stories have to match up. There has to  
6 be more than what is going on.

7 What about Briana Jackson? She is supposed to  
8 be there during the planning of the crime. She  
9 told you she wasn't, she didn't remember. But she  
10 was also the same person that was texting Amber  
11 saying, You have to leave this house. I can't take  
12 care of this dog, I can't clean up after you, you  
13 need to go. That is at 6:30 that day.

14 The State also has made a deal about Briana  
15 Jackson talking with Dominique. They had the same  
16 opportunity as I did to see all these witnesses, to  
17 figure out what Amber Richardson's story was.

18 And Amber Richardson's original story was, No,  
19 it was just me, Dominique, and some guys. And some  
20 of those guys included some uncles. She didn't  
21 include Briana Jackson, she didn't include Simone  
22 Peterson -- Patterson.

23 So once that came to light, where was the  
24 investigation? Why didn't they just check it out?  
25 Why didn't they check out Simone Patterson? They

1 had her phone number. It was in there.

2 A lot of this case is an investigation that  
3 was just slinging mud at the wall to see what would  
4 stick.

5 The officers testified a little bit to some of  
6 the small problems. They kind of laughed them off.  
7 They said, Well, we got the wrong -- you know, we  
8 got the wrong cell phone records. It was just a  
9 mistake. Sorry.

10 You know, and then there was another mistake,  
11 Well, we told -- we talked to Amber Richardson  
12 about texting in and out of the house, but that  
13 was -- that was a mistake.

14 And, again, they didn't speak to Simone.  
15 Again, they just didn't look at the records.

16 I understand they have a tough job. I'm not  
17 trying to beat up the cops. But I do question  
18 their story when they say, We expected Dominique to  
19 call us. Okay.

20 Well, I'll tell you what. Jamie Sherman had a  
21 difficult time getting involved with the cops. He  
22 called multiple times and then he got a actual  
23 investigator. Investigator Martin was there, but  
24 he actually wasn't at the first meeting, another  
25 investigator was there.

1           Does Dominique have to -- have an obligation  
2 to call the cops? She gave them her statement.  
3 She gave, I guess, a statement to Investigator  
4 Stone. She gave them DNA. She was there for two  
5 hours. They could have got a statement then. They  
6 had her phone number. Why didn't they call her?

7           And, again, Dominique testified that she did  
8 go to the hospital the day after, early in the  
9 morning. Okay.

10           Well, then once you start hearing -- or if you  
11 heard bad things about her, that you set things up,  
12 what is your -- what are you supposed to do? She  
13 had her father call.

14           Now, the government is going to say, you know,  
15 We don't pick our witnesses, we get what we get.  
16 But they do get to pick what witnesses they present  
17 to you. And by presenting witnesses to you, they  
18 believe they are credible.

19           Which leads me to kind of a problem. The  
20 problem of people like Alberto Gutierrez, he is the  
21 man who came to you and said, Yes, you know, I saw  
22 some guys leave the scene of this crime, or, I  
23 think I did. They were waving a cash box -- or  
24 they had a cash box, excuse me.

25           And he apparently told the victim. Did the

1 victim tell -- the cops basically say that they  
2 never saw this guy. Okay. There might be a  
3 miscommunication, although that is an important  
4 person. If somebody can ID the people that are  
5 leaving the crime, that is an important, important  
6 fact.

7 And, lo and behold, though, he shows up last  
8 Friday right before trial. You have got to  
9 question yourself. Why is somebody with that kind  
10 of important knowledge like an ID, an actual  
11 gunman, a person that broke into the house, why is  
12 that information coming in new? Is there something  
13 going on here?

14 Furthermore, the police can't tell you, cannot  
15 give you any physical evidence of what happened in  
16 this case.

17 Now, the police said, Well, you know, there is  
18 too much blood everywhere. We couldn't get any  
19 DNA. We couldn't do this.

20 But, okay, you knew somebody got into the  
21 home. Dominique told you somebody actually knocked  
22 on the door, opened the door. The police walk in  
23 the door, opened up the bathroom door.

24 Did they check for any fingerprint evidence?  
25 Is there any fingerprint evidence available to you?

1 Is there any DNA evidence to you?

2 No. The State showed you a gun expert. They  
3 didn't show you anything about DNA. They didn't  
4 show you any DNA of the two other suspects, Raeford  
5 McNeill or Dexter McNeill.

6 Do you think that that evidence might be  
7 important to see if it matches? They didn't show  
8 you. They didn't do it.

9 There was also no evidence of the police  
10 following up on any other suspects. During the  
11 course of their investigation, other leads did pop  
12 up. They either didn't write them down or didn't  
13 follow up on what happened to them.

14 What happened to -- was there an Amp anywhere?  
15 Was there a Nate from Pine Valley? Was there a man  
16 named Oscar, which apparently threatened the victim  
17 weeks before?

18 This leads me to talk about the legal  
19 principles. You already heard the State discuss a  
20 lot of the law, and the judge will instruct you on  
21 the law. I'm not going to spend a whole lot of  
22 time on it.

23 But I will tell you that an important  
24 principle while we are here today is accomplice  
25 liability. The hand of one is the hand of all, is

1           what the State says.

2                   However, where are the hands that committed  
3 the crime? Where are the hands that shot the gun?  
4 Oh, they will be on their way. They are going  
5 to -- another jury at another time will take care  
6 of that.

7                   Well, is it fair to you? Is it? Okay. You  
8 are going to have to evaluate their level of  
9 involvement in the case. You are going to have to  
10 evaluate what you believe about who these men were.  
11 You don't have much evidence on these guys. You  
12 certainly don't have any physical evidence.

13                   And this whole case is based on the  
14 assumption, the assumption found and started by  
15 Amber Richardson that these uncles were involved,  
16 these uncles and another guy.

17                   In fact, there are -- the State has presented  
18 no evidence of hands of who actually shot the  
19 victim.

20                   And let's talk again about Amber Richardson.  
21 She was charged with attempted murder. She is also  
22 charged with armed robbery. She wasn't charged  
23 with burglary in the first degree.

24                   Well, if the hands of one are the hands of  
25 all, then where is -- why isn't she charged with

1 burglary in the first degree? What is going on?

2 Furthermore, the plan doesn't make sense.  
3 Jamie Sherman testified that Dominique Ross knew  
4 where the money was. Helped him count it out  
5 sometimes. Knew that it was in his room. Okay.

6 So she, you know, got Amber Richardson to drop  
7 her off, go back to her apartment, drop these other  
8 guys off -- or, sorry, drive these other guys, but  
9 they have a car too, so they are just bringing two  
10 cars over to this crime scene. Okay.

11 And then after she lets them go, sends her  
12 text messages, they come back, she drives one of  
13 them back. I think if there is a plan to do  
14 something, there is also a plan to escape.

15 So how in the world is somebody -- how are  
16 they going to go two guys in one car and one car  
17 with the other and then switch it up all of a  
18 sudden, especially in this short time period?

19 You know, why have all these people in the  
20 mix? Why, if you have such a good plan, why have  
21 Simone Patterson involved? Why have three Jacksons  
22 involved?

23 Dominique had -- certainly had access to the  
24 house on several, several occasions. If she really  
25 wanted to take the money, why didn't she do it when

1 she is over there taking care of her dogs? Why  
2 does she need -- why would she need the extra  
3 involvement?

4 This is Dominique Ross's only day in court.  
5 The State has to prove -- and they accepted this  
6 burden -- beyond a reasonable doubt that all of  
7 this happened. You have to believe the whole  
8 story. You can't just pick and choose the juicy  
9 parts. All of the pieces have to matter.

10 You took an oath to, again, judge what  
11 evidence the State put on and decide whether or not  
12 they proved beyond a reasonable doubt that  
13 Dominique Ross did this plan.

14 They haven't proved their case. You have to  
15 find a verdict of not guilty.

16 Thank you.

17 THE COURT: The State may proceed.

18 MS. WALKER: Thank you, Your Honor. May it  
19 please the Court?

20 THE COURT: Yes, ma'am.

21 CLOSING STATEMENT

22 MS. WALKER: Good morning.

23 THE JURY: Morning.

24 MS. WALKER: Ladies and gentlemen, when I was  
25 getting ready for this case, we sat down and we

1           were preparing and we began to try to anticipate  
2           what a defense in this case could be.

3           What is the defense when your girlfriend and  
4           your Co-Defendant have given a statement and are  
5           going to testify against you? What is the defense  
6           when the rest of your Co-Defendants have been  
7           caught and made implication of themselves? What is  
8           the defense when your cell phone records, your own  
9           cell phone records, not to mention the cell phone  
10          records of others, implicate you in a crime? What  
11          is the defense when a man, who has done nothing  
12          more than be a friend to you, give you money for a  
13          tire when you had none, taken you to eat when you  
14          were hungry, taken care of your puppy when you  
15          could no longer take care of it, what is the  
16          defense when that man who is supposed to be dead  
17          lives to tell the story and comes in here and takes  
18          the stand and tells you what happened? What is the  
19          defense? How do you defend something so  
20          indefensible? How do you defend a case with this  
21          much evidence?

22          And as the case began to unravel before you  
23          here today -- or this week, excuse me -- as the  
24          testimony was given, as cross-examinations were  
25          made, and as that Defendant took this stand, it

1 occurred to me what the defense was.

2 As Ms. Campbell told you, it is one of the  
3 oldest defenses in the book, and perhaps the most  
4 offensive -- trash the victim. He sells drugs. So  
5 I guess he does such good car washes that the cops  
6 look the other way. He sells liquor and the cops  
7 look the other way. He is a liar. That is the  
8 defense.

9 But, ladies and gentlemen, there was credible  
10 evidence that I want to talk to you about to refute  
11 a defense such as that one.

12 Because one of two things, as Ms. Campbell  
13 told you, happened in this case: Either Dominique  
14 Ross is telling the truth and she is a victim -- a  
15 victim of armed robbers, a victim of the justice  
16 system, a victim of Jamie Sherman a victim of the  
17 Sheriff's Department -- or, Jamie Sherman is  
18 telling the truth.

19 And in telling the truth, he has I guess  
20 abandoned whatever hope he had of catching the  
21 actual people that did this and just decided to go  
22 after her. And when he did that, he decided to get  
23 her own girlfriend to come in on the plot. He got  
24 with Sprint -- I guess he called headquarters and  
25 got with Sprint and got them to create some phone

1 records. He did the same with Clear Talk. And  
2 then he got with the Sheriff's Department, and  
3 these three men and other members of the Sheriff's  
4 Department decided to put their careers and their  
5 credibility on the line to frame Dominique Ross.  
6 Those are the only two ways this works out.

7 And Jamie Sherman took the stand and he  
8 testified. And he told you that he had been  
9 getting phone calls from the Defendant, that he  
10 hadn't spoken to her in weeks, but that she  
11 suddenly started calling him again and telling him  
12 that she wanted to hang out with him. That they  
13 made plans to get together. It was going to be one  
14 day, but for some reason she said schoolwork on  
15 that Saturday, she got up there and testified that  
16 she couldn't go see him because she was busy with  
17 schoolwork. Do y'all remember that? But then she  
18 testified that she played basketball all day, then  
19 went home, took a shower, ate, and went to Jamie's.

20 I submit that Saturday didn't work out because  
21 that didn't work out for her co-conspirators. So  
22 they changed that meeting date to Sunday.

23 That this Defendant walked over to the car  
24 wash area from Brook Pines, which is contrary to  
25 what she says, because she said she got dropped off

1 right there at the car wash.

2 He says that she went inside. He went to the  
3 Family Dollar and came back. And that she began to  
4 persist in telling him to take a shower. To get  
5 him naked and in the shower at his most vulnerable  
6 point so other people could come in and take his  
7 things.

8 He said that after her saying that two or  
9 three times, the entire time she is on the phone --  
10 and we'll get to that in a second because that is  
11 corroborated by the phone records -- that he  
12 catches his eye, because he sees her sprint from  
13 the living room couch to the front door, open it,  
14 and he saw three men come in. Not two, as she  
15 would have you believe, but three. The same three  
16 people that Alberto Gutierrez says he saw and the  
17 same three people that Amber Richardson says were  
18 involved. Three people, not two.

19 That he began to shut the door closed, there  
20 was a struggle at that door, and that a single shot  
21 was fired through that door. It is corroborated  
22 here with this photo. And that he fell to the  
23 ground. And you'll have the pictures there.

24 Pictures from the bathroom tile, where you can see  
25 the blood pooling and where it is smearing as his

1 head is on that tile.

2 They say, You already know what time it is,  
3 where is your cash? And he told them.

4 He didn't get up and go show them. He was  
5 trying to play dead so they didn't finish him off.  
6 He told them, and then he went down and played  
7 dead. He wasn't up and walking around the house  
8 while the gunmen were still in there. That  
9 wouldn't make any sense.

10 He said at that point they went into the room  
11 and he saw three pairs of shoes walk by and leave.  
12 And then he saw this Defendant come back in, rifle  
13 through his things, and because he is a dead man on  
14 the ground, step over him, her friend, and say,  
15 Ugh, that is nasty, his eye is hanging out of his  
16 head. And continue to look for more things to  
17 steal from the dead man.

18 But as he stood up, he asked her repeatedly to  
19 call 9-1-1, which you hear on that 9-1-1 tape.

20 That she put the phone to his face so he could  
21 see that she was actually dialing this time. And  
22 you hear it clearly. The phone is facing him, that  
23 is why it is so clear. And he says, Please call  
24 9-1-1. And then she began to tell them what  
25 happened.

1           He testified that he got his own T-shirt to  
2           put over his head to stop the bleeding, that he  
3           went and got his own shoes, that he got his own  
4           clothes to put on because cops were on the way and  
5           he didn't want to be naked in front of them.

6           That was Jamie Sherman's testimony.

7           What motive does Jamie Sherman have to try to  
8           get the wrong people arrested for the crime? What  
9           sense does that make? Why wouldn't he want the  
10          right people arrested? He just wants three or four  
11          random people locked up for something they didn't  
12          do while the people who shot him in the eye are  
13          still walking around free? Does that make sense?  
14          Does that sound credible? Does that ring true to  
15          any of you?

16          And the thing about Jamie Sherman's  
17          statement -- or, I'm sorry, about his testimony --  
18          that is different from this Defendant's testimony  
19          is corroboration. His statement is corroborated by  
20          Alberto Gutierrez. Matches what these  
21          investigators told you. Witnesses show up the day  
22          before trial, the week before trial, in the middle  
23          of trial. And if they have something to offer, it  
24          doesn't matter when they show up. Three people,  
25          not two, as she would have you believe.

1           Amber Richardson. They said she was made an  
2 offer she couldn't refuse. Let's be very, very  
3 clear about this. Amber Richardson will have her  
4 day in court. She has been made no offers in this  
5 case, as she testified to. As will these two  
6 Defendants. They too will get their day in court.

7           Mr. Stanley said repeatedly, no one else has  
8 been found guilty of this crime. No one else has  
9 been to trial yet. They'll get theirs. She is the  
10 first, not the last.

11           And he also stated that she only spent -- or  
12 that Amber Richardson only spent nine days in jail  
13 for this, for this crime? Completely untrue. She  
14 hasn't been to trial yet, she hasn't been convicted  
15 or sentenced to anything yet. That is at least --  
16 at the very least misleading to you guys. Amber  
17 Richardson also will have her day in court.

18           She testified. She testified that she made  
19 contact -- the police made contact with her. That  
20 they Mirandized her. She said she recognized --  
21 this is her Miranda Warnings. That they told her  
22 that she had the right to remain silent, that  
23 anything she said could be used against her in  
24 court, that she had the right to talk to a lawyer  
25 for advice before being asked any questions, and

1           that she could have a lawyer with her during any  
2           questioning. That if she could not afford a lawyer  
3           that she would have one appointed before  
4           questioning. And if she decided to answer  
5           questions and decided to stop, they would also  
6           allow her to do that. You'll have this back there  
7           with you. She was advised of her rights. And she  
8           gave them a statement.

9           And for some reason, in the midst of this  
10          conspiracy, she decided to turn on her girlfriend,  
11          who she was still in communication with at the  
12          time, and implicate herself, her girlfriend, and  
13          her poor two innocent uncles in this armed robbery  
14          and home invasion.

15          Why? Why would she do that? What motive does  
16          she have to do that? There is only one person that  
17          testified in this courtroom that has a motive to  
18          lie about this. And I will get to her in a second.  
19          It is not Amber Richardson.

20          Amber Richardson testified that she and her  
21          roommates had got into an argument that morning.  
22          It is in the telephone record. And it is not  
23          exactly -- you'll have them back there -- not  
24          exactly the way they paint them out. The text  
25          messages, if I remember correctly, say something

1       like, You were supposed to wash clothes and you  
2       didn't. You were supposed to clean up after your  
3       dog and you didn't. If you can change those  
4       things, we want you to stay here. If you can't,  
5       you need to go live with your mother, but I'll  
6       still love you anyway. This wasn't a get-out-now  
7       conversation that they were having.

8                She said that she went to her aunt's house  
9       where her cousin Simone was. That they hung out.  
10      And then they later went back to the apartment.  
11      That they got to the apartment, and that her cousin  
12      was in another room, and that she was in and out of  
13      that room.

14               She said that she heard bits and pieces of  
15      what was going on, knew that an armed robbery was  
16      being planned, and that she was the getaway driver.  
17      She agreed to be the getaway driver. She is  
18      equally as guilty as the rest of them.

19               That the plan was for her to take Dominique  
20      over to Jamie Sherman's apartment and then come  
21      back and later bring the uncle, which she did.

22               She said that there were two uncles. One was  
23      in the passenger seat, one was in the back seat.  
24      She couldn't remember which one was where. But on  
25      the way there she heard the gun pop. It is a very

1 distinct sound if you've ever heard it before.

2 That she dropped them off. That another car  
3 pulled up that had a third person in it whom she  
4 didn't recognize, but that person too got out and  
5 they went towards Jamie Sherman's house from Brook  
6 Pines.

7 And that she was texting Simone while they  
8 were going in: They are about to do it. They just  
9 went in. We're coming back now.

10 That she heard a gunshot. One of the uncles  
11 came back to her car. The other two got in the  
12 other car, because after you committed a crime like  
13 that it is probably best to split up and not have  
14 everybody in the same car in case you get caught.

15 That she went back to her apartment. That  
16 she -- then later this Defendant came back. She  
17 said they got scared because the police were  
18 looking for him, because at this point it is  
19 getting around that Jamie Sherman understands --  
20 and lived to tell the story and understands  
21 Dominique Ross's involvement, and so they leave  
22 town and go to North Carolina.

23 Why make up a lie to implicate yourself in an  
24 armed robbery? They told you that had she not told  
25 that story she would never have been arrested. Why

1 would she make that up? What benefit does Amber  
2 Richardson have for telling that story? She could  
3 have just denied everything. Never been arrested.  
4 Wouldn't be involved in this trial.

5 Amber Richardson told the truth about what  
6 happened after being Mirandized. And her story was  
7 corroborated by Simone Patterson's story, who  
8 clearly has no reason to lie. To lie, I think I  
9 said, to help out her cousin? How does implicating  
10 your cousin in an armed robbery help them out? I  
11 hope none of my cousins are ever that helpful.  
12 That doesn't make any sense.

13 Simone Patterson's testimony is not helpful to  
14 her cousin. It implicates her cousin in an armed  
15 robbery, burglary in the first degree, and  
16 attempted murder.

17 In addition to those witnesses, you heard from  
18 several expert witnesses in this case. You heard  
19 from Dr. Bynoe, who testified about the  
20 Defendant's -- I'm sorry, about the victim's  
21 injury. Said there were three wounds. There was  
22 one to the thumb, one to the forearm, and one to  
23 the left eye. Consistent with what Jamie said  
24 happened. Said that they were life threatening.  
25 Any time one is shot, especially in the head, those

1 are life threatening injuries.

2 You heard from Terri Gleason. She is a  
3 firearms expert. She talked to you about the  
4 projectile that was found. It was a 9-millimeter  
5 projectile, which was consistent, because that is  
6 what type of gun Jamie said he saw in the  
7 intruder's hand.

8 You heard from Trevor Holt, who was the crime  
9 scene investigator. He took all the pictures and  
10 collected the evidence that you'll have in front of  
11 you. He took swabs from Dominique Ross. He  
12 swabbed the blood in this case.

13 They talked about there is no DNA. The only  
14 blood in the house is from the guy who got shot in  
15 the eye. We know who that this. His name is  
16 Jamie. He is here. This isn't a DNA case.

17 Trevor Holt documented anything that he  
18 thought was important that day, blood throughout  
19 the house, marijuana that was found in the  
20 residence. Don't you think if he -- if there were  
21 bruises on Dominique Ross from being thrown to the  
22 ground he would have documented those too as  
23 evidence of what happened during that crime?

24 You heard from Investigator Martin with the  
25 Sheriff's Department. He was the initial

1 investigator on the case. He got called out to a  
2 homicide.

3 At that point in time that investigation went  
4 over to Investigator Unger. That is when they  
5 started getting the statements from Jamie and they  
6 got the Defendant's cell phone number. They didn't  
7 have it before then.

8 Once they got her cell phone number, they said  
9 they looked at the incident report of where she  
10 said she lived. They went there. They went to  
11 other addresses that she said she lived in. And  
12 she was nowhere to be found. She didn't leave a  
13 North Carolina address. She didn't call and say,  
14 Hey, I'm going to North Carolina, I'll be here in  
15 case you are looking for me because my friend was  
16 shot in the face and I'm worried about what  
17 happened to him and the intruders that did this to  
18 him. They didn't have that information.

19 Investigator Unger said that he traveled to  
20 North Carolina, spoke to the authorities up there,  
21 and Mirandized this Defendant, and came home.

22 Made contact with Amber Richardson. Was able  
23 to make contact -- or, I'm sorry, was able to get  
24 other names from her, the name of Nut Nut, called  
25 the North Carolina Police Department and, lo and

1           behold, they know exactly who that is: Raeford  
2           McNeill. And that they were familiar with Dexter  
3           McNeill. That because of Amber's statement, Dexter  
4           and Raeford, arrest warrants were taken out on  
5           them.

6           And he said that on the arrest warrant, the  
7           information he used to get the height and weight  
8           came from the North Carolina Department of  
9           Corrections' website. That was their weight the  
10          last time they went to the Department of  
11          Corrections, not now. That is why weight  
12          fluctuates.

13          And he talked to you about the difficulty of  
14          cases like this with witnesses coming forward.  
15          With violent cases where people have been shot and  
16          left for dead and home invasions, sometimes people  
17          have a hard time coming forward and talking about  
18          that. But luckily in this case people eventually  
19          did.

20          There were some defense witnesses that you  
21          heard from. Briana Jackson, who testified that she  
22          was with Dominique, not as Dominique said, all day,  
23          but with her in the morning part of that day. She  
24          doesn't remember going back home. But on  
25          cross-examination she said she doesn't really

1 remember any of it because she has blocked that  
2 whole period of time out of her life. She is,  
3 however, still in communication with the Defendant.

4 And you heard from Dominique Ross. And  
5 depending upon if she was on direct or  
6 cross-examination, the story changed a little bit.  
7 But I want to talk to you about some of the things  
8 that she said.

9 And you'll have these phone records back there  
10 with you. Remember she said she called 9-1-1? But  
11 before she called 9-1-1 -- and Craig Stanley  
12 actually hit most of the major points I am going to  
13 hit here, it is almost like we were thinking the  
14 same thing -- before she called 9-1-1, the door had  
15 to be kicked in. She had to be held on the ground  
16 with people telling her if she moved they would  
17 kill them. They had to walk past her. They had to  
18 go and struggle with Jamie Sherman with that door  
19 opening and closing and opening and closing.

20 That they then had to shoot Jamie Sherman,  
21 talk to him about where the gun was, and if you  
22 believe her he had to get up, show them, they then  
23 had to get that gun -- I'm sorry, not the gun --  
24 the cash drawer -- they had to get that cash  
25 drawer, walk out. She then had to search the home

1 to find her cell phone because she didn't have it  
2 on her. And then she called 9-1-1. But the whole  
3 time they were in there she was being forced down.  
4 She couldn't move because they were going to kill  
5 her if she did.

6 That phone call to 9-1-1 happened at 9:20 and  
7 19 seconds. Five minutes and three second phone  
8 call. But this call right here, she's on the phone  
9 for 23 seconds, that ends a minute and a half  
10 before she actually calls 9-1-1. In that minute  
11 and a half when she is supposed to be on the ground  
12 scared for her life. There are armed gunmen inside  
13 that are threatening to kill her. She is on the  
14 phone. And who is she talking to? 363-2154.  
15 Amber Richardson. She wasn't on the ground. She  
16 was like Jamie said she was. She was walking  
17 around the house. She was leaving out of the back  
18 door.

19 Was she telling Amber, Hey, they are inside?  
20 She was on the phone during this incident. She was  
21 not being held down on the ground.

22 And there was a series of conversations that  
23 take place, as Jamie said. Now, according to  
24 Dominique during this time, when she is in the  
25 house and Jamie is in the house too, she is

1 illegally burning DVDs, she is rolling a blunt that  
2 she then puts the marijuana down on the counter,  
3 she is doing all sorts of things. She wasn't on  
4 the phone. She was on the phone a little bit, but  
5 she wasn't on the phone like Jamie said she was on  
6 the phone.

7 And when I look at this picture, she said she  
8 hears the door knock, and so she throws the  
9 marijuana down on the couch in this perfectly  
10 straight line after she had been carrying it around  
11 in her hand for several minutes. But she was busy  
12 doing other things.

13 This 363-2154, as the testimony was, was that  
14 is Amber Richardson's cell phone number. There is  
15 an outbound call, an outbound call, an outbound  
16 call all happening right when this was being set  
17 up. These zero seconds that don't have the 631  
18 recoil number that Captain McDonald told you about,  
19 these text messages, those text messages are  
20 corroborated in the phone records that you are  
21 going to have with you from Amber Richardson.

22 Come on. Open the door. Are you ready for me  
23 to leave the house?

24 In like five minutes leave and wait on me to  
25 text you back.

1           She could have a signal as to when Jamie was  
2           in the shower and they could come in the home.

3           These are all on here. These are all on her  
4           cell phone records.

5           And they want you to believe it is all part of  
6           some grand conspiracy to convict an innocent girl  
7           of something she had nothing to do with?

8           And they talk about this 919. She has a ton  
9           of 919 calls that day. That is the Fayetteville  
10          area code. That is her family. She has her  
11          mother's number on there several times. Her Aunt  
12          Felicia, or at least a phone registered to Aunt  
13          Felicia, and then several 919 burner phones that  
14          are on there that Captain McDonald told you you  
15          can't trace a provider for those, they are used in  
16          crime, especially drugs runs, because you don't get  
17          a user name from those phone records. This was a  
18          well planned and well thought out home invasion.

19          On those phone records, on Page 8 of those  
20          phone records, Ms. Campbell went through several of  
21          those 919 numbers, and she didn't really remember  
22          any of them. They are her family, they are brother  
23          and sister, but she doesn't know what the numbers  
24          are. But she did remember her mother's cell phone  
25          number. It was

1           And you are going to have those phone records  
2 back there with you. She called several times the  
3 day before. But after this tragic experience where  
4 she has been the victim of crime here in Columbia  
5 and had to move back to Fayetteville, North  
6 Carolina, she just abandoned her efforts to be in  
7 school here, after calling her mom several times  
8 that day the day before, after she has been held at  
9 gunpoint with people threatening to kill her, she  
10 sees her friend's eye shot out, that next day she  
11 called her mother once. She didn't call her that  
12 night and say, Hey mom, I almost died. My friend  
13 got shot in the face. She had a 2-minute  
14 conversation with her mother the next day. It is  
15 in the phone records.

16           Those 919 phone calls, there are a few to Aunt  
17 Felicia that next day. No more to those burner  
18 phones that were so active on January 8th. The  
19 crime was done. She didn't need to talk to them  
20 about it. In fact, she needed not to talk to them  
21 about it.

22           I want you to judge that evidence. I want you  
23 to judge the credibility and the corroboration of  
24 that evidence.

25           Their plan went bad when a dead man started

1 walking. Remember what Jamie said? That once they  
2 left they looked at him and they said, He is done.  
3 No witnesses to testify for them left behind. They  
4 shot him in the face and shot him twice more, but  
5 these intruders left her unharmed? She opened the  
6 door. She has seen their faces. Why in the world  
7 would they do that? Because she was in on it. She  
8 wasn't going to testify against them. She wasn't  
9 going to tell the police what happened. Their plan  
10 went south when he didn't die. And he came in here  
11 and lived to tell his story. A story that either  
12 he is making up to frame the innocent McNeill  
13 family or the truth. And you guys are the sole  
14 deciders of which it is.

15 If you don't believe Jamie, if you believe  
16 that he has conspired with all of these people to  
17 frame her, if you believe her story, find her not  
18 guilty. Walk her out of this courtroom.

19 But if you believe Jamie Sherman, if you  
20 believe that he had no reason to lie about this, if  
21 you believe that Amber Richardson has no reason to  
22 implicate herself in these crimes other than that  
23 is what happened, then hold her accountable. Hold  
24 her responsible for what she did. Hold her  
25 accountable for setting up her friend and having

1           him burglarized, shot in the face, and robbed.

2           Find her guilty.

3                     Thank you very much for your attention.

4                     THE COURT: All right, ladies and gentlemen of  
5           the jury, that completes the closing statements by  
6           attorneys. We have been going for a little while,  
7           so we are going to take a short break before I  
8           charge you concerning the law.

9                     As always when you leave the courtroom, I'll  
10          instruct you not to discuss anything about this  
11          case until I ask you to begin your deliberations.

12                    But at this point in time, you may retire to  
13          the jury room.

14                    (WHEREUPON, the jury retires to the jury  
15          room at 11:21 a.m.)

16                    THE COURT: Court will be in recess for about  
17          five minutes.

18                    (WHEREUPON, a break was taken.)

19                    THE COURT: Is the State ready to proceed?

20                    MS. WALKER: Yes, Your Honor.

21                    THE COURT: Is the Defense ready?

22                    MR. STANLEY: Yes, Your Honor.

23                    THE COURT: Bring the jury in.

24                    THE BAILIFF: Yes, Your Honor.

25

1           We, the jury, unanimously find the Defendant,  
2           Dominique Mahogany Ross, concerning the offense of  
3           burglary first degree, Indictment  
4           Number 2014-GS-40-1913, Guilty.

5           We, the jury, unanimously find the Defendant,  
6           Dominique Mahogany Ross, concerning the offense of  
7           attempted murder, Indictment  
8           Number 2012-GS-40-2905, Not guilty.

9           We, the jury, unanimously find the Defendant,  
10          Dominique Mahogany Ross, concerning the offense of  
11          armed robbery, Indictment Number 2012-GS-40-2907,  
12          Guilty.

13          I certify this decision was the unanimous  
14          decision of the jury.

15          This is signed, Foreperson, Allison Bouknight.  
16          April 24th, 2014.

17          Madam Foreperson, are these your verdicts and  
18          the verdicts of the entire jury?

19          THE FORELADY: Yes, ma'am.

20          THE COURT: If this is the verdict of the  
21          jury, if you would let it be known by raising your  
22          right hand.

23          (Jurors comply.)

24          THE COURT: Thank you.

25          Anything further from the State before I

1 any post-trial motions?

2 MR. STANLEY: Yes, Your Honor. I would like  
3 to make a motion for a new trial based upon the  
4 evidence in this case leading to an arbitrary and  
5 capricious verdict.

6 In the alternative I would ask for a new  
7 trial, renew any of my motions for directed  
8 verdict. Also, in particular, the motion for  
9 directed verdict on armed robbery, and also on  
10 burglary in the first degree.

11 I also renew any of my pretrial motions that I  
12 raised during the trial, specifically about the  
13 cell phone records.

14 THE COURT: Thank you. Does the State wish to  
15 be heard on any of those matters?

16 MS. CAMPBELL: No, Your Honor.

17 MS. WALKER: No, sir.

18 THE COURT: The Court will make the same  
19 rulings consistent with its rulings during the  
20 trial. The motions are denied.

21 Once you have prepared the sentencing sheets,  
22 if you will inform the Court.

23 MS. WALKER: Yes, Your Honor. We are in the  
24 process of doing that now.

25 THE COURT: I understand.

1 THE COURT: All right. Do you have a -- can  
2 you take a moment and calculate those?

3 MS. WALKER: Calculate the exact number of  
4 days?

5 THE COURT: Let's make an exact date.

6 MS. WALKER: Ms. Campbell can. February 8th,  
7 2013.

8 MS. CAMPBELL: That will be 317 days,  
9 including what she has done this week.

10 THE COURT: Are you in agreement with that?

11 MR. STANLEY: Yes, Your Honor.

12 THE COURT: All right. Ms. Ross, on the  
13 burglary first, it is the sentence of this Court  
14 that you be confined to the State Department of  
15 Corrections for a period of 15 years. I have run  
16 that concurrent with the other sentence and given  
17 you credit for 317 days.

18 On the armed robbery, the sentence is 10  
19 years, run concurrent, given credit for 317 days.

20 Good luck to you, ma'am.

21 MR. STANLEY: Thank you, Your Honor.

22 THE COURT: Court is adjourned.

23 (WHEREUPON, the proceedings were concluded.)  
24

25 (END OF TRANSCRIPT)

**WITNESSES**

(S) David Unger - Richland County Sheriff

**ARREST WARRANT NUMBER**

1902657

**ACTION OF GRAND JURY**

**TRUE BILL**

*Jill Koenigs*  
Foreperson of Grand Jury  
Date:

JUL 19 2012

**VERDICT**

*Guilty*

*Alison Banknight*  
Foreperson of Petit Jury  
Date: 8/20/14

DOCKET NO. 2012GS4002907

**The State of South Carolina**

County of

Richland

**COURT OF GENERAL SESSIONS**

July TERM 2012

42

THE STATE  
vs.

Dominique Mahogany Ross

Indictment for  
ARMED ROBBERY

SC Code: 16-11-0330(A)

CDR Code: 0139

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF RICHLAND )

INDICTMENT

2012

At a Court of General Sessions, convened on July 18, the Grand Jurors of Richland County present upon their oath:

ARMED ROBBERY

That Dominique Mahogany Ross did in Richland County on or about January 8, 2012, commit robbery by feloniously taking from the person or presence of JAMIE SHERMAN, by means of force or intimidation, goods and/or monies of JAMIE SHERMAN, such goods and/or monies being described as U.S. Currency, with the intent to deprive the owner permanently of such property, while armed with a deadly weapon, or while alleging, either by actions or words, that he or she was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon. All in violation of §16-11-330(A), SC 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.

*Handwritten notes:*  
7/18/12  
J. Johnson  
D. Johnson

*Vertical stamp:*  
JUL 18 2012  
CLERK OF COURT  
RICHLAND COUNTY

*Signature:* Dan Johnson  
DAN JOHNSON, SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF STATE

Richland

INDICTMENT/CASE#:

2012 -GS- 40 - 2907

VS.

Dominique M. Ross

A/W#:

1902657

AKA:

Race:

Sex:

DOB:

SS#:

Address:

City, State, Zip:

DL#:

SID#

\*CDL Yes  No  CMV Yes  No  Hazmat Yes  No

In disposition of the said indictment, commit to the Defendant who was TO:

CONVICTED OF or  PLEADS

In violation of § 16-11-330(A) of the S.C. Code of Laws, bearing CDR Code # 15 0139

NON-VIOLENT  VIOLENT  SERIOUS  MOST SERIOUS  Mandatory GPS  §17-25-45

The charge is:  As indicted,  Lesser Included Offense,  Defendant Waives Presentation to Grand Jury. (defendant's initials)

The plea is:  Without Negotiations or Recommendation,  Negotiated Sentence,  Recommendation by the State.

ATTEST:

Lan C. H. 13009 [Signature] [Signature] 79720  
Solicitor SC Bar # Defendant Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the  State Department of Corrections  County Detention Center, for a determinate term of 10 days/months/years or  under the Youthful Offender Act not to exceed \_\_\_\_\_ years and/or to pay a fine of \$ \_\_\_\_\_; provided that upon the service of \_\_\_\_\_ days/months/years and or payment of \$ \_\_\_\_\_; plus costs and assessments as applicable\*; the balance is suspended with probation for \_\_\_\_\_ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or  CONSECUTIVE to sentence on: April 24, 2014  
 The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections. 317 days

The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION:  Deferred  Def. Waives Hearing  Ordered PTUP \_\_\_\_\_

Total: \$ \_\_\_\_\_ plus 20% fee: \_\_\_\_\_ \$ \_\_\_\_\_ days/hours Public Service Employment

Payment Terms: \_\_\_\_\_

Set by SCDPPPS \_\_\_\_\_

Recipient: \_\_\_\_\_

*Fine:	\$	_____
\$14-1-206 (Assessments 107.5%)	\$	_____
\$14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$
\$14-1-211 (A)(2)(DUI Surcharge)	\$100	\$
\$56-5-2995 (DUI Assessment)	\$12	\$
\$56-1-286 (DUI Breath Test)	\$25	\$
\$47.12 (Public Def/Prob)	\$500	\$
\$14-1-212 (Law Enforce. Funding)	\$25	\$
\$14-1-213 (Drug Court Surcharge)	\$100	\$
\$50-21-114 (BUI Breath Test Fee)	\$50	\$
\$56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
\$80.7(SCCJA Surcharge)	\$5	\$
3% to County (if paid in installments)	\$	\$
TOTAL	\$	_____

Clerk of Court/Deputy Clerk: [Signature]  
Court Reporter: [Signature]

Obtain GED

Attend Voc. Rehab. Or Job Corp. \_\_\_\_\_

May serve WE beginning \_\_\_\_\_  
Substance Abuse Counseling

Random Drug/Alcohol Testing   
Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ \_\_\_\_\_ Beginning \_\_\_\_\_  
\$ \_\_\_\_\_ Paid to Public Defender Fund

Other: \_\_\_\_\_

Appointed PD or appointed other counsel, \$47.12 requires \$500 be paid to Clerk during probation.

Presiding Judge: [Signature]  
Judge Code: 2135  
Sentence Date: 4/24/14

WITNESSES

(S) David Unger  
- RCSD

ARREST WARRANT NUMBER

DP14050

ACTION OF GRAND JURY

TRUE BILL

*Ken D. W. [Signature]*

Foreperson of Grand Jury  
Date: MAR 12 2014

VERDICT

*Guilty*

*Alyson Benhight*

Foreperson of Petit Jury  
Date: 4/24/14

DOCKET NO: 2014GS4001913

The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

MARCH TERM 2014

42

THE STATE  
vs.

Dominique Mahogany Ross

Indictment for  
BURGLARY 1ST DEGREE

SC Code: 16-11-0311  
CDR Code: 0079

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF RICHLAND )

INDICTMENT

At a Court of General Sessions, convened on March 12, 2014, the Grand Jurors of Richland County present upon their oath:

**BURGLARY, 1<sup>ST</sup> DEGREE**

That Dominique Mahogany Ross did in Richland County on or about January 8, 2012, enter the dwelling of JAMIE SHERMAN located at

, without consent and with the intent to commit a crime therein and when, in effecting entry or while in the dwelling or in immediate flight, the defendant was armed with a deadly weapon and/or caused physical injury to a nonparticipant in the crime and/or used or threatened the use of a dangerous weapon and/or the entering occurred in the nighttime, in violation of Section 16-11-0311(A), 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.

  
\_\_\_\_\_  
DAN JOHNSON, SOLICITOR

*Handwritten notes:*  
4/1/14  
Hilbert  
[unclear]

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF STATE

Richland

INDICTMENT/CASE#:

2014 -GS- 40 - 1913

VS. Dominique M. Ross

AW#:

DP 14050

Date of Offense:

JAN 8, 2012

S.C. Code §:

16-11-311

CDR Code #:

0079

AKA:

Race:

Black

Sex:

Female

Age:

DOB:

SS#:

Address:

City, State, Zip:

DL#

SID#

\*CDL Yes  No  CMV Yes  No  Hazmat Yes  No

In disposition of the said indictment comes now the Defendant who was TO: Burglary 1st

CONVICTED OF or  PLEADS

In violation of § 16-3011 of the S.C. Code of Laws, bearing CDR Code # 0079

NON-VIOLENT  VIOLENT  SERIOUS  MOST SERIOUS  Mandatory GPS  §17-25-45

(CSC w/minor 1<sup>st</sup> or Lewd Act)

The charge is:  As Indicted,  Lesser Included Offense,  Defendant Waives Presentment to Grand Jury. (defendant's initials)

The plea is:  Without Negotiations or Recommendation,  Negotiated Sentence,  Recommendation by the State.

ATTEST:

[Signature] Solicitor 13009 SC Bar # [Signature] Defendant [Signature] Attorney for Defendant 29420 SC Bar #

WHEREFORE, the Defendant is committed to the  State Department of Corrections  County Detention Center, for a determinate term of 15 days/months/years or  under the Youthful Offender Act not to exceed \_\_\_\_\_ years and/or to pay a fine of \$ \_\_\_\_\_; provided that upon the service of \_\_\_\_\_ days/months/years and or payment of \$ \_\_\_\_\_; plus costs and assessments as applicable\*; the balance is suspended with probation for \_\_\_\_\_ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or  CONSECUTIVE to sentence on: 4/29/14

The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.

The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION:  Deferred  Def. Waives Hearing  Ordered PTUP \_\_\_\_\_

Total: \$ \_\_\_\_\_ plus 20% fee: \$ \_\_\_\_\_ days/hours Public Service Employment

Payment Terms: \_\_\_\_\_ Obtain GED

Set by SCDPPPS \_\_\_\_\_ Attend Voc. Rehab. Or Job Corp. \_\_\_\_\_

Recipient: \_\_\_\_\_ May serve W/E beginning \_\_\_\_\_

\*Fine: \_\_\_\_\_ Substance Abuse Counseling

§14-1-206 (Assessments 107.5%) \_\_\_\_\_ Random Drug/Alcohol Testing

§14-1-211 (A)(1)(Conv. Surcharge) \$100 \_\_\_\_\_ Fine may be pd. in equal, consecutive weekly/monthly

§14-1-211 (A)(2)(DUI Surcharge) \$100 \_\_\_\_\_ prmts. of \$ \_\_\_\_\_ Beginning \_\_\_\_\_

§56-5-2995 (DUI Assessment) \$12 \_\_\_\_\_ \$ \_\_\_\_\_ Paid to Public Defender Fund

§56-1-286 (DUI Breath Test) \$25 \_\_\_\_\_ Other: \_\_\_\_\_

§47.12 (Public Def/Prob) \$500 \_\_\_\_\_

§14-1-212 (Law Enforce. Funding) \$25 \_\_\_\_\_

§14-1-213 (Drug Court Surcharge) \$100 \_\_\_\_\_

§60-21-114 (BUI Breath Test Fee) \$50 \_\_\_\_\_

§56-5-2942(J) (Vehicle Assessment) \$40/ea \_\_\_\_\_

§90.7(SCCJA Surcharge) \$5 \_\_\_\_\_

3% to County (if paid in installments) \_\_\_\_\_

TOTAL \$ \_\_\_\_\_

Clerk of Court/Deputy Clerk \_\_\_\_\_ Presiding Judge [Signature]

Court Reporter: [Signature] Judge Code: 2135

Sentence Date: 4/29/14

**WITNESSES**

(S) David Unger - Richland County Sheriff

**ARREST WARRANT NUMBER**

1902656

**ACTION OF GRAND JURY**

**TRUE BILL**

*Jill Koenigs*  
Foreperson of Grand Jury  
Date:

JUL 19 2012

**VERDICT**

*Non-Guilty*

*Alison Bonknight*  
Foreperson of Petit Jury  
Date: 7/24/12

DOCKET NO. 2012GS4002905

The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

July TERM 2012

42

THE STATE  
vs.

Dominique Mahogany Ross

Indictment for  
ATTEMPTED MURDER

SC Code: 16-03-0029  
CDR Code: 3410

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA )  
COUNTY OF RICHLAND )

**INDICTMENT**

2012

At a Court of General Sessions, convened on July 18, the Grand Jurors of Richland County present upon their oath:

**ATTEMPTED MURDER**

That Dominique Mahogany Ross did in Richland County on or about January 8, 2012, did with the intent to kill, attempt to kill <sup>Jamie R. H.</sup> ~~JASON~~ SHERMAN with malice aforethought, either expressed or implied. All in violation of SC Code of Laws § 16-3-29 (1976, as amended).

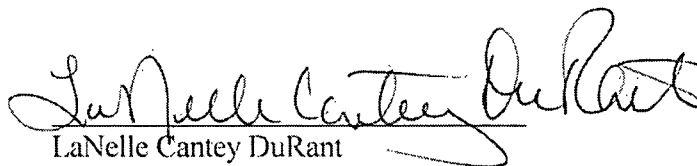
Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

  
DAN JOHNSON, 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."

November 9th, 2015

  
LaNelle Cantey DuRant  
Appellate Defender

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

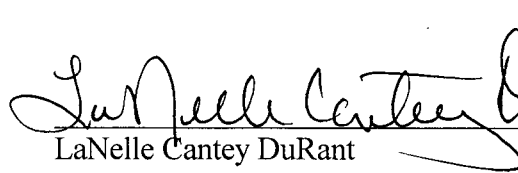
ATTORNEY FOR APPELLANT

**RECEIVED**  
NOV 09 2015  
SC Court of Appeals

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