

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY

Kristi Lea Harrington, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

VAUGHN HILLIARD,

APPELLANT

APPELLATE CASE NO. 2015-001369

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA	)	COURT OF GENERAL SESSIONS
	)	
COUNTY OF CHARLESTON	)	DOCKET NO. 2014-GS-10-1341
	)	
	)	
STATE OF SOUTH CAROLINA	)	
	)	
vs.	)	
	)	
VAUGHN HILLIARD	)	
	)	
Defendant	)	
	)	
	)	
	)	
	)	TRANSCRIPT OF RECORD

June 8, 2015
Charleston, South Carolina

VOLUME 1 (OF 3)

B E F O R E:

THE HONORABLE KRISTI L. HARRINGTON, JUDGE

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1 PROCEEDINGS

2 THE COURT: Are we ready to bring in the jury?

3 MR. KIDD: We are from the State, Your Honor.

4 MS. ERHLICH: Yes, Your Honor. Just so you are
5 aware Mr. Hilliard is in a wheelchair.

6 THE COURT: All right.

7 MS. ERHLICH: I don't think -- I don't know if he
8 is going to be able to stand up and down as the jury
9 comes in and out and I just wanted Your Honor to be aware
10 of that.

11 THE COURT: All right. For the purposes of jury
12 selection I don't require standing for the jury because
13 they haven't been sworn yet. So that won't be an issue
14 then I'll decide whether or not I just want to make it
15 across the board -- standing for the jury or not. Any --
16 Your client is waiving formal arraignment?

17 MS. ERHLICH: He is, Your Honor.

18 THE COURT: Any motions or matters we need to
19 address prior to bring in the jury?

20 MS. ERHLICH: I think the State has one objection
21 to our Voir Dire.

22 THE COURT: To their number 8? I'm not going to
23 ask it.

24 MS. ERHLICH: Thank you.

25 THE COURT: Thank you. Anything else?

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1 MR. KIDD: No, Your Honor.

2 THE COURT: Strikes are five and ten is that
3 correct?

4 MS. ERHLICH: Yes.

5 MR. KIDD: Yes, ma'am.

6 THE COURT: All right.

7 [Whereupon, the jury panel enters at 11:15 a.m.]

8 THE COURT: Thank you. Good to see you again. I
9 am Judge Kristi Harrington. I am the presiding Judge
10 over the case of the State versus Vaughn Hilliard. I am
11 now going to read the indictment. The indictment is
12 simply the piece of paper, the document by which this
13 case is brought into court. It is in no sense evidence
14 of any of the allegations it contains.

15 The State alleges that in Charleston County on or
16 about September 7th, 2013 with malice aforethought Vaughn
17 Hilliard did kill and murder Troy Cason by means of
18 gunshot and that Troy Cason did die in Charleston County
19 as a proximate result thereof on September 9th, 2013 in
20 violation of 16-3-10 of the South Carolina Code of Laws
21 1976 as amended. Mr. Hilliard has pled not guilty to
22 this indictment.

23

24

25

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1 VOIR DIRE

2 THE COURT: Is there any member of the jury panel
3 that knows anything about this case other than what I
4 have just read to you? If so please stand.

5 [Whereupon, no one stands]

6 THE COURT: Thank you. There are none. Ladies
7 and gentlemen just as I did in the big qualification
8 downstairs I will give you an opportunity to come forward
9 and speak with me in private concerning any of the
10 questions that I am about to ask you concerning this
11 matter.

12 Ladies and gentlemen, this incident is alleged to
13 have occurred at [REDACTED] Dayton Street in the city of North
14 Charleston. Is there any member of the jury panel that
15 lives or works in or around that area? If so please
16 stand. [REDACTED] Dayton Street in North Charleston.

17 [Whereupon, no one stands]

18 THE COURT: Thank you. There are none. Ms.
19 Ehrlich, if you would please stand, introduce yourself,
20 your client, and any persons who may be assisting you
21 throughout this trial.

22 MS. ERHLICH: Thank you, Your Honor. My name is
23 Megan Ehrlich. I am an attorney at the Charleston Public
24 Defenders office. Assisting me is Michael Loignon who is
25 also an attorney in our office. My client's name is

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1 Vaughn Hilliard seated right here [indicates]. You may
2 see during the trial an investigator coming from my
3 office Dale Wilson --

4 THE COURT: Thank you. Is there any member of the
5 jury panel related by blood, marriage, close personal
6 friend or ever have any business, personal, or
7 professional dealings or know Mr. Hilliard in any way?
8 If so please stand.

9 [Whereupon, no one stands]

10 THE COURT: Thank you. There are none. Is there
11 any member of the jury panel related by blood, marriage,
12 close personal friend or ever have any business,
13 personal, or professional dealings or ever had any
14 matters handled by the Public Defender's office in the
15 9th circuit, which is Charleston and Berkeley? If so
16 please stand.

17 [Whereupon, an individual stands]

18 THE COURT: Mr. Bischoff your jury number?

19 MR. BISCHOFF: Twenty-seven, Your Honor. I've had
20 professional dealings with the Public Defender's Office.

21 THE COURT: And specifically with Ms. Ehrlich or
22 Mr. Loignon?

23 MR. BISCHOFF: Specifically with Ms. Ehrlich
24 representing people together.

25 THE COURT: Is there anything about that

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1 relationship that will affect your ability to be fair and
2 impartial in this case?

3 MR. BISCHOFF: No, ma'am.

4 THE COURT: Thank you, Mr. Bischoff. Is there
5 anyone else? Thank you. There are none. Mr. Kidd, if
6 you would please stand introduce yourself and any persons
7 who will be assisting you throughout this trial.

8 MR. KIDD: Thank you, Your Honor. Good morning.
9 My name is Culver Kidd. I work for your elected
10 Solicitor Scarlett Wilson. I'm an assistant solicitor in
11 her office. Trying this case with me is Richard Waring.
12 Additionally I have an investigator Sherry Niblock who
13 will most likely be in and out of the courtroom
14 throughout the trial.

15 THE COURT: Thank you. Is there any member of the
16 jury panel related by blood, marriage, close personal
17 friends, ever have any business, personal, professional
18 dealings with either Mr. Kidd or Mr. Waring? If so
19 please stand.

20 [Whereupon, an individual stands]

21 THE COURT: Mr. Bischoff?

22 MR. BISCHOFF: Again, Your Honor, I've had
23 professional dealings with both Mr. Kidd and Mr. Waring.

24 THE COURT: And same question; is there anything
25 about those relationships that will affect your ability

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1 to be fair and impartial in this case?

2 MR. BISCHOFF: No, Your Honor.

3 THE COURT: Thank you Mr. Bischoff? Anyone else?

4 Thank you. Is there any member of the jury panel that

5 has ever been employed by, know anyone employed by, or

6 ever had any business dealings either personally,

7 professional with anyone in the 9th circuit Solicitor's

8 office, which is Charleston and Berkeley County or the

9 Public Defender's Office which is also Charleston and

10 Berkeley County? If so please stand.

11 [Whereupon, no one stands]

12 THE COURT: Thank you. There are none. I am now

13 going to call a list of potential witnesses who may be

14 called to testify in this case. If you are related by

15 blood, marriage, close personal friend or know these

16 individuals in any way please stand as I call their name:

17 Paul Bradley, Earl Gregg, Al Hallman, Charlotte

18 Hilliard, Karen Huffman, Carlton Moorner, Angela Steed,

19 Julia Wigfall, Doctor Demi Garvin; with the Forensic

20 Science Network, Dale Wilson; Charleston County Public

21 Defender's Office, Harry Long; Charleston County Public

22 Defender's Office, Doctor Cynthia Schandl; Medical

23 University of South Carolina, Sherry Niblock; 9th Circuit

24 Solicitor's Office, Simon Andrews; North Charleston

25 Police Department, Charles Benton; North Charleston

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1 Police Department, Michael Cook; North Charleston Police
2 Department.

3 [Whereupon, an individual stands]

4 THE COURT: You know Mr. Cook?

5 MS. PALM: I know Mr. Benton, Officer Benton.

6 THE COURT: Tell me your jury number and name.

7 MS. PALM: My jury is 237, Telly Palm and I've had
8 dealings with some of the officers mentioned in my line
9 of work at Child Protective Services at DSS.

10 THE COURT: Is there anything about, well your
11 first of all your profession that would affect your
12 ability to be fair and impartial in this case?

13 MS. PALM: No, ma'am.

14 THE COURT: Is there anything about knowing
15 Detective Benton that would affect your ability to be
16 fair and impartial in this case?

17 MS. PALM: No.

18 THE COURT: I still have some other officers to
19 call for North Charleston Police Department. Is there
20 anything about having a relationship with some of the
21 officers in your line of work that would affect your
22 ability to be fair and impartial in this case?

23 MS. PALM: No, ma'am.

24 THE COURT: You will be able to listen to the facts
25 from the witness stand, apply the law as I give it to you

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1 and render a verdict based only upon those things?

2 MS. PALM: To the best of my ability.

3 THE COURT: Tell me your jury number.

4 MS. PALM: 237.

5 THE COURT: Thank you. Is there anyone else? I
6 still have a few more names to read.

7 [Whereupon, an individual stands]

8 THE COURT: Mr. Bischoff?

9 MR. BISCHOFF: Detective Benton I do know him in a
10 slightly more personal way than just a professional
11 capacity.

12 THE COURT: Is there anything about that
13 relationship Mr. Bischoff that would affect your ability
14 to be fair and impartial in this case?

15 MR. BISCHOFF: No, Your Honor.

16 THE COURT: Thank you. Juror 27 is that correct?

17 MR. BISCHOFF: That's correct.

18 THE COURT: Thank you. Michael Cook; North
19 Charleston Police Department, Lucas Cummins; North
20 Charleston Police Department, Jerome Desheers; North
21 Charleston Police Department, Fred Hoose; North
22 Charleston Police Department, Candy Johnson; North
23 Charleston Police Department, Al Kuechler; North
24 Charleston Police Department, Charles Martin; North
25 Charleston Police Department, Shawnta Middleton; North

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1 Charleston Police Department, Casey Pace; North
2 Charleston Police Department, Tiffany [sic] Sad; North
3 Charleston Police Department, Alex Teachey; North
4 Charleston Police Department, Lisa Barfield, South
5 Carolina Law Enforcement Division, Jennifer Bartman;
6 South Carolina Law Enforcement Division, Whitney Berry;
7 South Carolina Law Enforcement Division, Jackie Davis;
8 South Carolina Law Enforcement Division, Dan DeFreese;
9 South Carolina Law Enforcement Division, Nikki Perry
10 Hughes; South Carolina Law Enforcement Division, Jennifer
11 Nates; South Carolina Law Enforcement Division, Amy
12 Stephens; South Carolina Law Enforcement Division.

13 Once again is there any member of the jury panel
14 that knows any of those individuals in any capacity
15 whatsoever please stand.

16 [Whereupon, no one stands]

17 THE COURT: Thank you. There are no additional.
18 Is there any member of the jury panel that has ever been
19 or currently employed with the Forensic Science Network,
20 Charleston County Public Defender's Office, the 9th
21 Circuit Solicitor's Office, the North Charleston Police
22 Department or the State Law Enforcement Division
23 otherwise known as SLED? If so please stand.

24 [Whereupon, no one stands]

25 THE COURT: Thank you. There are none. Ladies

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1 and gentlemen is there any member of the jury panel that
2 is a former or current law enforcement employee in any
3 area; not just SLED or North Charleston but you are a
4 former law enforcement in any capacity in any
5 jurisdiction? If so please stand.

6 MS. HELIN: Alice Helin, number 139.

7 THE COURT: Yes, ma'am?

8 MS. HELIN: Former correctional -- employee
9 department.

10 THE COURT: Was that here? Which one was it?

11 MS. HELIN: In California.

12 THE COURT: In California? And how long have you
13 been retired?

14 MS. HELIN: Twenty years.

15 THE COURT: Is there anything about your former
16 employment that would affect your ability to be fair and
17 impartial in this case?

18 MS. HELIN: No.

19 THE COURT: Thank you Ms. Helin. 139?

20 MS. HELIN: Yes.

21 THE COURT: Thank you. Is there anyone else.

22 [Whereupon, no one stands]

23 THE COURT: Thank you. There are none. Is there
24 any member of the jury panel that your immediate family
25 or a close personal friend is currently or formerly

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1 employed by a law enforcement agency of any type? If so
2 please stand.

3 [Whereupon, individuals stand]

4 THE COURT: Yes ma'am, your jury number and name?

5 MS. HARRIS: 134 Cheryl Harris. My husband was a
6 Charleston County Deputy Sheriff.

7 THE COURT: How long ago was that?

8 MS. HARRIS: It's been eight years.

9 THE COURT: Do you know any of the individuals that
10 I called their names?

11 MS. HARRIS: No, ma'am.

12 THE COURT: Is there anything about your husband's
13 former employment that would affect your ability to be
14 fair and impartial in this case?

15 MS. HARRIS: No, ma'am.

16 THE COURT: And tell me your jury number?

17 MS. HARRIS: 134.

18 THE COURT: And your name?

19 MS. HARRIS: Cheryl Harris.

20 THE COURT: Thank you Ms. Harris. Yes, sir?

21 MR. WILSON: Does brother-in-law count?

22 THE COURT: Yes, anyone counts. Family member,
23 close personal friends. Both the State and the Public
24 Defender, the defendant are making notes. And not
25 everyone is suited for every type of case so they're

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1 making notes. So it's more important for us to have too
2 much information than not enough. So if you think it
3 would be important for the State and the defendant to
4 know we need to know that information. Yes sir, your
5 jury number?

6 MR. WILSON: 346.

7 THE COURT: 346? And your brother-in-law?

8 MR. WILSON: Yes.

9 THE COURT: And is he currently law enforcement?

10 MR. WILSON: He has something still to do with it at
11 the county -- Clark County Washington with like work
12 groups -- and before he retired he was a federal agent.

13 THE COURT: Is there anything about your brother-
14 in-law's former employment that will affect your ability
15 to be fair and impartial in this case?

16 MR. WILSON: No, ma'am.

17 THE COURT: And juror 346?

18 MR. WILSON: Yes.

19 THE COURT: Thank you. Yes, ma'am?

20 MS. HILL: I have a close family friend, Harry
21 Sewell [phonetic] he retired from Mount Pleasant police
22 department and then I have a cousin who works with the
23 police department and then I have an uncle who works with
24 --

25 THE COURT: You have an uncle that works where?

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1 MS. HILL: NCIS.

2 THE COURT: Is there anything about what you have
3 shared with us that would affect your ability to be fair
4 and impartial in this case?

5 MS. HILL: No, 'ma'am.

6 THE COURT: And your jury number?

7 MS. HILL: 142.

8 THE COURT: And your name?

9 MS. HILL: Miranda Hill.

10 THE COURT: Thank you. Is there anyone else?

11 [Whereupon, an individual stands]

12 THE COURT: Yes, sir?

13 MR. SCHILTZ: My brother-in-law is a former
14 Cleveland detective.

15 THE COURT: Tell me your jury number and name.

16 MR. SCHILTZ: Dade Schiltz, 278.

17 THE COURT: Is there anything about -- that was
18 your brother?

19 MR. SCHILTZ: Brother-in-law.

20 THE COURT: Your brother-in-law? Is there anything
21 about that that would affect your ability to be fair and
22 impartial in this case?

23 MR. SCHILTZ: No.

24 THE COURT: And your jury number before you sit
25 down, sir?

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1 MR. SCHILTZ: 278.

2 THE COURT: 278 thank you sir. Anyone else? Thank
3 you. There are none. Is there any member of the jury
4 panel that has ever served on a jury before? You've
5 served on a jury before; if so please stand.

6 [Whereupon, individuals stand]

7 THE COURT: Yes, sir your jury number and name?

8 MR. BOUSQUET: My jury number is 38. I'm Rick
9 Bousquet.

10 THE COURT: You've served on a jury? Tell me about
11 that.

12 MR. BOUSQUET: Yes ma'am, on another criminal case.

13 THE COURT: Here in Charleston or somewhere else?

14 MR. BOUSQUET: In Charleston County.

15 THE COURT: And about how long ago was that?

16 MR. BOUSQUET: Probably about four years ago.

17 THE COURT: Was there anything about that
18 experience that would affect your ability to be fair and
19 impartial in this case?

20 MR. BOUSQUET: No, ma'am.

21 THE COURT: And tell me your jury number again.

22 MR. BOUSQUET: 38.

23 THE COURT: Thank you, sir. Ms. Helin?

24 MS. HELIN: Four years ago.

25 THE COURT: Here in Charleston County?

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1 MS. HELIN: Yes.

2 THE COURT: Did you serve with juror 38? Is there
3 anything about your experience that would affect your
4 ability to be fair and impartial in this case?

5 MS. HELIN: [Indicates negatively]

6 THE COURT: Was that a no?

7 MS. HELIN: No.

8 THE COURT: Thank you Ms. Helin?

9 MS. HELIN: Yes.

10 THE COURT: 139 right?

11 MS. HELIN: Yes.

12 THE COURT: Yes, sir?

13 MR. RENKEN: Robert Renken, 259. It was three or
14 four years ago in this court.

15 THE COURT: Was it a criminal case or a civil case?

16 MR. RENKEN: Criminal.

17 THE COURT: Were you able to reach a verdict?

18 MR. RENKEN: Yes.

19 THE COURT: Was there anything about that
20 experience that would affect your ability to be fair and
21 impartial in this case?

22 MR. RENKEN: No, ma'am.

23 THE COURT: Mr. Renken, thank you. Yes, sir?

24 MR. SCHILTZ: Dave Schiltz, 278. It was federal
25 court here in Charleston.

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1 THE COURT: Was it a criminal case or a civil case?

2 MR. SCHILTZ: It was criminal.

3 THE COURT: Was there anything about that
4 experience that would affect your ability to be fair and
5 impartial in this case?

6 MR. SCHILTZ: No.

7 THE COURT: And juror 278 your last name one more
8 time?

9 MR. SCHILTZ: Schiltz, S-C-H-I-L-T-Z.

10 THE COURT: Thank you, sir. Yes, ma'am?

11 MS. LEWIS: Colleen Lewis, 177 and it was here in
12 Charleston County criminal case about five or six years
13 ago.

14 THE COURT: Were you able to reach a verdict?

15 MS. LEWIS: It settled before. We were in it maybe
16 one or two days and then it settled.

17 THE COURT: Is there anything about what you have
18 shared with us that would affect your ability to be fair
19 and impartial in this case?

20 MS. LEWIS: No, ma'am.

21 THE COURT: And your jury number is 177?

22 MS. LEWIS: Yes, ma'am.

23 THE COURT: Thank you. Yes, ma'am?

24 MS. TULLIS: Joyce Tullis, my number is 312. I've
25 served a number of times. I know I've been in this court

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1 about ten years ago was the last time.

2 THE COURT: Was that a criminal case or a civil
3 case?

4 MS. TULLIS: That was civil.

5 THE COURT: Was there anything about that
6 experience that would affect your ability to be fair and
7 impartial in this case?

8 MS. TULLIS: No, ma'am.

9 THE COURT: Your jury number and name?

10 MS. TULLIS: Joyce Tullis, 312.

11 THE COURT: Thank you. Is there anyone else?

12 Thank you. There are none. Is there any member of the
13 jury panel or a member of your immediate family that are
14 members of victim's rights or law enforcement
15 organizations such as Citizen's Against Violent Crimes,
16 Mothers Against Drunk Driving, a community watch program;
17 something of that nature? If so please stand.

18 [Whereupon, an individual stands]

19 THE COURT: Yes ma'am, your jury number and name?

20 MS. HARRIS: 134, Cheryl Harris. My mother is a
21 member of MADD.

22 THE COURT: Anything about that that would affect
23 your ability to be fair and impartial in this case Ms.
24 Harris?

25 MS. HARRIS: No, ma'am.

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1 THE COURT: And your jury number?

2 MS. HARRIS: 134.

3 THE COURT: 134. Thank you. Is there anyone
4 else? Thank you. There are none. Is there any member
5 of the jury panel that has participated in an anti-crime
6 or anti-violence rally or march, local crime blog, or you
7 provide financial support to local law enforcement
8 agencies or law enforcement political campaigns? If so
9 please stand.

10 [Whereupon, no one stands]

11 THE COURT: Thank you. There are none. Ladies
12 and gentlemen I now have a series of questions that I
13 have determined that it would be best for you to come
14 forward and speak with me regarding these answers in
15 private.

16 And as you've learned from our general
17 qualifications we are a court of record so you will
18 approach and speak with me in the presence of my court
19 reporter. Please listen very carefully. I have several
20 questions to ask you and at the appropriate time would
21 ask that you come forward.

22 Have you, your relatives or close friends had any
23 contact with law enforcement officials which might taint
24 your view of law enforcement? Has anyone had a family
25 member or a close friend who is or has been incarcerated

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1 at a state or federal penitentiary?

2 Have you or any member of your family or a personal
3 friend ever been the victim of a violent crime?

4 Have you or a member of your family or a close
5 personal friend ever been accused of a violent crime?

6 Is there any member of the jury panel that has
7 strong opinions about gun rights or gun ownership that
8 would impact your ability to be fair and impartial in
9 this case?

10 If you need to answer any of those questions or if
11 you just need to speak with me concerning any matter if
12 you feel that based upon what I have read to you in the
13 indictment or any of my questions that you would be
14 unable to be a fair and impartial juror in this case,
15 that you would be unable to listen to the facts from the
16 witness stand, apply the law as I give it to you, and
17 render a verdict based only upon those things free from
18 any political, moral, religious beliefs that you may
19 hold; if for whatever reason you need to speak with me
20 please move to the center and the bailiffs will assist
21 you in coming forward.

22 [Whereupon, individuals stand]

23 [Whereupon, the juror comes forward]

24 THE COURT: Yes ma'am, your jury number?

25 MS. NELSON: 229.

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1 THE COURT: 229?

2 MS. NELSON: My name is Doreen Nelson. Five years
3 -- four years ago my son got on a murder charge 45 years.
4 I don't think I could do that.

5 THE COURT: I'm going to excuse you from the trial
6 of this case Ms. Nelson. You just have a seat back in
7 the audience. Do not answer any further questions about
8 this case and you will get further instructions once
9 we're done. Tell me your jury number again?

10 MS. NELSON: 229.

11 THE COURT: 229 is excused from the trial of this
12 case.

13 [Whereupon, the juror returns to the audience]

14 THE BAILIFF: Juror 106.

15 [Whereupon, the juror comes forward]

16 THE COURT: 106?

17 MR. FREEMAN: I have a first cousin who was released
18 in 2012 -- he was more of -- due to facts served 12
19 years. I might have certain views --

20 THE COURT: Okay. Based upon what you have shared
21 with me will you be able to listen to the facts and apply
22 the law as I give it to you and render a verdict based
23 only upon those things?

24 MR. FREEMAN: No, ma'am.

25 THE COURT: Okay. I appreciate your honesty. As

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1 I indicated earlier some jurors are better qualified to
2 serve than others. I appreciate your honesty. But the
3 defendant and the State deserve a juror who is able to be
4 fair and impartial. I'm going to excuse you from the
5 trial of this case. Do not answer any further questions
6 regarding this case. You're going to have to stay with
7 us for just a few more minutes. Tell me your jury number
8 again?

9 MR. FREEMAN: 106.

10 THE COURT: One zero six?

11 MR. FREEMAN: Yes, ma'am.

12 THE COURT: Thank you. One zero six is excused
13 from the trial of this case.

14 [Whereupon, the juror returns to the audience]

15 THE BAILIFF: Juror 95.

16 [Whereupon, the juror comes forward]

17 THE COURT: Good morning. How are you?

18 MS. ENNIS: I've been convicted --

19 THE COURT: --- that would not disqualify you from
20 service. Is there anything about coming up here and
21 sharing that information with us that would affect your
22 ability to be fair and impartial in this case?

23 MS. ENNIS: Maybe my views towards law enforcement
24 after that.

25 THE COURT: Will you be able to listen to the facts

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1 from the witness stand, apply the law as I give it to you
2 and render a verdict based on those things free from any
3 outside beliefs that you may hold either favorable or
4 negative towards law enforcement?

5 MS. ENNIS: Possibly. I can't say.

6 THE COURT: Well both the State and the defendant
7 deserve a jury who is able to do that. As I indicated
8 before some jurors are better qualified to serve on
9 certain juries. Do you think that what you shared with
10 us would affect your ability to be a fair and impartial
11 juror?

12 MS. ENNIS: I do.

13 THE COURT: Okay. I'm going to excuse you from
14 the trial of this case. Tell me your juror number?

15 MS. ENNIS: 95.

16 THE COURT: 95 is excused from the trial of this
17 case. Please stay with us. You will receive further
18 instructions. Do not answer any further questions
19 regarding this matter. Thank you.

20 [Whereupon, the juror returns to the audience]

21 THE BAILIFF: Juror 35.

22 [Whereupon, the juror comes forward]

23 THE COURT: How are you?

24 MS. BOLIN: My mother was raped when she was 18 --

25 THE COURT: Did those things happen in Charleston

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1 County?

2 MS. BOLIN: No.

3 THE COURT: Is there anything about what you've
4 shared with us that would affect your ability to be fair?

5 MS. BOLIN: No.

6 THE COURT: Okay. Tell me your juror number?

7 MS. BOLIN: 35.

8 THE COURT: Juror 35 will remain.

9 [Whereupon, the juror returns to the audience]

10 THE BAILIFF: Juror 282.

11 [Whereupon, the juror comes forward]

12 THE COURT: Good morning.

13 MS. SHOEMAKER: I have been a victim and also
14 accused of I guess a school assault, self defense on my
15 part.

16 THE COURT: Was that here in Charleston County or
17 somewhere else?

18 MS. SHOEMAKER: In Dallas County.

19 THE COURT: Okay. In Texas?

20 MS. SHOEMAKER: Uh Huh.

21 THE COURT: So tell me about -- you were a victim?

22 MS. SHOEMAKER: A victim and I defended myself. I
23 was basically accused of -- I think I was going to get a
24 fine but they dropped it.

25 THE COURT: Is there anything about what you shared

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1 with us that would affect your ability to be fair and
2 impartial in this case?

3 MS. SHOEMAKER: I just don't feel that I would be a
4 part of like this --

5 THE COURT: I'm going to excuse you from the trial
6 of this case. Please stay with us. Do not answer any
7 further questions. Have a seat and wait for further
8 instructions. Tell me your juror number one more time?

9 MS. SHOEMAKER: 282.

10 THE COURT: 282 is excused from the trial of this
11 case.

12 THE BAILIFF: Juror 132.

13 [Whereupon, the juror comes forward]

14 THE COURT: Yes ma'am?

15 MS. HARKINS: Joy Harkins. I had a nephew arrested
16 for a sexual assault on kids.

17 THE COURT: That was here in Charleston County?

18 MS. HARKINS: Uh Huh.

19 THE COURT: Do you know any of the prosecutors or
20 the defense attorney?

21 MS. HARKINS: I don't.

22 THE COURT: Is there anything about -- did that
23 case go to trial or?

24 MS. HARKINS: He pled guilty.

25 THE COURT: Is there anything about that that would

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1 affect your ability to be fair and impartial in this
2 case?

3 MS. HARKINS: No.

4 THE COURT: And your jury number?

5 MS. HARKINS: 132.

6 THE COURT: 132 will remain. Thank you.

7 THE BAILIFF: Juror 346.

8 [Whereupon, the juror comes forward]

9 MR. WILSON: I don't remember how you phrased it but
10 I had a attorney brother who was in --

11 THE COURT: Here or in Washington?

12 MR. WILSON: In Washington state. I've got a couple
13 of others ---

14 THE COURT: --- anything about that that would
15 affect your ability to be fair and impartial in this
16 case?

17 MR. WILSON: I don't think so.

18 THE COURT: I do that same thing. I need a yes or
19 a no.

20 MR. WILSON: No.

21 THE COURT: Let me ask the full question before you
22 answer. Will you be able to listen to the facts from the
23 witness stand and apply the law as I give it to you and
24 render a verdict based only upon those things?

25 MR. WILSON: Yes.

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1 THE COURT: All right. Juror 370?
2 MR. WILSON: 346.
3 THE COURT: 346; I'm sorry. 346 will remain.
4 Thank you, sir.
5 [Whereupon, the juror returns to the audience]
6 THE BAILIFF: Juror 294.
7 [Whereupon, the juror comes forward]
8 THE COURT: Good morning.
9 MS. STOKKA: I had a close friend incarcerated in
10 South Carolina.
11 THE COURT: Was it a charge in this county?
12 MS. STOKKA: In Pinckney or something --
13 THE COURT: What type of charge was it do you know?
14 MS. STOKKA: It was a D-U-I; the more important one.
15 THE COURT: A felony D-U-I?
16 MS. STOKKA: Yes, felony D-U-I.
17 THE COURT: Is there anything about that that would
18 affect your ability to be fair and impartial in this
19 case?
20 MS. STOKKA: No.
21 THE COURT: Tell me your juror number.
22 MS. STOKKA: 294.
23 THE COURT: 294 will remain. Thank you. Is there
24 anyone else?
25 [Whereupon, no one stands]

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1 THE COURT: Any additional questions Mr. Kidd?
2 [Whereupon, the court, Mr. Kidd, and Ms. Ehrlich
3 confer]
4 THE COURT: Juror 132 please? Juror 132.
5 [Whereupon, the juror comes forward]
6 THE COURT: I forgot to ask you who prosecuted the
7 case. Do you remember who the Solicitor was? Was it Mr.
8 Kidd or Mr. Waring?
9 MS. HARKINS: No.
10 THE COURT: Was it a male or a female?
11 MS. HARKINS: A female.
12 THE COURT: And about how long ago was this?
13 MS. HARKINS: Two years, three years.
14 THE COURT: Was it Debbie Herring-Lash?
15 MS. HARKINS: Yes.
16 THE COURT: Was there -- again, was there anything
17 about what you shared with us that would affect your
18 ability to be fair and impartial in this case?
19 MS. HARKINS: No.
20 THE COURT: Was there anything about me bringing
21 you back up here and asking questions that would affect
22 your ability to be fair and impartial in this case?
23 MS. HARKINS: No.
24 THE COURT: Thank you. 132 will remain.
25 [Whereupon, the juror returns to the audience]

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1 THE COURT: Strikes are five and ten. We will pick
2 two alternates.

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1 STRIKING OF THE JURY

2 CLERK OF COURT: Ladies and gentlemen, whenever

3 your name and juror number is called if you would please

4 gather your belongings and make your way to the podium in

5 the middle of the courtroom and then I will instruct you

6 from that point on. Juror number 270.

7 [Whereupon, the juror comes forward]

8 CLERK OF COURT: The strikes are five and ten with

9 the State striking first. What say you for the State?

10 MR. KIDD: Beg the court's indulgence.

11 THE COURT: Take your time.

12 [Whereupon, Mr. Kidd and Mr. Waring confer]

13 MR. KIDD: Please present the juror.

14 CLERK OF COURT: What say you for the defendant?

15 MS. ERHLICH: Please seat the juror.

16 CLERK OF COURT: Sir, please take a seat in the

17 jury box. You've been selected as a juror in the trial

18 of this case.

19 [Whereupon, the juror is seated in the jury box as a

20 juror]

21 CLERK OF COURT: Juror 186, Ms. Lukasik.

22 [Whereupon, the juror comes forward]

23 CLERK OF COURT: What say you for the State?

24 MR. KIDD: Beg the court's indulgence.

25 THE COURT: Take your time.

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1 [Whereupon, Mr. Kidd and Mr. Waring confer]
2 MR. KIDD: Please present the juror.
3 CLERK OF COURT: What say you for the defendant?
4 MS. ERHLICH: Please present the juror.
5 CLERK OF COURT: Ma'am, if you would please take a
6 seat in the jury box. You've been selected as a juror in
7 the trial of this case.
8 [Whereupon, the juror is seated in the jury box as
9 a juror]
10 CLERK OF COURT: Juror 27.
11 [Whereupon, the juror comes forward]
12 CLERK OF COURT: What say you for the State?
13 MR. KIDD: Your Honor, may we approach?
14 THE COURT: You may.
15 [Whereupon, an off the record bench conference is
16 held]
17 MR. KIDD: Please excuse Mr. Bischoff.
18 CLERK OF COURT: Sir, if you will please return to
19 your seat. You've been excused from the trial of this
20 case.
21 [Whereupon, the juror returns to the audience]
22 CLERK OF COURT: Juror 146.
23 [Whereupon, the juror comes forward]
24 CLERK OF COURT: What say you for the State?
25 MR. KIDD: Beg the court's indulgence.

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1 THE COURT: Take your time.
2 [Whereupon, Mr. Kidd and Mr. Waring confer]
3 MR. KIDD: Please present the juror.
4 CLERK OF COURT: What say you for the defendant?
5 MS. ERHLICH: Beg the court's indulgence.
6 [Whereupon, Ms. Ehrlich and Mr. Loignon confer]
7 MS. ERHLICH: Please seat the juror.
8 CLERK OF COURT: Sir, if you would please take a
9 seat in the jury box. You've been selected as a juror in
10 the trial of this case.
11 [Whereupon, the juror is seated in the jury box as
12 a juror]
13 CLERK OF COURT: Juror 325.
14 [Whereupon, the juror comes forward]
15 CLERK OF COURT: What say you for the State?
16 MR. KIDD: Please present the juror.
17 CLERK OF COURT: What say you for the defendant?
18 MS. ERHLICH: Please seat the juror.
19 CLERK OF COURT: Ma'am, if you would please take a seat
20 in the jury box. You've been selected as a juror in the
21 trial of this case.
22 [Whereupon, the juror is seated in the jury box as a
23 juror]
24 CLERK OF COURT: Juror 132.
25 [Whereupon, the juror comes forward]

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1 CLERK OF COURT: What say you for the State?
2 MR. KIDD: Please present the juror.
3 CLERK OF COURT: What say you for the defendant?
4 MS. ERHLICH: Please excuse the juror.
5 CLERK OF COURT: Ma'am, if you would please return
6 to your seat. You've been excused from the trial of this
7 case.
8 [Whereupon, the juror returns to the audience]
9 CLERK OF COURT: Juror 157, Ms. Jenkins.
10 [Whereupon, the juror comes forward]
11 CLERK OF COURT: What say you for the State?
12 MR. KIDD: Please present the juror.
13 CLERK OF COURT: What say you for the defendant?
14 MS. ERHLICH: Beg the court's indulgence.
15 THE COURT: Take your time.
16 [Whereupon, Ms. Ehrlich and Mr. Loignon confer]
17 MS. ERHLICH: Please seat the juror.
18 CLERK OF COURT: Ma'am, if you would please take a
19 seat in the jury box. You've been selected as a juror in
20 the trial of this case.
21 [Whereupon, the juror is seated in the jury box as a
22 juror]
23 CLERK OF COURT: Juror 241.
24 [Whereupon, the juror comes forward]
25 CLERK OF COURT: What say you for the State?

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1 MR. KIDD: Beg the court's indulgence.
2 [Whereupon, Mr. Kidd and Mr. Waring confer]
3 MR. KIDD: Please excuse the juror.
4 CLERK OF COURT: Sir, if you will please return to
5 your seat. You've been excused from the trial of this
6 case.
7 [Whereupon, the juror returns to the audience]
8 CLERK OF COURT: Juror 294.
9 [Whereupon, the juror comes forward]
10 CLERK OF COURT: What say you for the State?
11 MR. KIDD: Beg the court's indulgence.
12 [Whereupon, Mr. Kidd and Mr. Waring confer]
13 MR. KIDD: Please excuse the juror.
14 CLERK OF COURT: Ma'am, if you would please return
15 to your seat. You've been excused from the trial of this
16 case.
17 [Whereupon, the juror returns to the audience]
18 CLERK OF COURT: The State has two strikes
19 remaining. Juror 341.
20 [Whereupon, the juror comes forward]
21 CLERK OF COURT: What say you for the State?
22 MR. KIDD: Please present the juror.
23 CLERK OF COURT: What say you for the defendant?
24 MS. ERHLICH: Please seat the juror.
25 CLERK OF COURT: Ma'am, if you would please take a

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1 seat in the jury box. You've been selected as a juror in
2 the trial of this case.

3 [Whereupon, the juror is seated in the jury box as a
4 juror]

5 CLERK OF COURT: Juror 177.

6 [Whereupon, the juror comes forward]

7 CLERK OF COURT: What say you for the State?

8 MR. KIDD: Please present the juror.

9 CLERK OF COURT: What say you for the defendant?

10 MS. ERHLICH: Please seat the juror.

11 CLERK OF COURT: Ma'am, if you would please take a
12 seat in the jury box. You've been selected as a juror in
13 the trial of this case.

14 [Whereupon, the juror is seated in the jury box as a
15 juror]

16 CLERK OF COURT: Juror 208.

17 [Whereupon, the juror comes forward]

18 CLERK OF COURT: What say you for the State?

19 MR. KIDD: Beg the court's indulgence.

20 [Whereupon, Mr. Kidd and Mr. Waring confer]

21 MR. KIDD: Please present the juror.

22 CLERK OF COURT: What say you for the defendant?

23 MS. ERHLICH: Please excuse the juror.

24 CLERK OF COURT: Ma'am, if you would please return
25 to your seat. You're excused from the trial of this

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1 case.

2 [Whereupon, the juror returns to the audience]

3 CLERK OF COURT: Juror 142.

4 [Whereupon, the juror comes forward]

5 CLERK OF COURT: What say you for the State?

6 MR. KIDD: Please present the juror.

7 CLERK OF COURT: What say you for the defendant?

8 MS. ERHLICH: Please excuse the juror.

9 CLERK OF COURT: Ma'am, if you would please return
10 to your seat. You've been excused from the trial of this
11 case.

12 [Whereupon, the juror returns to the audience]

13 CLERK OF COURT: Juror 35.

14 [Whereupon, the juror comes forward]

15 CLERK OF COURT: What say you for the State?

16 MR. KIDD: Beg the court's indulgence.

17 [Whereupon, Mr. Kidd and Mr. Waring confer]

18 MR. KIDD: Please present the juror.

19 CLERK OF COURT: What say you for the defendant?

20 MS. ERHLICH: Please excuse the juror.

21 CLERK OF COURT: Ma'am, if you would please return
22 to your seat. You've been excused from the trial of this
23 case.

24 [Whereupon, the juror returns to the audience]

25 CLERK OF COURT: Juror 214.

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1 [Whereupon, the juror comes forward]
2 CLERK OF COURT: What say you for the State?
3 MR. KIDD: Please present the juror.
4 CLERK OF COURT: What say you for the defendant?
5 MS. ERHLICH: Please present the juror.
6 CLERK OF COURT: Ma'am, if you would take a seat in
7 the jury box. You've been selected as a juror in the
8 trial of this case.
9 [Whereupon, the juror is seated in the jury box as a
10 juror]
11 CLERK OF COURT: Juror 57.
12 [Whereupon, the juror comes forward]
13 CLERK OF COURT: What say you for the State?
14 MR. KIDD: Please present the juror.
15 CLERK OF COURT: What say you for the defendant?
16 MS. ERHLICH: Please seat the juror.
17 CLERK OF COURT: Ma'am, if you would be take a seat
18 in the jury box. You've been selected as a juror in the
19 trial of this case.
20 [Whereupon, the juror is seated in the jury box as a
21 juror]
22 CLERK OF COURT: Juror 87.
23 [Whereupon, the juror comes forward]
24 CLERK OF COURT: What say you for the State?
25 MR. KIDD: Please present the juror.

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1 CLERK OF COURT: What say you for the defendant?

2 MS. ERHLICH: Please present the juror.

3 CLERK OF COURT: Sir, if you would be take a seat
4 in the jury box. You've been selected as a juror in the
5 trial of this case.

6 [Whereupon, the juror is seated in the jury box as a
7 juror]

8 CLERK OF COURT: Juror 103.

9 [Whereupon, the juror comes forward]

10 CLERK OF COURT: What say you for the State?

11 MR. KIDD: Please present the juror.

12 CLERK OF COURT: What say you for the defendant?

13 MS. ERHLICH: Please present the juror.

14 CLERK OF COURT: Sir, if you would be take a seat
15 in the jury box. You've been selected as a juror in the
16 trial of this case.

17 [Whereupon, the juror is seated in the jury box as a
18 juror]

19 CLERK OF COURT: Juror 237.

20 [Whereupon, the juror comes forward]

21 CLERK OF COURT: What say you for the State?

22 MR. KIDD: Please seat the juror.

23 CLERK OF COURT: What say you for the defendant?

24 MS. ERHLICH: Please excuse the juror.

25 CLERK OF COURT: Ma'am, if you would please return

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1 to your seat. You've been excused from the trial of this
2 case.

3 [Whereupon, the juror returns to the audience]

4 CLERK OF COURT: The defendant has exhausted five
5 of its ten strikes. Juror 225.

6 [Whereupon, the juror comes forward]

7 CLERK OF COURT: What say you for the State?

8 MR. KIDD: Please present the juror.

9 CLERK OF COURT: What say you for the defendant?

10 MS. ERHLICH: Please present the juror.

11 CLERK OF COURT: Sir, if you would be take a seat
12 in the jury box. You've been selected as a juror in the
13 trial of this case.

14 [Whereupon, the juror is seated in the jury box as a
15 juror]

16 CLERK OF COURT: Striking for our first of two
17 alternates. Strikes are one and two. Juror 154.

18 [Whereupon, the juror comes forward]

19 CLERK OF COURT: What say you for the State?

20 MR. KIDD: Please excuse the juror.

21 CLERK OF COURT: Ma'am, if you would please return
22 to your seat. You've been excused from the trial of this
23 case.

24 [Whereupon, the juror returns to the audience]

25 CLERK OF COURT: The State has exhausted it's only

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1 strike for this alternate. Juror 3.

2 [Whereupon, the juror comes forward]

3 CLERK OF COURT: Any challenge from the State?

4 MR. KIDD: No challenge.

5 CLERK OF COURT: What say you for the defendant?

6 MS. ERHLICH: Please seat the juror.

7 CLERK OF COURT: Ma'am, if you would be take a seat
8 in the jury box. You've been selected as an alternate in
9 the trial of this case.

10 [Whereupon, the juror is seated in the jury box as
11 an alternate juror]

12 CLERK OF COURT: Now striking for our second of two
13 alternates. Juror 58. The strikes are one and two with
14 the State striking first.

15 [Whereupon, the juror comes forward]

16 CLERK OF COURT: What say you for the State?

17 MR. KIDD: Please present the juror.

18 CLERK OF COURT: What say you for the defendant?

19 MS. ERHLICH: Please present the juror.

20 CLERK OF COURT: Ma'am, if you would be take a seat
21 in the jury box. You've been selected as an alternate in
22 the trial of this case. Thank you, Your Honor.

23 THE COURT: Thank you. Any motions or matters
24 pertaining to the jury as selected from the State?

25 MR. KIDD: No, ma'am.

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1 THE COURT: From the defendant?

2 MS. ERHLICH: No, Your Honor.

3 THE COURT: Ladies and gentlemen, you have been
4 selected as the jury to try this case. Is there any
5 member of the panel for whatever reason you feel that you
6 would be unable to complete your role as a juror? If so
7 please signify by raising your hand.

8 [Whereupon, no one responds]

9 THE COURT: Thank you. Please be escorted -- if
10 you will take them to their jury room.

11 [Whereupon, the jury exits at 12:06 p.m.]

12 THE COURT: Outside the presence of the jury any
13 motions or matters Mr. Kidd?

14 MR. KIDD: No, Your Honor.

15 THE COURT: Ms. Ehrlich?

16 MS. ERHLICH: I'm sorry?

17 THE COURT: Any motions or -- outside the presence
18 of the jury any motions or matters?

19 MS. ERHLICH: No, Your Honor.

20 THE COURT: Ladies and gentlemen, you were not
21 selected as the jury to try this case. We are now going
22 to ask you to go to courtroom 4-C, 4-C. The bailiffs
23 will escort you. Thank you for your service to
24 Charleston County.

25 [Whereupon, the jury panel exits at 12:07 p.m.]

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1 THE COURT: Mr. Kidd, I'm going to allow you to
2 place on the record your challenge for cause to juror
3 number 27.

4 MR. KIDD: There's no need, Your Honor.

5 THE COURT: Thank you.

6 MS. ERHLICH: Your Honor, may Mr. Hilliard have a
7 restroom break please?

8 THE COURT: Certainly. And as we're doing that
9 just approach for scheduling.

10 [Whereupon, an off the record bench conference is
11 held]

12 THE COURT: I'm going to bring the jury in and
13 advise them to come back at 2:15.

14 MS. ERHLICH: Your Honor, what do you want us to do
15 about standing?

16 THE COURT: Just don't stand this time. And if I
17 tell you to just ignore me because it is just habit.

18 MR. KIDD: I assume that would be for both of us?

19 THE COURT: Yes, just so it is consistent.

20 [Whereupon, the jury enters at 12:13 p.m.]

21 THE COURT: Thank you. Ladies and gentlemen, you
22 were selected as the jury to try this case. It's an
23 appropriate time for us to take our lunch break so we're
24 going to go ahead and break for lunch. As part of my
25 general instructions I will always tell you to remember

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1 these instructions. You must not read, watch; listen to
2 any new accounts regarding this case should there be any.
3 You may not do any independent investigation regarding
4 this case. Everything you know about this case must come
5 from what you hear in the courtroom. You must not
6 discuss this case with anyone; that includes your fellow
7 jurors, your friends, your family members or anyone else.

8 Most importantly it's not just face to face
9 communication but its texting, blogging, making any entry
10 on Facebook or anything of that nature regarding this
11 case. Simply put you must not discuss this case with
12 anyone or your jury service until I tell you otherwise.
13 Ladies and gentlemen, please report back we will begin at
14 2:15, 2:15. Please have a wonderful lunch. Thank you.
15 You are excused until 2:15.

16 [Whereupon, the jury exits at 12:14 p.m.]

17 THE COURT: Are you ready -- do you want to do the
18 hearing now or at 1:15?

19 MR. KIDD: I'd prefer we go ahead and do it. My
20 witness is here ---

21 THE COURT: --- all right, let's get started.

22 THE COURT: Counsel, I'm just going to remind both
23 of you that I and the court reporter are underneath a
24 vent so you're going to need to speak loudly.

25

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1 MR. KIDD: The State calls Tammy Sad.

2 [Whereupon, Ms. Sad comes forward]

3 [Whereupon, the witness is duly sworn by the Clerk
4 of Court]

5 CLERK OF COURT: If you could, state your first and
6 last name and then spell your last loudly and clearly
7 into the microphone for the record please?

8 THE WITNESS: Tammy Sad. Last name S-A-D.

9 THE COURT: Mr. Kidd?

10 MR. KIDD: Thank you, Your Honor. May it please
11 the court?

12 - - - - -

13 TAMMY SAD,

14 Having been first duly sworn,

15 Was examined and testified as follows:

16 DIRECT EXAMINATION

17 BY MR. KIDD:

18 Q. Good afternoon Ms. Sad. I'm going to just kind of
19 get right to it. If you could tell the court where you
20 are employed?

21 A. North Charleston Police Department.

22 Q. And how long have you been with them?

23 A. Approximately 24 years.

24 Q. What's your current position with North Charleston?

25 A. I'm currently assigned as a lieutenant in Special

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1 Investigations.

2 Q. What about in September of 2013?

3 A. I was the on-call duty lieutenant.

4 Q. Do you recall becoming involved in a murder
5 investigation that occurred at [REDACTED] Dayton Street?

6 A. Yes, I was.

7 Q. How did you become involved in that case?

8 A. I was contacted by the patrol lieutenant Candy
9 Johnson who notified me.

10 Q. So what was your first involvement when you got
11 notified about the case?

12 A. When I was initially contacted by Lieutenant Johnson
13 I was asked to meet with her. She had a witness that was
14 with her at the South Bureau and I responded to the South
15 Bureau to meet with her and the witness Ms. Angela Steed.

16 Q. So you met with Lieutenant Johnson and a witness by
17 the name of Angela Steed at the South Bureau?

18 A. Yes sir, that's correct.

19 Q. And what did y'all do from there?

20 A. At that point Ms. Steed wasn't familiar with the
21 area and wasn't exactly sure where the incident, the
22 shooting took place at.

23 So basically what we did is we took her in the car,
24 Lieutenant Johnson and I and Ms. Steed and we drove
25 around to the area where she drove us to where the

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1 incident took place.

2 Q. Had she identified herself as an eyewitness to the
3 shooting?

4 A. Yes, she had.

5 Q. Okay. And so she didn't know the address or the
6 exact -- she wasn't able to tell you where the shooting
7 occurred but she said she could show you?

8 A. That's correct.

9 Q. Now do you know approximately how long after the
10 shooting occurred it was you were responding to the
11 location with Ms. Steed?

12 A. The shooting I think the response from the hospital
13 was a little bit after 7:00 and I think by the time I was
14 notified and got to the South Bureau and did the show up
15 lineup that it was maybe about two or two and a half
16 hours afterwards.

17 Q. So yourself, Lieutenant Johnson, and Ms. Steed are
18 in a -- are you in a marked patrol car or what kind of
19 vehicle were you in?

20 A. It's an unmarked patrol car; Impala.

21 Q. An unmarked patrol car; and where did she take you
22 to?

23 A. She directed us down; we actually ended up on North
24 Carolina Street. Lieutenant Johnson was driving and I
25 was in the backseat. We were on North Carolina and she

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1 told us to make an immediate right, which ended up being
2 on Grayson Street so.

3 Q. So you took a right onto Grayson off North Carolina
4 and what happened at that point?

5 A. As soon as we made the right, the immediate right
6 onto Grayson she said that's him, that's the guy; and
7 identified a subject as the shooter.

8 Q. Where was the subject that she identified as the
9 shooter when you turned on Grayson Street? Where was
10 that individual standing or sitting or where was he?

11 A. There was actually a trailer when we made the
12 immediate right. There was a trailer and it was actually
13 at the end of the trailer and there was some type of box
14 or crating seating at the back and he was sitting down.

15 Q. I'm just going to run through this. I'm going to
16 show you what has been marked as State's exhibits 6
17 through 9 and see if you recognize those photos.

18 [Whereupon, the witness is shown photographs]

19 A. Yes, that's...

20 Q. You recognize those?

21 A. Yes.

22 Q. Do they fairly and accurately depict the location
23 that you just described?

24 A. Yes. Yes, sir.

25 MR. KIDD: Your Honor, at this time the State would

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1 offer 6 through 9 for purposes of this hearing.

2 THE COURT: Any objection?

3 MR. LOIGNON: None, Your Honor.

4 THE COURT: State's 6 through 9 into evidence for
5 the purpose of this hearing.

6 [Whereupon, State's exhibit numbers 6 through 9 are
7 entered into evidence for the purpose of this hearing by
8 the court]

9 Q. [Mr. Kidd] Ms. Sad, on that screen in front of you
10 -- if you look at this screen here [indicates] ---

11 A. --- oh I'm sorry; I didn't see that.

12 Q. This is actually a touch screen so if you write on
13 it with your finger it will mark on the larger screen for
14 the courtroom. So what are we looking at here in State's
15 exhibit number 6?

16 A. Are you asking me?

17 Q. Yes, ma'am.

18 A. Basically we were travelling on North Carolina and
19 we made an immediate right onto Grayson Street.

20 Q. Okay. And is that when you indicated that Ms.
21 Steed said that's the guy; that's the shooter?

22 A. Yes, that's correct.

23 Q. Okay. And can you kind of -- I know it's far out
24 but could you indicate on that map about where that
25 individual was standing at that time?

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1 A. Approximately like right in here [indicates] at the
2 end of the trailer. There is actually a sidewalk and
3 there's an apartment building right here [indicates] is
4 an apartment building.

5 Q. I'm going to show you what has been marked as
6 State's exhibit number 8. Do you recognize State's
7 exhibit 8?

8 [Whereupon, the witness is shown photograph]

9 A. Yes, I do.

10 Q. Is that what you were just referring to?

11 A. Yes, sir.

12 Q. Okay. And so this is the apartment building and
13 the trailer?

14 A. Yes, that's correct.

15 Q. Is it easier to identify where the subject was when
16 you turned right onto Grayson at that point?

17 A. Yes. He was like right up in here [indicates].

18 Q. So inside or outside the fence?

19 A. Inside the fence.

20 Q. Okay. And let's do one more. State's exhibit
21 number 9.

22 [Whereupon, the witness is shown photograph]

23 Q. Is that a fair indication of where he was standing
24 or where he was at?

25 A. Yes, sir. He was sitting approximately there

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1 [indicates].

2 Q. He was sitting there, okay. So when Ms. Steed
3 identified him as the shooter at that point what did you
4 do next?

5 A. I said -- there were actually two other gentlemen
6 that were closer to the apartment building. I clarified
7 with her do you mean the ones that are near the apartment
8 sitting or the one in the back of the trailer and she
9 confirmed the one in the back of the trailer.

10 At that point Lieutenant Johnson made contact with
11 Sergeant Hoose, the patrol sergeant on duty, and arranged
12 a lineup and we left the scene until that could be
13 arranged.

14 Q. Okay. And just for clarification on that this is
15 State's exhibit 8. So there were two other individuals
16 that were standing outside at this point?

17 A. Yes, sir. There were a couple of individuals that
18 were closer over in here [indicates].

19 Q. At the corner of the apartment building?

20 A. Yes, sir.

21 Q. Okay. So when y'all arrived there were
22 approximately three people outside; two near the
23 apartment building and one inside the fence?

24 A. That's correct.

25 Q. And the one inside the fence had been identified by

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1 Ms. Steed as the shooter at that time?

2 A. Yes, sir.

3 Q. Just to recap what you just said you then had -- or
4 you and Lieutenant Johnson then had Sergeant Hoose kind
5 of round up everyone and you left the scene?

6 A. Yes, we did. We drove away to allow for her to get
7 the subjects ready to do a show up lineup and then we
8 returned.

9 Q. Okay. And what happened when you returned?

10 A. Basically we just rounded the block; we came back up
11 on Grayson Street. There were three subjects off to the
12 side of the roadway. We did a show up one at a time.

13 The first two subjects were immediately dismissed as
14 any involvement of being the shooter. The third subject
15 she was not 100 percent certain of.

16 Q. So and this third subject was this the same person
17 that she identified as the shooter when y'all immediately
18 came on scene?

19 A. That's correct.

20 Q. Okay. So when you did the show up lineup did y'all
21 remain in the vehicle?

22 A. Yes, we did.

23 Q. Do you know approximately what time of night it was
24 at this point?

25 A. It was after 9:00 so we had like street lights and

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1 then spot lights on him because it was dark.

2 Q. So it was dark. Do you know approximately maybe how
3 far from Ms. Steed the subject was seated or positioned?

4 A. Possibly from me to maybe the back of the courtroom
5 I would say.

6 Q. So it was a decent distance?

7 A. Yes, sir.

8 Q. And was he sitting, standing; do you know?

9 A. He actually was sitting. He was walking with a cane
10 and was having a little bit of difficulty so we brought a
11 chair out there, the officers did.

12 Q. And after that what did y'all do next?

13 A. We left and Ms. Steed was transported back to the
14 City Hall for an interview.

15 Q. Did you conduct that interview with Ms. Steed?

16 A. Yes sir, I did.

17 Q. And did you complete a show up form with Ms. Steed?

18 A. Yes sir, I did.

19 Q. Did she sign that form?

20 A. No sir, she did not.

21 Q. And that's because she wasn't able to identify the
22 individual with 100 percent during the show up?

23 A. Yes, that's correct.

24 Q. I have no further questions at this time.

25 THE COURT: Is this your witness?

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1 MR. LOIGNON: Yes, Your Honor.

2 THE COURT: Mr. Loignon?

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1 CROSS-EXAMINATION

2 BY MR. LOIGNON:

3 Q. Hi Lieutenant Sad. Were you the first law
4 enforcement officers to arrive on the scene?

5 A. Yes, sir. Excuse me; I was the first detective.
6 There were uniform patrols there first.

7 Q. There were uniform patrols officers there? So was a
8 suspect detained when you got there?

9 A. No, he was not.

10 Q. And when you pulled up you said Ms. Steed said
11 that's him; that's the guy.

12 A. Yes, that's correct.

13 Q. And she was referring to someone behind the fence or
14 next to a trailer?

15 A. Yes.

16 Q. Did you detain that person at that time?

17 A. No, we did not.

18 Q. Okay. Did you bring him out from behind the fence
19 so that Ms. Steed could get a better look?

20 A. At that point?

21 Q. Yes?

22 A. No, we did not.

23 Q. Okay. So officers gathered up the subjects that
24 were in the area?

25 A. Gathered up three subjects that were in the area.

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1 Q. Three subjects; the two that were in front of the
2 apartment building?

3 A. Correct.

4 Q. And then the one that was behind the fence next to
5 the trailer?

6 A. Correct.

7 Q. And you all went around the corner and came back.
8 Were all three subjects lined up together at that point?

9 A. The subjects that we used for the show up lineup
10 were off to the side of the road. They weren't in a
11 physical lineup in the roadway.

12 Q. So just to be clear were all three individuals in
13 one spot together or were they separated two and one?

14 A. They were off in a spot on the right side of the
15 roadway.

16 Q. So the person who was behind the fence next to the
17 trailer was escorted out to the roadway?

18 A. Yes, he had been at that point in time.

19 Q. Okay. And so Ms. Steed then was asked to pick from
20 these three individuals by viewing them all at one time?

21 A. That's incorrect.

22 Q. Okay. So she was shown each individual one at a
23 time?

24 A. Correct.

25 Q. Okay. And these other individuals that she was

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1 shown were they, I guess did they have similar
2 characteristics all three of these men?

3 A. I don't know at this point if they had similar
4 characteristics. I just know that the three of them were
5 in the vicinity of where she had already identified the
6 suspect, the shooter, was at. So that's the basis of it.

7 Q. And you said that she immediately disregarded the
8 first two so I'm assuming that the individual that she
9 chose she was shown last?

10 A. That's correct.

11 Q. In sequence? Okay. And you don't recall if any of
12 the other two individuals shared maybe a similar height
13 or a similar build or similar skin tone?

14 A. No, I don't recall that.

15 Q. Okay. Is it typical for a show up I.D. to show an
16 individual; multiple people, multiple subjects?

17 A. Yes, it has occurred in the past.

18 Q. What -- is it standard policy?

19 A. There is no standard policy as far as -- are you
20 asking how many show ups that we have to do? I'm not
21 sure I'm following.

22 Q. I'm sorry. I'm asking when you conduct a show up
23 I.D. is a witness generally shown one person or are they
24 shown multiple people in sequence?

25 A. I think that's just based on the crime that we

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1 respond to and how many subjects are in the area that
2 potentially could be a suspect. I think that kind of
3 determines how many we're going to show.

4 Q. Okay. When Ms. Steed was viewing these subjects
5 was anyone -- she was in the car I'm assuming in the
6 front seat?

7 A. Yes, that's correct.

8 Q. Okay. And who else was in the car with her?

9 A. Lieutenant Johnson was driving and I was in the
10 backseat.

11 Q. Okay. And did either you or Lieutenant Johnson
12 make any comments to Ms. Steed during this time?

13 A. No, we did not.

14 Q. Okay. And was your vehicle equipped with any type
15 of recording device in car or dash cam audio video?

16 A. No, Lieutenant Johnson's car was not.

17 Q. Okay. So the identification process was not
18 recorded in any way?

19 A. No, it was not.

20 Q. Did you fill out the show up I.D. form?

21 A. Yes, I did.

22 Q. And Ms. Steed did not sign the form?

23 A. No, she did not.

24 Q. Because she wasn't sure if the individual that she
25 saw was the shooter.

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1 A. What she said was that she could not be 100 percent
2 sure.

3 Q. Right. So she ---

4 A. --- whereas the other two she immediately dismissed.

5 Q. So the other two she said no and the third guy she
6 wasn't sure?

7 A. Correct.

8 Q. So she did not identify the third individual?

9 A. She didn't dismiss him as the third individual ---

10 Q. --- she didn't identify the third individual as the
11 shooter?

12 A. Yes, nor did she dismiss him.

13 Q. No further questions.

14 THE COURT: Mr. Kidd?

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Neil v Biggers Hearing-Tammy Sad-Redirect Examination by Mr. Kidd
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1 REDIRECT EXAMINATION

2 BY MR. KIDD:

3 Q. And just for clarification so the third person in
4 that lineup was the same person that she previously
5 identified as the shooter?

6 A. That's correct.

7 Q. Is that the defendant in the courtroom today, Vaughn
8 Hilliard?

9 A. Yes, that's correct.

10 Q. Thank you. No further questions.

11 THE COURT: Mr. Loignon?

12 MR. LOIGNON: Nothing further, Your Honor.

13 THE COURT: You may step down. Thank you.

14 [Whereupon, the witness is excused and exits the
15 witness stand]

16 THE COURT: Call your next witness.

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Neil v Biggers Hearing-Angela Steed-Direct Examination by Mr. Kidd
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1 MR. KIDD: The State calls Angela Steed.

2 [Whereupon, Ms. Steed comes forward]

3 [Whereupon, the witness is duly sworn by the Clerk
4 of Court]

5 CLERK OF COURT: Ma'am if you could please state
6 your first and last name and then spell your last loudly
7 and clearly into the microphone for the record.

8 THE WITNESS: Angela Steed, last name S-T-E-E-D.

9 - - - - -

10 ANGELA STEED,

11 Having been first duly sworn,

12 Was examined and testified as follows:

13 DIRECT EXAMINATION

14 BY MR. KIDD:

15 Q. Good afternoon Ms. Steed. I appreciate you being
16 here for us. I'm just going to kind of get right to it
17 okay. How do you know Troy Cason?

18 A. I just met him July the 20th at the park and got to
19 know him and stuff by seeing him.

20 Q. So you had met him -- you had known him for I guess
21 about a month and a half at the time of this shooting?

22 A. Right.

23 Q. Do you recall the shooting that took place on
24 Grayson Avenue?

25 A. Yes.

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1 Q. After the shooting you took -- well, let's talk
2 about the shooting for a moment. What brought you to
3 that location where the shooting took place that day?

4 A. Troy took me there. He wanted me to meet someone
5 there so he took me over there.

6 Q. So he took you over there. When you say he took you
7 did you drive or did he ---

8 A. --- I drove.

9 Q. You drove?

10 A. Right.

11 Q. And he rode with you in your car?

12 A. I just followed the directions he told me to go.

13 Q. So he was just kind of telling you where to drive
14 and you drove him to that location?

15 A. Yes.

16 Q. How long were y'all there before the shooting took
17 place?

18 A. I would say probably about 25 or 30 minutes.

19 Q. Twenty-five to 30 minutes? Who all was there when
20 you got there? Or did you know any of the people that
21 were there?

22 A. I didn't know anyone there.

23 Q. How many people did Troy introduce you to?

24 A. Two.

25 Q. Two? Do you remember their names?

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1 A. No, I don't remember any of the names.

2 Q. Male, female?

3 A. One male and one female.

4 Q. One male and one female, okay. And where were y'all
5 sort of hanging out when you got there?

6 A. On the side of the building there.

7 Q. The side of like the apartment building?

8 A. Yes, the apartment building there on the side.

9 Q. And I'm going to put a couple of photographs up and
10 they are going to appear on that screen right in front of
11 you okay.

12 I'm going to show you what has been marked as
13 State's exhibit number 8 for purposes of this hearing.
14 I'm sorry about that little bit of glare on there.

15 [Whereupon, the witness is shown photograph]

16 Q. Do you recognize that location?

17 A. Yes.

18 Q. Is that the location where you were just talking
19 about?

20 A. Yes.

21 Q. When y'all were hanging out there where were y'all
22 hanging out?

23 A. Right here [indicates] in this spot.

24 Q. Kind of on the corner of that apartment building?

25 A. Yes.

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1 Q. Did you see the individual that shot Troy?

2 A. Yes.

3 Q. Where was he?

4 A. Inside this fence right here [indicates].

5 Q. Inside the fence kind of in the back corner of that
6 trailer?

7 A. Yes.

8 Q. Why don't you tell the Judge how did this
9 disagreement come about?

10 A. We were standing around talking. The guy that was
11 here [indicates] he was just sitting there with his drink
12 and his little music or whatever. He had got up and left
13 and went in his house or whatever.

14 We were just standing here [indicates] and we were
15 turned towards the road here [indicates] facing this
16 [indicates] way. There was a guy here [indicates], then
17 me, and then Troy behind me and he was sort of leaned
18 over on me.

19 And the guy here [indicates] was drinking. And he
20 had a cup or whatever and he poured the beer out. And
21 when he poured the beer out the guy was coming back this
22 way [indicates] and he seen the beer.

23 And when he seen the beer pour out here [indicates]
24 by the tree he started arguing and fussing with whoever
25 had thrown the beer out. And him and -- Troy assumed he

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1 had figured that he was the one that did it so they
2 started arguing, all three of them, arguing and fussing
3 about the beer.
4 Q. So they are fussing over a spilled beer?
5 A. Right.
6 Q. Like a can or a cup was thrown down or just the beer
7 inside ---
8 A. --- just the beer itself.
9 Q. Just the beer that was inside?
10 A. Right.
11 Q. Was Troy the one that threw the beer down?
12 A. No.
13 Q. Did the guy inside the fence think that Troy threw
14 the beer down?
15 A. I don't know if he thought he did but that's what
16 the words that came out of Troy's mouth you think that I
17 was the one that threw the beer.
18 Q. So they started arguing?
19 A. Right.
20 Q. So I guess all three men were arguing?
21 A. Sort of, yes.
22 Q. Sort of. What sort of things were being said?
23 A. I can't hardly remember the words exactly. I'm sure
24 there was a lot of profane language back and forth
25 between them. They just kept going at it or whatever.

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1 I'm not sure exactly what they were saying.

2 Q. So just sort of jawing back and forth?

3 A. Jawing back and forth all three.

4 Q. Okay. So what happened next after that?

5 A. They just kept arguing and fussing and then the guy
6 in the fence he just kept back and forth, back and forth.
7 But basically him and Troy just kept going back and
8 forth, back and forth.

9 And then I don't know how it come to the point they
10 ended up they went back to the back of the trailer but
11 they was arguing and fussing because I went on and sat
12 down on the side there and they just went back and forth
13 all three of them.

14 Anyway Troy and the other guy ended up at the back
15 of the fence because I thought maybe he thought the guy
16 would come out of the fence and fight him or whatever,
17 whatever. But anyway he never did.

18 And I really didn't pay too much attention after
19 that. When I did look I just seen them fussing back and
20 forth at the back of the fence right there [indicates].

21 Q. Okay. I'm going to show you what has been marked as
22 State's exhibit 2 and State's exhibit 4 and see if you
23 can recognize those two photographs?

24 [Whereupon, the witness is shown photographs]

25 A. Yes.

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Neil v Biggers Hearing-Angela Steed-Direct Examination by Mr. Kidd

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1 Q. Is that sort of the -- does that fairly depict the
2 side of that trailer and that fence that you were just
3 referring to?

4 A. Yes.

5 MR. KIDD: Your Honor, at this time the State would
6 offer 2 and 4 for purposes of this hearing.

7 THE COURT: Any objection?

8 MR. LOIGNON: None, Your Honor.

9 THE COURT: State's 2 and 4 into evidence without
10 objection.

11 [Whereupon, State's exhibit numbers 2 and 4 are
12 entered into evidence for purposes of this hearing by the
13 court]

14 Q. [Mr. Kidd] All right Ms. Steed I'm going to show you
15 first State's exhibit number 2.

16 [Whereupon, the witness is shown photograph]

17 Q. This is just a different angle from that same place
18 where y'all were kind of hanging out is that right?

19 A. Yes.

20 Q. Would this be the direction that they would have
21 walked when you said they went to the back of the
22 trailer?

23 A. Right. They would have came back this way
24 [indicates].

25 Q. Do you know why they were both walking towards the

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1 back of the trailer?

2 A. My assumption was -- I just assumed that maybe they
3 were going to fight and the other guy was going to come
4 out the fence or whatever; I don't know. But they just
5 kept arguing and fussing and both of them just walked
6 back that way.

7 Q. So did they walk back kind of next to each other
8 just on either sides of the fence?

9 A. Right. Steady arguing and fussing as they were
10 walking.

11 Q. Okay. And then they ended up at a gate?

12 A. Right.

13 Q. I'm going to show you State's exhibit 4.

14 [Whereupon, the witness is shown photograph]

15 Q. This is the gate that you are referring to?

16 A. Uh Huh.

17 Q. When they were at the gate did you -- what happened
18 at the gate? What did you see?

19 A. The other guy on the other side -- when I turned and
20 looked the other guy on the other side of the fence and
21 Troy on this side but I never seen the gate come open at
22 anytime. All I seen it looked like Troy had pushed him
23 and he fell.

24 Q. So the guy on the other side of the fence was pushed
25 and fell down?

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1 A. Right.

2 Q. And did you ever see the fence -- the gate open?

3 A. No.

4 Q. What happened after the guy inside the fence fell
5 down?

6 A. He just I remember him getting up and going back
7 around this way [indicates] somewhere. He just went on
8 around there.

9 Q. So he got up and walked away?

10 A. Right.

11 Q. What did Troy do?

12 A. Him and it was another guy saying whatever; they was
13 just talking or whatever and then Troy started walking
14 back towards me and he said well, come on let's go. So
15 we decided to get ready to leave.

16 Q. So I'm going to show you State's exhibit 2 again.

17 [Whereupon, the witness is shown photograph]

18 Q. So he started walking back down towards where you
19 were sitting?

20 A. Right here [indicates].

21 Q. Okay. And then that's kind of back where y'all
22 were on State's exhibit 8 is that right?

23 A. That's correct.

24 Q. Okay. So now we're back to where it all started
25 right?

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- 1 A. Right.
- 2 Q. Okay. And where are you at this point in time?
- 3 A. I'm right here [indicates] still sitting here
- 4 [indicates]. I was sitting here [indicates].
- 5 Q. Still sitting at the corner of the apartment
- 6 building?
- 7 A. Right.
- 8 Q. And where is Troy?
- 9 A. He had started coming this way [indicates] towards
- 10 me.
- 11 Q. Okay. And when do you see the guy from inside the
- 12 fence again?
- 13 A. After -- about the time Troy got here [indicates] I
- 14 stood up and we was getting ready to go get in the car
- 15 and then somebody said oh, he's got a gun or something.
- 16 And we all turned and looked back but the guy was
- 17 still inside the fence. And the guy inside the fence
- 18 walked on up to the fence with the gun.
- 19 Q. Okay. Where was your car parked?
- 20 A. The car was parked it was like -- I think this
- 21 [indicates] is it here [indicates] on the curve. It
- 22 wasn't on the sidewalk but right in here [indicates].
- 23 Q. So it was pulled over on the side of the street?
- 24 A. Right.
- 25 Q. In front of the apartment building or was it more in

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1 front of the apartment building ---

2 A. --- yes, it was a little bit more down here
3 [indicates] than it was right here [indicates] by the
4 tree. It was kind of like...

5 Q. It was kind of on the street in front of the
6 apartment building?

7 A. Right.

8 Q. Okay. And you just said that yourself and Troy
9 started heading towards the car to leave?

10 A. Yes, we was getting ready to leave.

11 Q. And you heard someone say something about a gun and
12 y'all turned around?

13 A. Right, right.

14 Q. Okay. And did you see the individual with the gun?

15 A. Yes.

16 Q. Was that the same person that they had been fussing
17 with earlier?

18 A. Right.

19 Q. Okay. And what happened next?

20 A. Troy turned around and said you gonna shoot me? I
21 remember him saying something like that and him and the
22 guy they started arguing.

23 Then the other guy that was there, the one he had
24 introduced me to, was trying to tell the guy with the gun
25 no, no, you ain't got to do all this or something;

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1 something like that. He was trying to stop him from
2 doing it. And Troy was trying to get back to the fence
3 and I kept pulling him back trying to pull him not to go
4 you know -- to pull him to come on. But he wouldn't and
5 so he went up there closer to him or whatever and they
6 all three of them standing there arguing.

7 Q. Okay. I just want -- how close to the fence was
8 Troy?

9 A. At first he was here [indicates] when the guy
10 started coming. By the time he got up here -- the guy
11 got to the fence Troy done got about right in here
12 [indicates] somewhere.

13 Q. Closer ---

14 A. --- closer to the fence.

15 Q. Closer? Okay. So closer ---

16 A. --- facing him, right.

17 Q. And what happened?

18 A. And the other guy was standing there arguing with
19 the guy with the gun him and Troy they arguing and he's
20 trying to tell him no, no, no don't; not to shoot him.
21 You don't have to do all this -- this don't have to...

22 What we did -- and I kept pulling on him trying to
23 get him to come on but then he wouldn't. He kept arguing
24 and fussing. But then he decided well yes, I'm going to
25 go ahead so he turned, he turned to go. And when he

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1 turned that's when he shot him right here [indicates].

2 Q. So he turned to leave?

3 A. Yes, he turned towards me and grabbed me and we was
4 going to go on to the car. He decided to just go ahead.

5 Q. Okay. And then he was shot?

6 A. Then he was shot.

7 Q. And what did y'all do at that point?

8 A. He said -- Troy said you shot me. And so I looked
9 and I grabbed his shirt like this [indicates], he had on
10 a white t-shirt and it was just a little red mark of
11 blood there and then he just took off running.

12 Q. Troy took off running? What did you do at that
13 point?

14 A. I was stunned for a moment and then Troy said come
15 on take me to the hospital. He ran on down the street.
16 So I come on to try to get in the car here [indicates].

17 The guy with the gun and the other guy was still
18 standing there still telling him he was still trying to
19 shoot him or something. And he said no, no trying to
20 tell him leave him alone. So I came on got in the car,
21 picked him up and took him on to the hospital.

22 Q. You took him to the hospital? Do you remember which
23 hospital you took him to?

24 A. To be honest with you all the hospitals there are so
25 close together and I don't know this area so good so I

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- 1 wasn't sure. I just took him to the hospital.
- 2 Q. I understand. Where are you from originally?
- 3 A. North Carolina.
- 4 Q. North Carolina? How long you been in Charleston?
- 5 A. I've been here now four years.
- 6 Q. So back when this happened it was about two years, a
- 7 year and a half?
- 8 A. Probably about a year and a half.
- 9 Q. So you take him to the hospital. Is that where you
- 10 first get involved with the police?
- 11 A. Right.
- 12 Q. At the hospital?
- 13 A. At the hospital.
- 14 Q. And then do you recall being taken to the precinct
- 15 to meet with two female officers?
- 16 A. Later on I went -- they took me. Two officers took
- 17 me to the precinct, yes. I'm trying to remember -- I
- 18 remember talking to one and then the other one. I'm just
- 19 not to clear about that.
- 20 Q. It's fine. I know it's been a while and it's not
- 21 too terribly important. But do you recall taking or
- 22 riding with the police officers back to where the
- 23 shooting occurred?
- 24 A. Yes.
- 25 Q. Okay. And you were in a vehicle with them?

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1 A. Yes.

2 Q. Do you remember were you sitting in the front
3 passenger seat?

4 A. Yes.

5 Q. And do you remember -- did you know the address of
6 where this had occurred?

7 A. No.

8 Q. Were you just directing them on how to get there?

9 A. Right.

10 Q. Okay. And you remember turning in front of this --
11 in front of the picture that we see right here
12 [indicates] with the police officers?

13 A. Yes.

14 Q. And do you remember seeing the same individual that
15 shot Troy inside the fence when y'all approached?

16 A. No.

17 Q. You do not? You don't remember indicating ---

18 A. --- I had seen when we rode by because we rode by
19 the area.

20 Q. And that's what I'm talking about; the first time
21 when y'all rode by.

22 A. Yes, we rode -- yes.

23 Q. And you saw that individual?

24 A. Yes.

25 Q. At the back ---

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1 A. --- he was still inside the fence there.

2 Q. Right. And then y'all sort of circled around the
3 block?

4 A. Yes.

5 Q. And came back and they had some people outside that
6 they showed you?

7 A. Yes, but it was dark then. It done got dark and so
8 it was...

9 Q. So at that point it had gotten pretty dark outside?

10 A. Right.

11 Q. Now when the shooting happened was it dark outside?

12 A. No.

13 Q. You had a pretty good opportunity to see the person
14 who did the shooting?

15 A. Right.

16 Q. But by the time you got back there with the police
17 it was much later?

18 A. Right.

19 Q. And they showed you a few individuals?

20 A. Yes.

21 Q. And the first two did you recognize them?

22 A. No.

23 Q. Did they have anything to do with this?

24 A. No, not that I know of. Nobody -- I can't even
25 remember the people's faces or who they were because I

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1 don't even know anybody so.

2 Q. Right. So the third individual that they showed you
3 was somewhat sitting down?

4 A. Right.

5 Q. And could you recognize him at all?

6 A. I couldn't really recognize him but from the shape
7 of the body and he had a cane I would assume but I wasn't
8 sure ---

9 Q. --- so it's more ---

10 A. --- but it looked like the guy.

11 Q. But you weren't positive?

12 A. I was not positive.

13 Q. Okay. And that's why you never signed that form
14 that was ---

15 A. --- right, because I couldn't be positive ---

16 Q. --- because you couldn't say for sure?

17 A. Right.

18 Q. Do you see the person who was the shooter here
19 today?

20 A. Yes, that's [indicates] the guy.

21 Q. That's the guy.

22 MR. KIDD: Beg the court's indulgence.

23 THE COURT: Take your time.

24 [Whereupon, Mr. Kidd and Mr. Waring confer]

25 Q. [Mr. Kidd] Had you been drinking that evening at all

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1 Ms. Steed?

2 A. No.

3 Q. Had Troy been drinking?

4 A. Yes, I think earlier.

5 Q. What about the individual behind the fence? Did you
6 see him drinking that night?

7 A. No, I'm not sure if he were or not.

8 Q. What sort of characteristics about the shooter did
9 you remember or did you recognize?

10 A. Well, like looking at him now I can remember the
11 head shape, but basically just the skin color and the
12 body weight. And he had a cane; that's about it.

13 And I remember after he had -- when I looked at him
14 after he had shot Troy I looked in his eyes and the eyes
15 the way they looked I guess I can never forget that look.

16 Q. Had you ever met the shooter before that day?

17 A. Never.

18 Q. Have you ever seen him until today?

19 A. Not since that ---

20 Q. --- not since then?

21 A. Not since then.

22 Q. You never saw him on T.V. or anything like that?

23 A. Nope.

24 Q. Was he standing or sitting at the time of the
25 shooting?

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- 1 A. Standing.
- 2 Q. And about how far away from him would you say you
3 were at the time of the shooting?
- 4 A. Me?
- 5 Q. Yes, ma'am?
- 6 A. From the guy that was shot I was -- because he was
7 inside the fence and I was outside the fence but I know I
8 was like right in here [indicates] from when it happened.
- 9 Q. So what do you think that is; 20 or 30 feet?
10 Closer? Further?
- 11 A. It may be a little bit closer than that I think.
- 12 Q. How about from me to you?
- 13 A. No, closer than that.
- 14 Q. Closer than that?
- 15 [Whereupon, Mr. Kidd moves forward]
- 16 Q. Now?
- 17 A. Yes, maybe just a little more.
- 18 Q. A little further?
- 19 A. No, closer.
- 20 Q. About right here?
- 21 A. Yes.
- 22 Q. So what's that about maybe 10 or 15 feet?
- 23 A. Right, that's what I was thinking.
- 24 Q. And it wasn't dark yet, right?
- 25 A. [Nods negatively]

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1 Q. Did you ever see anyone else inside the fence?

2 A. No.

3 Q. Did the police officers suggest to you in any way
4 that the individuals they were showing you were the
5 shooters? Did they tell you to pick him out?

6 A. No, no.

7 Q. And when they went over that identification form
8 with you they advised you of all those -- they advised
9 you that you needed to be sure about the identification
10 right?

11 A. Right.

12 Q. And that's why you didn't sign because you weren't
13 100 percent ---

14 A. --- right; because I couldn't be too sure.

15 Q. I have no further questions Ms. Steed.

16 THE COURT: Mr. Loignon?

17 MR. LOIGNON: Thank you, Your Honor.

18

19

20

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25

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1 CROSS-EXAMINATION

2 BY MR. LOIGNON:

3 Q. Hello, Ms. Steed.

4 A. Hi.

5 Q. You spoke with an officer at the hospital.

6 A. Yes.

7 Q. And you gave that officer a detailed description of

8 the suspect.

9 A. I can't remember exactly; I'm not sure.

10 Q. You told them what the shooter looked like.

11 A. I think I remember describing the clothes that they

12 had on.

13 Q. You told the officer he had a bald head?

14 A. Uh Huh.

15 Q. You told the officer he had a gray beard?

16 A. Uh Huh.

17 Q. You told the officer he was about 50 or 60 years

18 old.

19 A. Yes, that's what I assumed. I knew he was an older

20 guy.

21 Q. Right. So you gave them a detailed description.

22 A. [No response]

23 Q. You gave them a detailed description.

24 A. That's what I told them.

25 Q. Right. You told them he was next to a trailer

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- 1 behind a fence?
- 2 A. Yes.
- 3 Q. Okay. So let's go back to when the shooting
- 4 actually happened. It was around 6:30 p.m.
- 5 A. I'm not sure about the time.
- 6 Q. When you went to the hospital you checked in there
- 7 just before 7:00?
- 8 A. Okay.
- 9 Q. It's a question.
- 10 A. I'm not sure about the time. I knew it was the
- 11 evening time but I'm not sure about when ---
- 12 Q. --- it was still light outside?
- 13 A. Right.
- 14 Q. So you could see everything pretty well?
- 15 A. Yes.
- 16 Q. Do you wear glasses or contacts?
- 17 A. I wear reading glasses.
- 18 Q. Those are prescription glasses?
- 19 A. Yes.
- 20 Q. Did you have them on at the time?
- 21 A. No.
- 22 Q. But you just need them for reading?
- 23 A. Right.
- 24 Q. Close distances?
- 25 A. Right.

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1 Q. When the shooting happened you say the man behind
2 the fence was standing up.

3 A. Right.

4 Q. And you could see how tall he was?

5 A. Yes, but not that I'm all that good at height.

6 Q. Right. I'm not asking you to give his height but
7 you could just gauge how tall he was at that point?

8 A. Right.

9 Q. You could see that he was heavy set?

10 A. Yes.

11 Q. Okay. Now let's move forward to when the officers
12 bring you back to the scene. You came in the car with
13 two other officers, two female officers?

14 A. Uh Huh.

15 Q. Okay. And you pull up on the street and you see a
16 guy behind the fence next to a trailer?

17 A. Yes.

18 Q. And that's where you remember the shooter was
19 standing before right?

20 A. Right.

21 Q. But this time you were a little further away.

22 A. Uh Huh.

23 Q. You were out in the street in a police car right?

24 A. Uh Huh.

25 THE COURT: Is that a yes?

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1 THE WITNESS: Yes.

2 THE COURT: She's got to write down everything so
3 if you will just get in the habit of saying yes or no.
4 Thank you.

5 Q. [Mr. Loignon] So as you indicated before on the
6 screen you -- when the shooting happened you were over
7 where those three dots are on the sidewalk by the
8 apartments?

9 A. Yes.

10 Q. When you came back with the officers you were in a
11 police car and you were in the street correct?

12 A. That's correct.

13 Q. So then you circle around the block and come back?

14 A. Uh Huh.

15 THE COURT: Is that yes?

16 THE WITNESS: Yes.

17 THE COURT: Thank you.

18 Q. [Mr. Loignon] By this time it has gotten darker.

19 A. Yes.

20 Q. There are three individuals that you were shown in
21 order to make an identification.

22 A. Yes.

23 Q. You did not identify any of them did you?

24 A. No.

25 Q. Okay. The third individual was sitting down.

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1 A. Correct.

2 Q. So you couldn't see how tall he was.

3 A. That's correct.

4 Q. And it was dark. And you couldn't see those
5 characteristics that you were so detailed in describing
6 earlier could you? The gray beard, the bald head; you
7 couldn't see that could you?

8 A. No, not exactly.

9 Q. Because it was dark and you were further away?

10 A. Right, that's correct.

11 Q. And that's why you didn't sign the show up
12 identification form.

13 A. Because I couldn't ---

14 Q. --- because you weren't sure ---

15 A. --- for positive.

16 Q. You couldn't tell if that was the guy.

17 A. Uh Huh.

18 Q. No further questions.

19 MR. KIDD: Nothing further, Your Honor.

20 THE COURT: You may step down. Thank you.

21 [Whereupon, the witness is excused and exits the
22 witness stand]

23 THE COURT: Call your next witness.
24
25

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1 MR. KIDD: The State calls Earl Gregg.
2 [Whereupon, Mr. Gregg comes forward]
3 [Whereupon, the witness is duly sworn by the Clerk
4 of Court]
5 CLERK OF COURT: If you could state your first and
6 last name and then spell your last loudly and clearly
7 into the microphone for the record.
8 THE WITNESS: Earl Gregg, G-R-E-G-G.
9 - - - - -
10 EARL GREGG,
11 Having been first duly sworn,
12 Was examined and testified as follows:
13 DIRECT EXAMINATION
14 BY MR. KIDD:
15 Q. Good afternoon Mr. Gregg.
16 A. What's going on? How you doing?
17 Q. I appreciate you being here.
18 A. Yes, sir.
19 Q. I'm going to get to it pretty quick. You remember
20 the shooting that occurred on September 7th, 2013?
21 A. Yep.
22 Q. Did you know Troy Cason?
23 A. Yes, sir.
24 Q. How did you know Troy?
25 A. We knew each other from downtown on Reid Street.

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- 1 Q. On Reid Street?
- 2 A. Reid Street and Rose Lane.
- 3 Q. Okay. Is that on the back of Reid?
- 4 A. Yes, on the other side.
- 5 Q. How -- what name did you call Troy? Did he go by a
- 6 different name to you?
- 7 A. Charles.
- 8 Q. Charles. So you knew Troy Cason as Charles?
- 9 A. Yes, sir.
- 10 Q. Okay. What about the person who shot Troy? Do you
- 11 see the person who shot Troy?
- 12 A. Yes, Kenneth.
- 13 Q. Kenneth. Do you know his real name?
- 14 A. No. I know him by Kenneth.
- 15 Q. You just know him by Kenneth?
- 16 A. Yes, sir.
- 17 Q. Okay. And how long had you known Kenneth?
- 18 A. For a couple of few months; something like that.
- 19 Q. So a few months prior to the shooting you have known
- 20 Kenneth?
- 21 A. I know him before that happened when he came down
- 22 from Florida that's how I know him.
- 23 Q. So that would be a couple of years right?
- 24 A. A couple of years.
- 25 Q. Okay. And where were you living at the time of the

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- 1 shooting?
- 2 A. With my brother Isaac Jamison [phonetic].
- 3 Q. What about -- did you ever live in those apartments
- 4 right there where the shooting occurred?
- 5 A. With Isaac Jamison [phonetic] on the back part.
- 6 Q. So that's who you are referring to?
- 7 A. Yes.
- 8 Q. So you were living there next to where Kenneth
- 9 lived?
- 10 A. In the back part in apartment number 9.
- 11 Q. Okay. And so that's how you got to know Kenneth?
- 12 A. All of us sit in the yard enjoying ourselves talking
- 13 and having fun.
- 14 Q. So how often would you see Kenneth?
- 15 A. Every other blue moon that come around.
- 16 Q. So every day, once a week? What would you say?
- 17 A. I'd say about a couple of days out of the week.
- 18 Q. A couple of days a week you would see him?
- 19 A. We'd sit down have fun on the weekends sit down and
- 20 talk and have fun.
- 21 Q. Drink a few beers together?
- 22 A. No, he's on the other side. We cross the other
- 23 side.
- 24 Q. So y'all would be on opposite sides of the fence?
- 25 A. Yep.

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- 1 Q. But you would talk with him?
- 2 A. Everybody sitting down on a crate like this having
3 fun, changing words and listening to the radio.
- 4 Q. I'm going to show you what has been put into
5 evidence for the purposes of this hearing as State's
6 exhibit number 8.
- 7 [Whereupon, the witness is shown photograph]
- 8 Q. Is this that location you were referring to?
- 9 A. Yep.
- 10 Q. So would y'all sort of hang out down there a good
11 bit?
- 12 A. No, he would be on the other side. He be by the
13 fence and we would be by the wall right there [indicates]
14 on the side of the wall on the front and side there.
15 This is the side [indicates] and that's [indicates] the
16 front.
- 17 Q. Where would you kind of hang out at?
- 18 A. Right there [indicates] where that window is at.
- 19 Q. Right there where that window was at. So kind of
20 right in front of the apartment building?
- 21 A. Yes, right there [indicates] by the wall.
- 22 Q. And where would Kenneth be at?
- 23 A. In his yard by the fence. On the side where the two
24 crates at by the fence on this side [indicates].
- 25 Q. Can you put a mark on it?

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1 A. He would sit right there [indicates] where the fence
2 at where the tree at.

3 Q. And so for a period of months y'all would have
4 interaction relatively frequently?

5 A. Yes, talking just joking and just really having fun;
6 we always do every day.

7 Q. Okay. Did you have any bad blood with Kenneth?

8 A. No, not me. No. We talk a little smack now and
9 then but I just walk off. I go my way and I come back
10 and sit down and drink my beer and we kill that.

11 Q. So every now and then y'all might fuss a little bit
12 but...

13 A. There ain't nothing be worth all that but we just
14 talk a little junk to each other. We kill that.

15 Q. It would be water under the bridge and then you
16 would move on.

17 A. We would squish that.

18 Q. Okay. And how long had you known Troy -- Charles?

19 A. I've known Charles for a couple of years back.

20 Q. A couple of years? Were y'all pretty good friends?

21 A. We were close and then he would start acting and
22 when he would do stuff that's him.

23 Q. Okay. And did you see Kenneth shoot Charles?

24 A. When Kenneth come to the fence with a .22 rifle at
25 the fence I was standing right at the wall and I turned.

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1 to him like that and Charles been in the street. When
2 Charles come back I tell him to go and Kenneth must have
3 got upset and Kenneth to the fence like this [indicates]
4 and Charles hold his stomach. And Charles got in the
5 back of the car and the girl pull off. And I gone. I go
6 my way. I go to my friend house.

7 Q. I'm going to show you what has been marked for
8 identification as State's exhibit number 5.

9 [Whereupon, the witness is shown photograph]

10 Q. Do you recognize that photograph?

11 A. Yep.

12 Q. Is that a photograph that was shown to you by the
13 police department?

14 A. Yeah.

15 Q. I'll show you State's exhibit 5.

16 [Whereupon, the witness is shown document]

17 Q. Is that your -- did you write that on the bottom of
18 the photograph?

19 A. What Kenneth?

20 Q. Yes?

21 A. That ain't my handwriting there.

22 Q. That's not your handwriting on there?

23 A. No.

24 Q. But they showed you that photograph there?

25 A. Yeah, they did.

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- 1 Q. And you identified that picture as Kenneth?
- 2 A. Yes, sir.
- 3 Q. And that's someone who you had known for some time?
- 4 A. Yep.
- 5 Q. And you had seen him I think you said a couple of
- 6 times a week for a few months?
- 7 A. He's a good fellow. He cool now but the only thing
- 8 I mad at him was what he did was wrong; that's all.
- 9 That's why I walk away and go about my business. And I
- 10 ain't been back in that hole since.
- 11 MR. KIDD: Beg the court's indulgence.
- 12 [Whereupon, Mr. Kidd reviews documents]
- 13 Q. [Mr. Kidd] Where did -- did Kenneth live in that
- 14 trailer right there?
- 15 A. Yep. Coming from his mother.
- 16 Q. And I think there are two trailers in that lot right
- 17 there [indicates]?
- 18 A. There is two of them.
- 19 Q. I'm going to show you for identification State's
- 20 exhibit 3.
- 21 [Whereupon, the witness is shown photograph]
- 22 Q. Do you recognize that?
- 23 A. Yep.
- 24 Q. Are those the two trailers you were talking about?
- 25 A. Yes, sir.

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- 1 Q. Which trailer did Kenneth live in?
- 2 A. In the first one.
- 3 Q. In this one here [indicates]?
- 4 A. Yes, sir.
- 5 Q. And which trailer did Kenneth's mother live in?
- 6 A. In the second one in the back.
- 7 Q. So this one back here [indicates]?
- 8 A. Yes, sir.
- 9 Q. And you were staying in the apartment building right
- 10 next door at the time?
- 11 A. Yep.
- 12 Q. Did you know Kenneth's mother?
- 13 A. Yes. Momma May --
- 14 THE COURT REPORTER: I'm sorry?
- 15 A. It's May. That's the name we give her.
- 16 Q. [Mr. Kidd] What name did you give her?
- 17 A. Momma May.
- 18 Q. Momma May?
- 19 A. Yes, sir.
- 20 Q. Did you like Momma May?
- 21 A. Yes, sir. She was like a mother to all of us on the
- 22 block.
- 23 Q. She was like a mother to everyone on the block?
- 24 A. Yes, sir.
- 25 Q. Would she cook meals for you?

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1 A. Yes, sir.

2 Q. Did you know Kenneth's wife?

3 A. Ms. Charlotte? Yes, sir.

4 Q. You knew her at the time?

5 A. Yep.

6 Q. No further questions Mr. Gregg.

7 THE COURT: Mr. Loignon?

8 MR. LOIGNON: No questions for this witness, Your
9 Honor.

10 THE COURT: You may step down. Thank you.

11 [Whereupon, the witness is excused and exits the
12 witness stand]

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1 THE COURT: Mr. Kidd any further witnesses?

2 MR. KIDD: No further witnesses as to the Biggers
3 hearing.

4 THE COURT: All right. Do you have any witnesses
5 Mr. Loignon?

6 MR. LOIGNON: No, Your Honor.

7 THE COURT: I'll be happy to hear arguments.

8 MR. LOIGNON: Your Honor, as far as Ms. Steed's
9 identification goes our position is that it was not an
10 identification in the first place. She gave a detailed
11 description to officers at the hospital and then was
12 unable to identify the individuals that were brought out;
13 any of them.

14 She said that she wasn't 100 percent sure about one
15 of them but she couldn't even -- she didn't know if he
16 had on the same clothing. She couldn't tell if he had a
17 bald head. She couldn't tell some of those basic
18 details, the really significant details that she gave to
19 the officer at the hospital.

20 Our position is she did not make an identification
21 at all. Even if the court finds that she did make an
22 identification we believe that the use of the combination
23 of some kind of show up I.D. and physical lineup that
24 they put together was unduly suggestive because they did
25 not -- they just picked some individuals that happened to

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1 be nearby several hours later and lined them up with
2 another individual who was apparently not even a suspect
3 at the time. He wasn't detained ---

4 THE COURT: --- what's your challenge? What are
5 you challenging?

6 MR. LOIGNON: Challenging that there was no
7 identification made in the first place. Ms. Steed did
8 not pick out the defendant as the individual when she
9 went back to ---

10 THE COURT: --- what are you asking me to do here
11 today at this hearing?

12 MR. LOIGNON: At this hearing we're asking you to
13 suppress Ms. Steed's identification of ---

14 THE COURT: --- but you just told me it wasn't an
15 identification. So what are you asking me to do?

16 MR. LOIGNON: Suppress any statements of Ms.
17 Steed's that might indicate that she identified the
18 defendant as the individual. If Ms. Steed was unable to
19 identify the defendant at the time she should not be able
20 to identify him in the courtroom.

21 THE COURT: So that's what you're asking me to do
22 is to prohibit her from making an in court identification
23 ---

24 MR. LOIGNON: --- yes, Your Honor ---

25 THE COURT: --- based upon what transpired at the

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1 scene?

2 MR. LOIGNON: Yes, Your Honor.

3 THE COURT: That's what you're asking me to do.

4 What about Mr. Gregg?

5 MR. LOIGNON: We have no challenge to Mr. Gregg's
6 identification.

7 THE COURT: Mr. Kidd, I'm happy to hear from you.

8 MR. KIDD: Thank you, Your Honor. I think I kind
9 of need to break this down into sort of three parts. The
10 first identification was when Ms. Steed arrived on scene
11 with the two officers and she points to the guy inside
12 the fence at the back of the trailer which is the
13 defendant and says that's the guy. That's the shooter.

14 THE COURT: How do you challenge that Mr. Loignon?
15 What's the challenge to that?

16 MR. LOIGNON: The challenge to that is that I mean
17 we have no evidence to indicate that was him first of
18 all.

19 THE COURT: But that is not the purpose of this
20 hearing. The purpose of this hearing is to make a
21 determination whether or not the identification process
22 was unduly suggestive.

23 MR. LOIGNON: Right.

24 THE COURT: Because ultimately the jury is going to
25 be the fact finder and make the final decision. I'm just

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1 the gatekeeper at this point. So it's just whether or
2 not the procedure itself was unduly suggestive. So
3 that's all I need to worry -- to be concerned about at
4 this stage.

5 MR. LOIGNON: If they're considering that for the
6 identification then my challenge would be that she was
7 five feet away or however far she said; five or six feet
8 away during the daylight hours when she saw the shooting.
9 The individual was standing up and she was able to
10 accurately describe him. When they come back she is
11 seated in a police car out by the street looking through
12 what appears to be some kind of large tree and branches.

13 THE COURT: The first prong Mr. Loignon is whether
14 or not the process itself was unduly suggestive. Then if
15 I do find that it was then I can consider those factors.
16 So I need for you to tell me how her being in a vehicle
17 and she's seeing an individual was unduly suggestive by
18 the police officers. That's the crux of the issue
19 correct Mr. Kidd?

20 MR. KIDD: Correct, Judge. It's the first prong
21 ---

22 THE COURT: --- is that where your analysis was
23 going?

24 MR. KIDD: Yes, ma'am.

25 THE COURT: All right.

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1 MR. LOIGNON: The fact that the individual was just
2 in the same -- there was only one individual behind the
3 fence at the time and that's the reason it was unduly
4 suggestive.

5 THE COURT: But was there testimony that the
6 officer said we're going to show you the shooter -- the
7 person that we think is going to be the shooter will be
8 behind the fence? Was that testimony?

9 MR. LOIGNON: No, Your Honor.

10 THE COURT: So what was it about her making the
11 statement and being in the police car that was unduly
12 suggestive by the police? Whether or not it suggests
13 your client is the shooter is not the crux of the issue
14 at that prong. It's whether or not what the police did
15 to elicit that statement was unduly suggestive.

16 MR. LOIGNON: And Your Honor I wouldn't argue that
17 the police did anything in that instance to...

18 THE COURT: All right. Then what is the next step?

19 MR. KIDD: I would agree, Your Honor. So there was
20 no suggestive procedure done by the police for that
21 additional identification so I don't think we ever get to
22 the second prong of any sort of analysis of that because
23 at that point he wasn't a suspect, he wasn't manipulated
24 and put to a show up. The police didn't know anything
25 other than what Ms. Steed was telling them at the point

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1 when they arrived on the scene she said that's him;
2 that's the guy. So they rounded him up at that point.
3 So I don't think there is anything suggestive in the
4 initial identification so I think that comes in at that
5 point. As to the second identification procedure, which
6 would be the show up procedure as the court is aware show
7 ups are suggestive by their very nature.

8 However, I think the candid nature in which Ms.
9 Steed testified today and indicated that she wasn't 100
10 percent sure, he had some of those similar
11 characteristics goes to the reliability of what she said
12 and what she saw and what she could observe that night.
13 She said it was too dark, he was too far away, I couldn't
14 see his eyes, I couldn't see him well enough at the time
15 of identification. But he looked like him it was similar
16 but I couldn't be sure so I wasn't going to sign that
17 paperwork.

18 I think that is indicative of very trustworthy and
19 reliable testimony. She further indicated that the
20 police didn't suggest to her one way or the other that
21 when she says she couldn't make the identification they
22 said okay and they took her back to the station and took
23 her statement. I think you know it just goes to the
24 weight. It's not identification because she didn't
25 identify him but I think it's relevant not only as to her

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1 creditability but as to weight of her prior
2 identification and really her testimony in general.

3 THE COURT: You said there were three.

4 MR. KIDD: The third would be Mr. Gregg's but I
5 think they have withdrawn that.

6 THE COURT: All right. And what the State's
7 position ---

8 MR. KIDD: --- excuse me, I apologize; I'm sorry,
9 Your Honor. The third would be the in court.

10 THE COURT: That was my next question. So talk to
11 me about the in court.

12 MR. KIDD: Well, I mean this is the first time she
13 has seen the defendant since that night. She was able to
14 make a positive in court identification that hasn't been
15 tainted or corrupted in any way. Once again I think it
16 goes to the reliability of the witness. She testified
17 that she saw his eyes and it was a look that she would
18 never forget and she saw him again today. I haven't
19 shown any photographs of him to her at all. So I don't
20 believe there has been any sort of conduct by the police
21 or otherwise that would have tainted an in court
22 identification.

23 THE COURT: All right Mr. Loignon, your response to
24 any and all of those matters.

25 MR. LOIGNON: Yes, Your Honor. Again, I mean the

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1 officers come around the corner in the car with Ms.
2 Steed. Officer Sad indicated that the suspect wasn't
3 detained at that time. There could have been other
4 individuals behind the fence and the fact that Mr.
5 Hilliard was -- or the fact that the subject was
6 positioned in the same area is I believe something that
7 was unduly suggestive. Obviously the police did not say
8 anything at that point to Ms. Steed but she makes a
9 statement that that's the guy but she is much further
10 away out in a police car. It's not a formal
11 identification process.

12 The show up hasn't begun yet. No one has been
13 detained so I don't believe that that is an
14 identification in the first place. The lineup or the
15 show up I.D. as they call it, it seems like a combination
16 of their policies kind of meshed together where they
17 bring out several individuals.

18 They don't consider whether these individuals have
19 similar characteristics of the suspect and there is no
20 I.D. made. So as I stated before it's our position that
21 Ms. Steed should not be allowed to make any kind of
22 reference to that out of court identification or an in
23 court identification.

24 THE COURT: All right. Thank you. I've heard
25 enough. It's his motion so he has the burden.

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1 MR. KIDD: Well, I actually believe I have -- I
2 think the burden shifts to me to show that under the
3 totality of the circumstances the procedure wasn't
4 suggestive as much to cause a substantial likelihood of
5 irreparable misidentification. I think the burden
6 switches to me but I could be wrong about that.

7 THE COURT: All right. Do you have anything else
8 to say?

9 MR. LOIGNON: No, Your Honor.

10 THE COURT: Based upon Ms. Steed's testimony and
11 Lieutenant Sad's testimony that as they turned the corner
12 the eyewitness stated that's him. I do not find that
13 anything about that procedure was unduly suggestive. As
14 such I do not even need to go to the next prong whether
15 or not the out of court identification was never the less
16 reliable.

17 As to the next issue which is the show up as both
18 the State and the defendant have noted show ups are
19 inherently disfavored. However based upon the totality
20 of the circumstances even if the identification process
21 was unduly suggestive I can then decide the court looks
22 to whether or not it was so reliable that no substantial
23 likelihood of misidentification existed; whether or not
24 the witness had the opportunity to view the perpetrator
25 at the time of crime, degree of attention to accuracy,

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1 the witness's prior description of the perpetrator, the
2 level of certainty demonstrated by the witness at the
3 confrontation, and the length of time between the crime
4 and the confrontation. Ms. Steed and Lieutenant Sad both
5 testified that the witness could not be 100 percent sure.
6 She was able to dismiss that the other two suspects on
7 the side of the roadway were not the shooter.

8 And based upon the totality of the circumstances I
9 do not find that there was a substantial likelihood of
10 irreparable misidentification based upon her certainty as
11 to the identification of court today the I.D. during this
12 hearing as well as the fact that she identified without
13 any unduly suggestiveness in the police procedure.

14 As to the first statement that that's him I deny
15 your motion to suppress the out of court and in court
16 identification. I will allow the process as to what the
17 Lieutenant testified to as the suspects on the side of
18 the roadway just to give the totality of the
19 circumstance.

20 And again this is a factual determination that the
21 jury must also make. I'm just determining the
22 admissibility pursuant to Neil v Biggers. Anything
23 further as to this issue?

24 MR. KIDD: No, ma'am.

25 MR. LOIGNON: No, Your Honor.

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1 THE COURT: All right. That will take our lunch
2 break to 2:15. Are there any other pretrial matters
3 before we get started?

4 MR. KIDD: None that I am aware of, Your Honor.

5 THE COURT: All right. Motion to sequester; any
6 objection?

7 MR. KIDD: I believe they have a motion to
8 sequester. Other than my lead detective Mr. Andrews and
9 my investigator I have none.

10 THE COURT: All right. I'm going to ---

11 MS. ERHLICH: --- and we would want our
12 investigator to be able to come in and out.

13 THE COURT: That's fine. The motion to sequester
14 is granted with those exceptions. The prior bad acts and
15 prior convictions that will become relevant only if he
16 testifies is that correct?

17 MR. KIDD: Correct. And I don't think this rises
18 to the level of prior bad acts.

19 THE COURT: All right. We'll address it --
20 they've already taken your client out so we'll address it
21 when it begins. So we can start -- you don't plan to use
22 that testimony in your opening statement?

23 MR. KIDD: Not in my opening statement, no.

24 THE COURT: Okay. And then there is statements?

25 MS. ERHLICH: I don't think he has offered any

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1 statements.

2 THE COURT: I just want to make sure those are all
3 in my notes that those were pending motions so I just
4 wanted to make sure. Thank you.

5 MR. KIDD: So 2:15?

6 THE COURT: 2:15.

7 MR. KIDD: Thank you, Judge.

8 [Whereupon, court is in recess from 1:29 p.m. until
9 2:25 p.m.]

10 THE COURT: Before we bring in the jury anything
11 from the State?

12 MR. KIDD: No, ma'am.

13 THE COURT: From the defense?

14 MS. ERHLICH: No.

15 [Off the record momentarily]

16 THE COURT: Let's bring in the jury.

17 [Whereupon, the jury enters at 2:26 p.m.]

18 THE COURT: Thank you. Ladies and gentlemen did
19 every member of the panel comply with my instructions
20 over the lunch hour? If you did not, please stand.

21 [Whereupon, no one stands]

22 THE COURT: Thank you. All fourteen jurors
23 complied with the court's instructions. Ladies and
24 gentlemen we will now administer an oath to you to try
25 this case.

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Jury Sworn
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1 JURY SWORN

2 CLERK OF COURT: Thank you, Your Honor. If all
3 jurors will please stand and raise your right hand to be
4 sworn.

5 [Whereupon, all jurors comply]

6 CLERK OF COURT: Do you swear or affirm you shall
7 well and truly try and true deliverance make between the
8 State of South Carolina and defendant at the bar whom you
9 shall have in charge and a true verdict render according
10 to the evidence and the laws so help you God? If so
11 please say I do.

12 [Whereupon, all jurors respond affirmatively]

13 CLERK OF COURT: Thank you. You may be seated.
14 If there is any juror that cannot adhere to this oath if
15 they please would stand at this time?

16 [Whereupon, no one stands]

17 CLERK OF COURT: Please let the record reflect that
18 all jurors are sworn.

19 THE COURT: Thank you.
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State v Vaughn Hilliard
Court-Introduction to Jury
June 8, 2015

1 INTRODUCTION TO JURY

2 THE COURT: Ladies and gentlemen you have now taken
3 an oath to try this case. As I indicated to you, you
4 were selected to try the case of the State versus Vaughn
5 Hilliard. I wanted to take this opportunity to give you
6 a general introduction as to the procedure that we will
7 be following so that you will be in a position to
8 understand what is happening.

9 Ms. Weaver, you have been selected as the Foreperson
10 in this case and what that means is you are the jury's
11 spokesperson here in court. So if at any time any of you
12 need any additional breaks or have any questions please
13 let your Foreperson know. She will alert the bailiffs
14 and we will handle that matter as soon as we can. As
15 such that is your assigned seat throughout the progress
16 of this trial. You will also be responsible for writing
17 the verdict but I will give you instructions regarding
18 that matter when I instruct you on the law applicable to
19 this case at the conclusion of the trial.

20 To my two alternates those are your assigned seats.
21 And so the rest of you with the exception of those three
22 seats may chose to sit wherever you are comfortable.
23 There are no assigned seats except for those three seats.
24 I have made sure that you have notepads so you may take
25 notes throughout the progress of this trial. Please

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Court-Introduction to Jury
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1 remember no juror's notes are no more correct or accurate
2 than another juror's notes; they are simply to help you
3 remember or to take any notation of anything that you
4 find significant throughout the progress of this trial.
5 If during your deliberations you need to have some
6 testimony played back to you we will bring you back in
7 the courtroom and do that for you so do not feel that you
8 have to take down the testimony word for word.

9 Ladies and gentlemen I want to tell you that this
10 trial probably will be different from what you might
11 expect. Most people don't have the opportunity to come
12 to court as you are doing now and most people get the
13 idea of what happens in court from watching television or
14 reading books or movies. While those cases and trials
15 are always full of intense circumstances and riveting
16 drama please remember this trial is not for your
17 entertainment.

18 It is a fundamental part of our democracy in making
19 sure that justice is done between the parties before you
20 here today. Searching for the truth and making sure that
21 justice is done is often slow, repetitive and deliberate;
22 the opposite of what you may have seen on television or
23 read in books or seen in movies. This courtroom is a
24 place of honor. It is dedicated to the protection and
25 preservation of citizen's rights through what many have

State v Vaughn Hilliard
Court-Introduction to Jury
June 8, 2015

1 called the greatest justice system ever created. The
2 attorneys that are here before you are advocates for the
3 parties that they represent but first and foremost they
4 are officers of this court. They are sworn to uphold the
5 law and to uphold the integrity and the fairness of our
6 judicial system. You should expect all the attorneys
7 involved in this case to be professional, competent, and
8 ethical in the representation of their client's interest.

9 Please remember you have just taken an oath to try
10 this case and you are also expected to be professional,
11 reasonable, and ethical. Thank you again for accepting
12 this most important responsibility of jury service and
13 for your contribution today to our justice system.

14 The defendant is charged by an indictment filed in
15 this court with the crime of murder. I will explain the
16 elements of that to you at a later time. The indictment
17 is simply the charge by which this case is brought into
18 court. It is not in any sense evidence of the
19 allegations it contains.

20 The defendant has pled not guilty to that
21 indictment. The State has the burden of proving each of
22 the elements of the indictment beyond a reasonable doubt.
23 It is your duty ladies and gentlemen to determine whether
24 the State has met its burden. Your purpose as jurors is
25 to find and determine the facts. You are the sole judges

State v Vaughn Hilliard
Court-Introduction to Jury
June 8, 2015

1 of the facts in this case. If at any time I make any
2 comment regarding the facts of this case you must
3 disregard it. You are to determine the facts from the
4 testimony that you hear from the witnesses and any other
5 evidence that is introduced in court. It is up to you to
6 determine the inferences which you feel may be properly
7 drawn from the evidence.

8 It is important that you perform your duty of
9 determining the facts diligently and conscientiously
10 because ordinarily there is no way to determine -- to
11 correct an erroneous determination of the facts by a
12 jury. On the other hand and with equal emphasis the same
13 law that makes you the judges of the facts makes me the
14 judge of the law.

15 The law as given by this court is the only law that
16 you may consider. You must accept it and follow it even
17 though you may not disagree with it. Your job is to take
18 the law as I give it to you, apply it to the facts as you
19 find them from the testimony of the witnesses and any
20 other evidence that is introduced. After doing that you
21 will render your verdict a true and just verdict under
22 the solemn oath that you just took as jurors. As I
23 indicated to you, you may not begin your deliberations;
24 you may not discuss this case with anyone in any fashion
25 until I tell you otherwise. You may not read, watch,

State v Vaughn Hilliard
Court-Introduction to Jury
June 8, 2015

1 listen to any news accounts regarding this case and you
2 must not do any independent investigation. Everything
3 you know about this case must come solely from what you
4 learn in this courtroom. If you become aware of another
5 juror's violation you must report that to me immediately.

6 It is important that you keep an open mind and not
7 decide any issue in this case until all of the evidence
8 has been presented, the parties have made their closing
9 arguments and I have instructed you on the law applicable
10 to this case. It is your solemn responsibility to
11 determine the guilt or innocence of the defendant and
12 your verdict must be based solely on the evidence as it
13 is presented to you in this trial and on the law as I
14 instruct you during and at the close of the trial.

15 In just a moment the solicitor is going to make an
16 opening statement in which the solicitor will explain to
17 you the issues in this case or at least what the
18 solicitor believes the issues are. The attorney for the
19 defendant may also make an opening statement although the
20 defendant is not required to do so at this time.

21 Please remember what is contained in their opening
22 statements is not evidence in this case. The evidence in
23 this case will be presented to you from the testimony of
24 sworn witnesses from the witness stand as well as any
25 exhibits that are introduced into evidence. From time to

State v Vaughn Hilliard
Court-Introduction to Jury
June 8, 2015

1 time you may hear one of the attorneys state an objection
2 or I might find it necessary to excuse you from the
3 courtroom for a short while. If I do have the attorneys
4 approach please do not try to overhear us. If I excuse
5 you from the courtroom please do not think we are trying
6 to hide anything from you.

7 The reason that I do this is that sometimes it is
8 necessary for me to make a comment on the facts in order
9 to issue a ruling on the law. So I may excuse you for a
10 short while so that in no way anything that I say or do
11 will influence you on the facts in this case.

12 In determining what the true facts are in this case
13 you must decide whether or not the testimony you hear is
14 believable. It is my responsibility to rule as a matter
15 of law whether certain testimony is admissible but once
16 it is admitted whether or not you believe it is solely
17 for you to determine.

18 In deciding whether to believe a witness you have
19 the right to consider the interest of any witness, the
20 bias of any witness, the prejudice of any witness, the
21 opportunity for the witness to have seen the matters and
22 things about which the witness may testify as well as the
23 way the witness acts on the witness stand. You do have a
24 right to consider anything in the record that will help
25 you evaluate the testimony of the witnesses. That means

State v Vaughn Hilliard
Court-Introduction to Jury
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1 it's your duty to pay close attention. Please do not let
2 your thoughts wander but give strict attention so that at
3 the end of the testimony after you have heard closing
4 arguments on behalf of counsel and I have instructed you
5 on the law applicable to this case you will be in a
6 position to determine what the true facts are, apply the
7 law to those facts, and render a true and just verdict.
8 Please give your strict attention. Mr. Kidd?

9 MR. KIDD: Thank you, Your Honor. May it please
10 the court, Ms. Ehrlich?

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State v Vaughn Hilliard
Opening Statement-Remarks by Mr. Kidd
June 8, 2015

1 OPENING STATEMENT

2 BY MR. KIDD:

3 Ladies and gentlemen of the jury I'm going to start
4 out with a quote. Anger is the enemy of non violence but
5 pride is the monster that swallows it up. What Gandhi is
6 saying there when he said that quote is that often our
7 anger and our tempers may get the better of us and it can
8 lead to violence. But that tendency fails in comparison
9 to the ego and to the pride when it is damaged.

10 The series of events that lead us here today can
11 only be described as a senseless tragedy; a tragedy that
12 was initiated by anger and turned deadly by pride. On
13 September 7th, 2013 this man right here [indicates]
14 Vaughn Hilliard shot a man named Troy Cason with a .22
15 caliber rifle. The projectile entered his left upper
16 quadrant of his abdomen, went through his spleen, through
17 his pancreas, through a kidney, through his colon.

18 Despite all the lifesaving efforts of Roper and MUSC
19 hospital Troy Cason died approximately 30 hours later in
20 a hospital bed at MUSC; an argument that began over
21 something as trivial as throwing out a beer near the
22 property line of this defendant's residence, if you can
23 believe that. It sparked anger, bad words. There was an
24 invitation to fight. They walked along on opposite sides
25 of a fence to engage in a fight. They continued arguing

State v Vaughn Hilliard
Opening Statement-Remarks by Mr. Kidd
June 8, 2015

1 and through a closed gate the defendant was knocked to
2 the ground. His pride and his ego damaged far more than
3 any physical manifestation. He stood up, he brushed
4 himself off, he went into his residence, he retrieved a
5 rifle, he came back outside, walked to the back corner of
6 his property through a six foot chain length fence with
7 three strands of barbed wire on the top of it he shot
8 Troy Cason as Troy Cason was turning to leave.

9 So we're going to be here for a couple of days and
10 in doing so you'll need to get to know a few people. One
11 is the defendant, Vaughn Hilliard. He can go by the name
12 of Kenneth so when you're hearing testimony from a
13 variety of witnesses they might refer to Kenneth; that's
14 the defendant.

15 Troy Cason the deceased goes by the name of Charles.
16 So when you hear witnesses speak and they refer to
17 Charles they're talking about the decedent. You're going
18 to hear from two eyewitnesses, two people who saw
19 everything unfold; a man by the name of Earl Gregg and a
20 woman by the name of Angela Steed.

21 One of the best tools you as a jury have to do your
22 job is common sense. What I'm asking you to do is listen
23 to the testimony that comes from that witness stand,
24 listen to the accounts of the witnesses, and see through
25 a lens of common sense and ask yourself what reason would

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1 this person have to lie? What bias might they have?
2 Look at the evidence that is going to be admitted,
3 compare it to the testimony. Does it match up? Because
4 the burden of proof is on me, it's on the State of South
5 Carolina. I have to prove to you beyond a reasonable
6 doubt that he is guilty of murder. And I accept that
7 burden with open arms.

8 And only through the testimony from the witness
9 stand and the evidence that is admitted in this trial can
10 that burden be accomplished. And I'm confident that when
11 you hear that testimony and when you see that evidence
12 there will only be one verdict you can reach that is
13 going to hold Mr. Hilliard accountable for the death of
14 Troy Cason by finding him guilty of murder. Thank you.

15 THE COURT: Ms. Ehrlich?
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Opening Statement-Remarks by Ms. Ehrlich
June 8, 2015

1 OPENING STATEMENT

2 BY MS. EHRLICH:

3 Troy Cason was a man who would not walk away. He
4 would not walk away, he would not stand down. And Mr.
5 Hilliard, who was vulnerable and scared, did what he
6 thought he had to do to protect himself.

7 You heard that Mr. Cason also went by the name
8 Charles. Charles was drinking that day; a good amount.
9 And at the time he was dating a woman named Angela Steed.
10 They were hanging out. She needed money for gas she
11 sends him off, he disappears and he's gone for a good
12 while; many hours, and he comes back smelling like
13 perfume. She questions him about it and he tells her no,
14 no, no it's not like that, it's not like that; I was just
15 with friends, and offers to take her out to where he had
16 been hanging out drinking earlier.

17 So they get in her car and Charles directs her to
18 the area of [REDACTED] Drayton Street. When they get there
19 they meet up with friends of Charles; a woman named Julia
20 Wigfall who goes by the name Tina and then a gentleman
21 named Earl. They are sitting out there by some
22 apartments drinking; maybe 25 or 30 minutes they are
23 hanging out and drinking. And that's what people do
24 outside of this apartment complex every day. Every day
25 they are out there drinking by 10 o'clock in the morning.

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1 Now Mr. Hilliard he lives in a trailer next to the
2 apartments. And he at the time was 55 years old,
3 disabled, he walked with a cane or a walker, pretty much
4 confined to his property spent his days watching T.V.,
5 walking around the property to try to get some exercise,
6 visiting his elderly mother who lives behind him in the
7 second trailer and then often sitting on some crates
8 right by the fence but behind the fence socializing and
9 drinking and talking to the people on the opposite side
10 of the fence; those people at the apartments.

11 Now at some point on September 7th Mr. Hilliard he
12 comes outside, he's got his cane and he's starting to
13 walk and he sees a beer can on his property. He starts
14 muttering to himself about a beer can and how did this
15 get here. But that's not how Charles takes it. Charles
16 who is intoxicated thinks he is being accused of
17 something. And he's not going to let that go so he
18 starts arguing with Mr. Hilliard.

19 And they start fussing back and forth and they're
20 walking along the fence line. Mr. Hilliard with his cane
21 and Charles no cane; they're walking talking back and
22 forth. Mr. Hilliard thinks you know I'm just going to
23 talk to this guy we'll talk it through and it will be
24 over and that will be the end of it. And as he's going
25 to the gate he feels pain to his head because he's just

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1 been sucker punched between a hole in the gate; and the
2 55 year old man with a cane is on his back, in pain. And
3 it's at that point that he realizes that those empty
4 threats he heard from Charles weren't so empty. The I'm
5 going to kick your ass and you don't know who I am; those
6 aren't empty threats and he means them. And Mr. Hilliard
7 is on his back in pain, shocked and scared, rolls over to
8 his knees, pulls himself up with a cane and goes to his
9 trailer.

10 And he panicking at this point. He's older, he's in
11 bad shape, a stranger has just punched him through the
12 fence and he does what he is allowed to do; he goes and
13 gets his .22 caliber rifle that hasn't been shot in years
14 that he keeps for protection and he arms himself and he
15 comes outside. It's a warning like leave me alone. I'm
16 not going to try to mess with you just leave me alone.

17 You'd think at that point that Charles would just
18 leave and be done with it. But Charles doesn't walk away
19 because he can't; his pride, his ego -- he decides to get
20 in his girlfriend's car but then he gets right back out
21 because he can't leave and he comes over because he can't
22 let an older gentleman hunched over a cane disrespect him
23 that way. And even though his good friend Earl tells him
24 to let it go, let it walk Charles turns to Earl and says
25 I don't walk; "F" that and pushes through him and charges

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1 towards Mr. Hilliard. And Mr. Hilliard seeing an
2 aggressive man in a rage who is intoxicated fires his gun
3 one time, one time. Fearing he was going to be killed or
4 be seriously harmed he fired one shot. And Charles he
5 leaves then. He leaves. And you know what Mr. Hilliard
6 does? He doesn't run. He doesn't hide. He doesn't try
7 to get rid of the rifle. He sits down. He sits down and
8 he waits, he sits down and he waits for the police
9 because he did nothing wrong.

10 He did what he had to do. In that moment he was too
11 scared not to act. This is a tragic event for everybody
12 involved but it's not something that Mr. Hilliard brought
13 on. He was attacked on his own property by a drunken man
14 in a rage and he fired at Charles, the man who wouldn't
15 walk away.

16 THE COURT: Call your first witness.
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1 MR. KIDD: The State calls Earl Gregg.

2 [Whereupon, Mr. Gregg comes forward]

3 [Whereupon, the witness is duly sworn by the Clerk
4 of Court]

5 CLERK OF COURT: If you could, state your first and
6 last name and spell your last.

7 THE WITNESS: Earl Gregg, G-R-E-G-G.

8 - - - - -

9 EARL GREGG,

10 Having been first duly sworn,

11 Was examined and testified as follows:

12 DIRECT EXAMINATION

13 BY MR. KIDD:

14 Q. You all right Mr. Gregg?

15 A. Yes, my leg is hurting.

16 Q. I appreciate you being here this afternoon.

17 A. Yes, sir.

18 Q. I'll get you out of here as soon as we can all
19 right?

20 A. All right.

21 Q. Mr. Gregg can you tell the jury how old are you?

22 A. Fifty-two.

23 Q. What was that; I'm sorry?

24 A. Fifty-two.

25 Q. Fifty-two okay. Where are you from?

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- 1 A. North Charleston.
- 2 Q. From North Charleston? You born there?
- 3 A. No, I was born in Mount Pleasant.
- 4 Q. Born in Mount Pleasant? How long have you lived in
5 North Charleston?
- 6 A. For a couple -- about six months now.
- 7 Q. Six months now?
- 8 A. Yes, it will be six.
- 9 Q. Back in September of 2013 where were you living
10 then?
- 11 A. [REDACTED] Grayson Street.
- 12 Q. [REDACTED] Grayson Street?
- 13 A. Yep.
- 14 Q. I'm going to ask you do you know a guy by the name
15 of Troy Cason ---
- 16 A. --- yep ---
- 17 Q. --- or did you know Troy Cason? What name did he go
18 by to you?
- 19 A. Charles.
- 20 Q. He went by Charles. How long had you known Mr.
21 Cason?
- 22 A. A couple of months.
- 23 Q. A couple of months?
- 24 A. Yes about six or seven months.
- 25 Q. At the time of the shooting you had known him six or

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1 seven ---

2 A. --- I'd known him about that time like that.

3 Q. Okay. Were y'all pretty good friends?

4 A. We were cool.

5 Q. You were cool? What about the defendant Vaughn
6 Hilliard, did you know him?

7 A. Yes, I know him too.

8 Q. You know him too. What name did he go by?

9 A. Kenneth.

10 Q. So you knew him as Kenneth. Where did Kenneth live?

11 A. Right across the road in the fence part in the yard.

12 Q. Right across the fence from where you were living?

13 A. Yep.

14 Q. Mr. Gregg I'm going to show you four photographs all
15 right?

16 A. All right.

17 Q. I'm going to show you State's exhibit 1 through 4
18 and see if you recognize those photographs.

19 [Whereupon, the witness is shown photographs]

20 A. Yep.

21 Q. You recognize those photographs?

22 A. All of them.

23 Q. Do they fairly and accurately represent that area
24 between where you were living and Kenneth's trailer?

25 A. Yes, sir.

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1 MR. KIDD: Your Honor, at this time the State would
2 offer 1 through 4 into evidence.

3 THE COURT: Any objection?

4 MS. ERHLICH: No, Your Honor.

5 THE COURT: State's 1 through 4 into evidence
6 without objection.. You may publish.

7 MR. KIDD: Thank you, Your Honor..

8 [Whereupon, State's exhibit numbers 1 through 4 are
9 entered into evidence by the court]

10 Q. [Mr. Kidd] All right Mr. Gregg, first I'm going to
11 show you what has been introduced as State's exhibit
12 number 1.

13 [Whereupon, photograph is shown]

14 Q. You recognize that?

15 A. Yep.

16 Q. Tell me what we are looking at here?

17 A. Looking at the fence -- and the brick wall where I
18 live at.

19 Q. All right. So the brick part where you live at I'm
20 going to write on this thing so everyone can see. That's
21 what you're talking about right there [indicates]?

22 A. Yes, sir.

23 Q. You live in that apartment building there
24 [indicates]?

25 A. Apartment 9 in the back.

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1 Q. Apartment 9 in the back so on the back side of that
2 brick structure?

3 A. Make a left turn, yeah.

4 Q. Okay. Can you indicate on this photograph where
5 did Kenneth live?

6 A. In the first trailer [indicates].

7 Q. In the first trailer so that would be this trailer
8 right here [indicates]?

9 A. Yes, sir.

10 Q. So that would be this trailer right here?

11 A. Yep.

12 Q. All right. So tell me on an average day would
13 y'all kind of hang out in front of that apartment
14 building?

15 A. Yeah, between the breezeway on the side of the wall
16 there. That's a breezeway alley here [indicates] right.
17 And we sit by the window around the corner where my hand
18 at right there [indicates] in the breezeway.

19 Q. You see how when you touch that screen ---

20 A. --- right here [indicates].

21 Q. So could you indicate on that photograph where
22 you're talking about?

23 A. That's the breezeway right here [indicates] opposite
24 against the wall right here [indicates] where the window
25 is at.

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1 Q. So y'all would kind of hang out in the front of that
2 apartment building?

3 A. The middle and front, yeah.

4 Q. The front of that apartment building, okay.

5 A. Yes, sir.

6 Q. And what would y'all do drink beer? What sort of
7 things would y'all do out there?

8 A. What everybody else do out there drink beer, have
9 fun, smoke a cigarette and joke.

10 Q. Okay. Did -- was Kenneth out there a good bit?

11 A. Often he would come out and talk out there and then
12 go back in the house and cut the radio on and we would
13 talk and listen to music and that been it.

14 Q. Okay. Would he ever come on the other side of the
15 fence or would he always kind of stay on his property?

16 A. He stay on his property.

17 Q. Okay. What kind of relationship do you have with
18 Kenneth?

19 A. We cool. We had one misunderstanding we argued and
20 then we shake hands across the fence there. We drink our
21 little -- we got drinks and I go my way and tell him I
22 see him later.

23 Q. So y'all don't have any problems; y'all all right.

24 A. No beef, no beef; no, sir.

25 Q. Okay. All right. And how did you know Troy?

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- 1 A. Back downtown.
- 2 Q. What's that now?
- 3 A. Back downtown.
- 4 Q. Back downtown. Did y'all live close by together or
5 something?
- 6 A. Out there on Rose Lane.
- 7 Q. So you just met him down there?
- 8 A. Yeah.
- 9 Q. I'm going to just get right to it Mr. Gregg. Do you
10 recall the day when Charles or Troy was shot?
- 11 A. Yep.
- 12 Q. Were you out there that day?
- 13 A. Yes, standing right there by the wall.
- 14 Q. Standing right there by the wall kind of where those
15 dots you just indicated were?
- 16 A. Yep.
- 17 Q. So what I want you to tell the jury in your words as
18 best you can from the beginning what happened. How did
19 that argument start; tell them what happened.
- 20 A. The argument start over little kind of piddling
21 stuff right. They two been arguing and Charles knocked
22 Kenneth through the fence. Kenneth fall down and
23 everybody standing there was laughing ---
- 24 Q. --- hold on, hold on, I'm going to back you up a
25 little bit okay. And I just want to go over it slow and

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1 as much detail and we can okay? So who all is hanging
2 out on that day, the day that Troy was shot, who all was
3 out there?

4 A. A bunch of people in the front, a bunch of them.

5 Q. A bunch of people like how many? Like 4, 5, or 6?

6 A. More than that like about 10 or 15. That's a day
7 everybody playing card in the back in the front and back.

8 Q. So there are people out in the back of the apartment
9 and a few out front?

10 A. Yeah.

11 Q. All right. So when Charles arrived with his
12 girlfriend that day who was in the front of the apartment
13 building?

14 A. A bunch of us. All the boys sit in the front on the
15 wall and some into the breezeway. Everybody was sitting
16 down drinking, talking, smoking, having fun.

17 Q. How did the disagreement between Charles and Kenneth
18 start?

19 A. I guess Charles had said something to Kenneth and
20 then I turned around to go use the bathroom on the side
21 of the house and when I come back everybody -- Charles
22 walk to the gate and knocked Kenneth down on the ground.

23 Q. So you don't know ---

24 A. --- and everybody is still laughing. I ain't know
25 what been going on.

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1 Q. You don't know what they were arguing about?

2 A. No, sir. I don't know what they was talking about.

3 Q. So you don't have any idea what they were arguing
4 about.

5 A. Nope.

6 Q. All right. When you saw them walk back -- you saw
7 them walk back towards the gate?

8 A. No. Kenneth gone up in the house. Charles walk out
9 the gate and Charles come back.

10 Q. I'm talking about before Kenneth got knocked down.

11 A. Charles was in the front with us. We was sitting
12 there in the front up there [indicates].

13 Q. Right. Okay. And when did they walk to the gate?

14 A. After I come back using the bathroom.

15 Q. So they walked back to the gate. Okay. I'm going
16 to show you what has been marked as State's exhibit
17 number 2.

18 [Whereupon, the photograph is shown]

19 Q. Is this sort of what you're talking about when you
20 say they walked from the front back to the back?

21 A. Yeah. Them two walked. Kenneth been on this side
22 [indicates] and Charles walking coming the breezeway.

23 Q. All right. So Kenneth was walking on the trailer
24 side of that fence ---

25 A. --- this side [indicates] the left hand side of his

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- 1 yard.
- 2 Q. Okay.
- 3 A. And Charles walking coming to the breezeway.
- 4 Q. And Charles is walking on the apartment side?
- 5 A. Yeah.
- 6 Q. So they were on opposite sides of the fence.
- 7 A. Yep.
- 8 Q. And they got to the gate?
- 9 A. They get to the gate where Kenneth got a little gate
- 10 lock at.
- 11 Q. I'm going to show you State's exhibit 4.
- 12 [Whereupon, the photograph is shown]
- 13 Q. Is that the gate we're talking about?
- 14 A. Yeah, right there [indicates]. Yeah.
- 15 Q. Okay. So they then got to that gate?
- 16 A. I ain't know. The only thing I know when I come
- 17 back they said Charles knocked Kenneth down. Everybody
- 18 started laughing and I ain't know what was going on. And
- 19 I see Kenneth get up and Kenneth run to his house.
- 20 Q. Did you see Charles knock Kenneth down?
- 21 A. No, I didn't see Kenneth -- Charles knock him.
- 22 Q. Could you see the gate?
- 23 A. No, that's to the front part. The end like this
- 24 [indicates] the end.
- 25 Q. Were you up by the tree when all this is happening?

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1 A. I been sitting on this part of the wall in the
2 middle part. This [indicates] is the tree and I been
3 right here [indicates]. I pee and then I see Kenneth run
4 in the house. That's the only part I see. I ain't see
5 Charles knock him.

6 Q. I'm sorry Mr. Gregg. I'm just getting -- I just
7 want to be as clear as we can so everybody understands
8 what's going on here.

9 A. I understand.

10 Q. Can you indicate on this photograph where you were
11 when they were at the gate?

12 A. I stood around the corner.

13 Q. You were in front of the apartment building?

14 A. Yeah, right around the corner just like that
15 [indicates]. Just like that end part right there
16 [indicates] right there [indicates].

17 Q. So you were right at the corner of the apartment
18 building?

19 A. And I just peeked back there.

20 Q. What was going on when you peeked around the corner?

21 A. I don't see him. I assume he been on the ground.

22 Q. You saw Kenneth on the ground ---

23 A. --- on the ground and when I look again Kenneth get
24 up and run right in the house.

25 Q. Was the gate open or closed?

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- 1 A. The gate still locked.
- 2 Q. The gate was still locked?
- 3 A. Still locked.
- 4 Q. Okay. How is that gate -- what kind of lock is on
5 that gate?
- 6 A. One of them padlocked something with was a key in
7 it.
- 8 Q. A key padlock?
- 9 A. Yeah, he had a big lock on that gate.
- 10 Q. Do you know who has a key to that lock?
- 11 A. Kenneth and Ms. Charlotte and -- Momma May his
12 mother.
- 13 Q. Okay. Who is Charlotte?
- 14 A. His wife.
- 15 Q. That's Kenneth's wife?
- 16 A. [Nods negatively]
- 17 Q. Okay. And who is Momma May?
- 18 A. His mother.
- 19 Q. His mother. Do you know where Momma May lives?
- 20 A. On the second part, the second trailer.
- 21 Q. Is it that trailer in that photograph right there
22 [indicates]?
- 23 A. Yes it the back part.
- 24 Q. I'm going to show you State's exhibit 3 and this
25 might make a little more sense.

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- 1 [Whereupon, the photograph is shown].
- 2 Q. Which trailer? Mark on that screen which trailer
- 3 did Momma May live in?
- 4 A. The second one in the back [indicates].
- 5 Q. Okay. Which trailer did Kenneth live in?
- 6 A. The one in the front right there [indicates].
- 7 Q. And so there were really just three people who lived
- 8 on this property?
- 9 A. No, people upstairs and some live downstairs.
- 10 Q. No, I mean on the trailer side of the fence.
- 11 A. Yeah, just them two right there.
- 12 Q. Just those two trailers?
- 13 A. Yes, sir.
- 14 Q. So it was Kenneth and Charlotte that lived in the
- 15 closest one and then Momma May in the back?
- 16 A. Yes, sir.
- 17 Q. Okay. And you were living in the apartment
- 18 building next to it?
- 19 A. Yes, in the back part.
- 20 MS. ERHLICH: Your Honor, I'm just going to object
- 21 about the leading.
- 22 THE COURT: I'm going to give him a little leeway.
- 23 MS. ERHLICH: Thank you.
- 24 MR. KIDD: Thank you, Your Honor.
- 25 Q. [Mr. Kidd] So after you saw Kenneth get knocked down

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1 tell the jury what happened then.

2 A. Okay. What happened next Kenneth ---

3 Q. --- like I said just go slow and try to be
4 articulate.

5 A. Kenneth went in this house [indicates] and he come
6 outside. He sat down on the two crates there [indicates]
7 across this fence and then he come back and he shoot
8 Charles through the gate with a .22 with a scope on it
9 and it was in the stomach and Charles buckled.

10 And Charles girlfriend put Charles in the back of
11 the car and they drove off. And I walk off. I was going
12 to think and I ain't come back until later on that night.
13 I went for my walk and get my head clear because my foot
14 was been bothering me so I go somewhere where I can lay
15 down. Then I come back.

16 Q. I'll show you what has been marked for
17 identification as State's exhibit number 9.

18 [Whereupon, the witness is shown photograph]

19 Q. Do you recognize that photograph?

20 A. Yep.

21 Q. Does that fairly and accurately represent those
22 crates you were just referring to?

23 A. Two crates.

24 Q. I'll show you what has been marked as State's
25 exhibit number 9. Is that what you were referring to in

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1 the back of the ---

2 A. --- the two crates right there [indicates] sitting
3 on top of each other.

4 Q. And that just so we can all understand our place in
5 space what we're looking at there those crates that is
6 just a close up of this area right here [indicates]?

7 A. Yeah.

8 Q. Now you just testified Kenneth got knocked down.
9 Kenneth got up. Kenneth went inside and got a gun right?

10 A. Yep.

11 Q. When he comes out where is Troy?

12 A. Troy was sitting in the middle of the road holding
13 his stomach like this [indicates]. And Troy called his
14 girlfriend to go ---

15 Q. --- before he shot him?

16 A. He was standing in the front with us.

17 Q. Standing in the front with y'all. By the tree?

18 A. No, right there [indicates] by the fence sitting
19 there. I tell Troy to go but he come back. He refused
20 to leave so he come back.

21 Q. So when Kenneth comes out with the gun where is
22 Troy?

23 A. Troy hesitate and Troy come back and I said Charles
24 go. He started to and then come back and them two said
25 something to each other and then Kenneth shoot him like

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1 that real quick and that been that.

2 Q. I would like you to indicate on this photograph if
3 you don't mind when Kenneth is coming towards the back of
4 that trailer with the firearm can you indicate on this
5 picture where Troy is standing?

6 A. Troy was standing right here [indicates].

7 Q. And you just put -- on the sidewalk right there?

8 A. On the side walk, yeah.

9 Q. What was he doing?

10 A. Standing there yelling at him about something. Then
11 he walked towards Kenneth and he said something to
12 Kenneth and ain't know if Kenneth respond to what he said
13 but Kenneth just telling him he had enough of all that
14 talk and go ahead and shoot him and that been it.

15 Q. Where was Troy standing when he was shot?

16 A. Right there in the middle of the road. He was on
17 the sidewalk and then he come in the middle of the road.

18 Q. Where you have that mark right there [indicates]?

19 A. Yeah. I call that a road.

20 Q. You call that a road?

21 A. Yeah.

22 Q. But it's like a sidewalk?

23 A. Yeah, I call that a road.

24 Q. Okay. Where was the car that Kenneth -- excuse me
25 that Charles arrived in? Where was that car parked?

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1 A. In the street part.

2 Q. In the street part? Was it in front of the
3 apartment building or further down from ---

4 A. --- no just like where my hand at. Just like this
5 [indicates] her car was parked where my hand is just like
6 that [indicates].

7 Q. In front of the apartment?

8 A. And Charles on the backseat of the car and she rush
9 him off to the hospital. That's when I left; I going.

10 Q. All right. And once again I want to go over this
11 as slow as we can. So Troy is where this mark is on the
12 screen now [indicates]?

13 A. Yep.

14 Q. As Kenneth is coming to where those crates are with
15 the gun?

16 A. Yep.

17 Q. Do they say anything between one another before the
18 shot is fired?

19 A. No, they ain't say nothing.

20 Q. They weren't talking back and forth and talking
21 trash?

22 A. I can't tell -- what was going through their mind I
23 don't know.

24 Q. Where were you before the shot was fired?

25 A. Sitting on the other side right here [indicates].

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1 Q. In front of the apartment?

2 A. On the side right there [indicates] where I got the
3 mark at.

4 Q. Where you got the mark at. Is that where you were
5 when the shot was fired?

6 A. Yeah.

7 Q. Mr. Gregg you remember giving a -- meeting with me
8 before right?

9 A. Yeah.

10 Q. And you remember talking to the police after this
11 happened?

12 A. Yeah.

13 Q. Do you recall mentioning tripping over a root from
14 the tree?

15 A. I didn't trip on no root in the street. It wasn't
16 no root. They guy who was in front of me tripped over
17 that root; it wasn't me.

18 It was the other guy who all was sitting right there
19 [indicates]. The other guy been before I get there. He
20 trip. I didn't trip. The other fellow trip before I
21 trip.

22 MR. KIDD: Beg the court's indulgence.

23 [Whereupon, Mr. Kidd reviews documents]

24 Q. [Mr. Kidd] Did you ever try to break up the fight
25 Mr. Gregg?

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1 A. No, with my leg?

2 Q. Not physically ---

3 A. --- no ---

4 Q. --- did you ever say anything to try to dispel the
5 disagreement?

6 A. I ain't got time for that, no. It ain't my beef why
7 I would say I broke up something. I say y'all need to
8 cut that stuff out. That's what I said.

9 It ain't my beef. I'm not going to jump on
10 something I ain't got nothing to do with that. I ain't
11 going to get myself hurt again. I love my freedom.

12 Q. How far apart would you say Troy and -- or Charles
13 and Kenneth were when he got shot?

14 A. I would say about 15 or 20 feet. Right there
15 [indicates] where I marked that mark at Kenneth sitting
16 on that crate; something like that.

17 Q. Did Kenneth ever threaten you after this shooting?

18 A. Yeah, one time.

19 Q. What did he say?

20 A. You next. I tell him -- I curse; excuse my French,
21 I said do the fuck what you want to do. I turned my back
22 and walk off. I ain't never come back after that day.

23 Q. When did he say that to you?

24 A. The same day when he shoot Charles.

25 Q. How long afterwards?

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1 A. That been it - nothing else.

2 Q. No, no, how long after from the time he shot Charles
3 how long before he said that to you?

4 A. When he finished after he shoot Charles I'll get you
5 next.

6 Q. So immediately afterwards?

7 A. Yeah. So I turned my back. A bunch of people been
8 out there. Nobody come and tell -- we going to tell
9 everybody the truth. Everybody out there just give
10 account for it -- everybody's weapon -- I know he didn't
11 mean to hurt him like that but anger make you do all
12 kinds of stupid things.

13 I hate to see my home boy going. I used to tell him
14 he feel -- but I'm too easy. He's a good dude now. What
15 happened just happened. That was a mistake to me really.
16 We all with each other I say man, I ain't got time for
17 this. I tell him if he ain't going to leave I ain't
18 getting in that with nobody else.

19 Q. Did you know Kenneth's mother pretty well?

20 A. Yes, ma'am -- yes, sir. I know Momma May very good.

21 Q. What are your thoughts of her?

22 A. I love her as a mother because I ain't got no
23 parents and I should have been with my mother.

24 Q. Did everyone around there feel the same way about
25 her?

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- 1 A. Yes, sir everybody on that block.
- 2 Q. Were you around when Kenneth moved back to Florida?
- 3 A. No ---
- 4 MS. ERHLICH: --- Your Honor, objection.
- 5 THE COURT: What's the basis?
- 6 MS. ERHLICH: May we approach?
- 7 THE COURT: You may.
- 8 [Whereupon, an off the record bench conference is
9 held]
- 10 THE COURT: You may continue, Mr. Kidd. Thank you.
- 11 MR. KIDD: Thank you, Your Honor.
- 12 Q. [Mr. Kidd] Had Kenneth been out there drinking
13 during the day with y'all that day as well?
- 14 A. He was just on this side [indicates] by himself by
15 his side.
- 16 Q. But I mean out there in the same ---
- 17 A. --- on this side. He be drinking by himself on this
18 side. He will not drink with us. He drink across the
19 fence where he live at.
- 20 Q. The girl that Charles arrived with had you ever met
21 her before?
- 22 A. First time I see here is when he bring her around on
23 the block.
- 24 Q. So that day was the first time you met her?
- 25 A. Yes.

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- 1 Q. Have you ever spoken to her since?
- 2 A. No.
- 3 Q. And do you know her name?
- 4 A. Nope.
- 5 Q. Now after Kenneth shot Troy what did Kenneth do
- 6 next?
- 7 A. Go back and sit down on his crate.
- 8 Q. In the back of that trailer?
- 9 A. But then he kept on drinking a little whiskey and
- 10 that been it.
- 11 Q. I'm sorry; can you say that one more time.
- 12 A. He drink his whiskey sitting on that crate he sit
- 13 right back down.
- 14 Q. Now do you recall telling Kenneth that it is not
- 15 worth ---
- 16 A. --- yes ---
- 17 Q. --- not to shoot Troy?
- 18 A. Yes, I did tell him that.
- 19 Q. When did you tell him that?
- 20 A. The same before he go and get that gun I said
- 21 Kenneth he ain't worth it. And he run get it anyway and
- 22 just shoot the dude, shoot Charles.
- 23 Q. What was Charles doing at the moment he was shot?
- 24 A. When he get shot they two been arguing about -- what
- 25 they arguing about I still don't recall. They talking

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- 1 about some kind of stuff I don't know.
- 2 Q. So they were kind of jawing back and forth?
- 3 A. That what they been doing just yah, yah, yah, yah.
- 4 What they been talking about I don't know.
- 5 Q. Did Charles try to jump over the fence?
- 6 A. No, Charles reached through the fence and knock
- 7 Kenneth like that [indicates] and Kenneth fall on the
- 8 ground.
- 9 Q. That was over by the gate right?
- 10 A. The same gate Charles put his fist through the gate
- 11 and Kenneth fall on the ground.
- 12 Q. Okay. I'm talking about back here [indicates] at
- 13 the time that Charles was shot.
- 14 A. That happened way before Kenneth shot Charles.
- 15 Charles knocked Kenneth first.
- 16 Q. Right, I understand that.
- 17 A. And Kenneth go and run in the house and tried to
- 18 tell him to go. He said why? I said Charles please go.
- 19 Charles come back and Kenneth -- it just happened like
- 20 that.
- 21 Q. What I'm asking you is at that very specific moment
- 22 in time when Charles was shot what was Charles doing?
- 23 A. Getting in the back of the car and that girl took
- 24 him to the hospital. He hold his stomach and he buckle
- 25 and he jump in the back seat and that girl carry him.

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1 Q. Right before he was shot like the seconds before the
2 shot rang out what was Charles doing?

3 A. Talking, still talking.

4 Q. Just talking?

5 A. They two arguing about something. I ain't know what
6 they been arguing about but they was having a few words
7 them two.

8 MR. KIDD: Beg the court's indulgence.

9 [Whereupon, Mr. Kidd and Mr. Waring confer]

10 Q. [Mr. Kidd] I want to talk a little bit -- let's talk
11 a little bit about the fence right here [indicates]. I'm
12 going to show you State's exhibit 2.

13 [Whereupon, the photograph is shown]

14 Q. Is that relatively -- is that the fence that kind of
15 circles Kenneth's property?

16 A. Yeah.

17 Q. It's got barbed wire on the top?

18 A. Yep.

19 THE COURT: Is that a yes?

20 THE WITNESS: Yes.

21 THE COURT: Thank you.

22 A. That go around the whole yard.

23 Q. [Mr. Kidd] How can one get into Kenneth's property?

24 A. They open the gate up.

25 Q. They've got to unlock the gate?

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- 1 A. Yep. Yes, sir.
- 2 Q. Is there another gate on the other side of the
3 property?
- 4 A. Yeah, the front part.
- 5 Q. The front part. How do you get to it?
- 6 A. With a key. They keep the gate locked with a key.
- 7 Q. They keep that other part locked too?
- 8 A. All the yard be lock up.
- 9 Q. Who is Tina?
- 10 A. My friend.
- 11 Q. Your friend?
- 12 A. Yep.
- 13 Q. Was she out there that day?
- 14 A. Nope.
- 15 Q. What about before the shooting?
- 16 A. Nope.
- 17 Q. She wasn't ever out there that day at all?
- 18 A. She been gone because the car carried her home
19 downtown.
- 20 Q. What about when Charles and his girlfriend first
21 arrived was Tina there?
- 22 A. She was there during that time.
- 23 Q. She was there at the beginning?
- 24 A. Yeah.
- 25 Q. Was she there at the time of the shooting?

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- 1 A. No.
- 2 Q. Are you telling me the truth Mr. Gregg?
- 3 A. Yes, sir.
- 4 Q. Did you ever see anyone throw beer out of a cup or
5 throw a beer in Kenneth's yard?
- 6 A. I ain't pay no attention to that part.
- 7 Q. Was Kenneth protective of his property that way?
- 8 A. Oh, yeah.
- 9 Q. In what way?
- 10 A. He didn't let them boys throw trash in his yard or
11 coming in his yard whatever he called it. He just will
12 argue with you. You on this side and he on that side but
13 they ain't been no fighting word like that. He just tell
14 them don't enter this yard.
- 15 Q. That's understandable right?
- 16 A. Yeah.
- 17 Q. Did he fuss at y'all a lot?
- 18 A. No, not all the time. Every now and then.
- 19 Q. About what?
- 20 MS. ERHLICH: Your Honor, I'm going to object?
- 21 THE COURT: Sustained. You do not have to answer
22 that question. Move on Mr. Kidd.
- 23 Q. [Mr. Kidd] Do you know what was said that brought
24 Kenneth and Charles to the gate like between them?
- 25 A. No.

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1 Q. Did they both know where they were going when they
2 were walking along that fence?

3 A. I don't think so. Whatever words they was saying I
4 couldn't understand what they was saying.

5 Q. I guess what I'm saying is were they -- when they
6 were walking ---

7 A. --- to the back part?

8 Q. To the back part were they sort of side by side?

9 A. No, Kenneth still in his yard. Charles was walking
10 through the breezeway coming to the back.

11 Q. Right.

12 A. What they said I don't know what they said.

13 Q. I get that they are on opposite sides of the fence.

14 A. Yeah.

15 Q. I guess what I'm asking is when they're walking are
16 they side by side just separated by the fence?

17 A. Just talking with each other; that's what they been
18 doing. What they was talking about I don't know.

19 Q. Did you see Kenneth shoot Charles?

20 A. Yep.

21 Q. Do you see Kenneth in the courtroom today?

22 A. Yes, sir.

23 Q. Could you identify him for me?

24 A. That's Kenneth right there [indicates].

25 MR. KIDD: May the record reflect the witness

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Earl Gregg-Direct Examination by Mr. Kidd
June 8, 2015

1 identified Mr. Hilliard?

2 THE COURT: It will.

3 [Whereupon, Mr. Kidd and Mr. Waring confer]

4 MR. KIDD: I have no further questions.

5 THE COURT: Ms. Ehrlich?

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State v Vaughn Hilliard
Earl Gregg-Cross-Examination by Ms. Ehrlich
June 8, 2015

1 CROSS-EXAMINATION

2 BY MS. EHRLICH:

3 Q. Hi Mr. Gregg.

4 A. How you doing?

5 Q. Doing okay. I'm sorry to see you are hurt.

6 A. Yeah, I'm in a lot of pain.

7 Q. You testified today that you knew Charles like six

8 or seven months before the shooting?

9 A. Uh Huh.

10 THE COURT: Is that a yes?

11 THE WITNESS: Yes sir -- yes, ma'am; my bad.

12 THE COURT: Thank you.

13 Q. [Ms. Ehrlich] Do you remember meeting with Mr. Kidd

14 and his investigator before this trial?

15 A. I don't recall that. I can't remember that.

16 Q. Okay. So you don't remember telling them that you

17 had known him like eight or nine years?

18 A. Something like that.

19 Q. So it might have been longer than ---

20 A. --- yes, might could have been longer than that.

21 Q. And do you remember meeting with my investigator

22 Dale Wilson?

23 A. Yeah, he's been at my house.

24 Q. You told him you had maybe known Charles like 20

25 years.

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Earl Gregg-Cross-Examination by Ms. Ehrlich
June 8, 2015

1 A. Could have been more than that because we come
2 together since kids and high school coming up.
3 Q. So you knew him a long time?
4 A. A long time.
5 Q. All right. And he is like I think you called him
6 like a brother?
7 A. Like a brother.
8 Q. Like a brother; your home boy?
9 A. Yeah, home boys.
10 Q. You were upset that he got shot.
11 A. Yeah. He would better stay home than get shoot.
12 Q. Right, I get it.
13 A. I know you said -- it was an accident too. But he's
14 never fit -- like that.
15 Q. I'm just making sure ---
16 A. --- I understand ---
17 Q. --- I mean that was like your good friend right?
18 A. [Nods affirmatively]
19 THE COURT: Is that a yes?
20 THE WITNESS: Yes, ma'am.
21 THE COURT: She can't take down head shakes.
22 THE WITNESS: My bad; yes, ma'am.
23 THE COURT: Thank you.
24 Q. [Ms. Ehrlich] Now Charles had been out there earlier
25 hanging out with you before the shooting right?

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Earl Gregg-Cross-Examination by Ms. Ehrlich
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- 1 A. Yep. Yes, ma'am.
- 2 Q. And I think y'all were drinking?
- 3 A. Yep, a little beer, a little cigarette like that.
- 4 Q. Just like hanging out; normal day.
- 5 A. Shooting the fool ---
- 6 Q. --- right?
- 7 A. Yes, normal day.
- 8 Q. And then he came back a little while later with his
- 9 girlfriend.
- 10 A. Yes, he had gone and came back.
- 11 Q. Right. And y'all drank some more?
- 12 A. Yep.
- 13 Q. Y'all were having a good time.
- 14 A. Chilling.
- 15 Q. Is it fair to say that you had been -- it wasn't
- 16 just Charles drinking you were ---
- 17 A. --- everybody ---
- 18 Q. --- everybody ---
- 19 A. --- was drinking out that day.
- 20 Q. That's kind of like a normal day out there?
- 21 A. It's the same day of the week. I don't know what
- 22 they call it.
- 23 Q. Okay. And I think you know I think I met you once
- 24 before.
- 25 A. Yes, I met you too.

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1 Q. Back in November of 2013 you were out there drinking
2 then?

3 A. In the hole.

4 Q. And do you remember telling me Charles had come
5 there like amped up a little bit.

6 A. He was kind of amp up. I say Charles go home. He
7 said he going and he come back.

8 Q. All right. I got it.

9 A. So if he come back I ain't know why he come back.

10 Q. I got it. You testified today like you don't really
11 know what the argument -- what started the argument
12 right?

13 A. [Nods negatively]

14 THE COURT REPORTER: Is that a no?

15 A. No, ma'am.

16 Q. [Ms. Ehrlich] And I think you heard some of it but
17 you weren't paying much attention right?

18 A. No, no ma'am.

19 Q. And then I think today you testified you went to go
20 to the bathroom around the corner around the brick.

21 A. Yes, ma'am.

22 Q. And when you came back you saw Kenneth on the
23 ground?

24 A. No. Charles boxed Kenneth on the ground and Kenneth
25 get up and run in the house.

State v Vaughn Hilliard
Earl Gregg-Cross-Examination by Ms. Ehrlich
June 8, 2015

- 1 Q. All right. So Charles boxed Kenneth.
2 A. Like I tell him through the fence ---
3 Q. --- all right. I'm just making sure I have it
4 straight. Kenneth boxed -- Kenneth gets boxed in the
5 face by Charles through the gate.
6 A. Yes, ma'am.
7 Q. With the gate closed?
8 A. Yes, ma'am.
9 Q. Okay. And do you remember the night that this
10 happened going to talk to the police?
11 A. Yep.
12 Q. And like I think they got you McDonalds and stuff
13 and you sit in that room forever.
14 A. I sit in that room four hours.
15 Q. For a long time?
16 A. Sleeping.
17 Q. Right? You made a phone call I think.
18 A. No I ain't make no phone call.
19 Q. You didn't make a phone call?
20 A. No. Who I gonna call? I ain't had no phone and I
21 ain't used their phone.
22 Q. You didn't have your cell phone in that room?
23 A. [No response]
24 Q. If I showed you ---
25 A. --- what kind of phone I had ---

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Earl Gregg-Cross-Examination by Ms. Ehrlich
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- 1 Q. --- a video recording of you in that room.
- 2 A. What kind of phone I had?
- 3 Q. I don't know what kind of phone you had ---
- 4 A. --- you can't tell I had a phone.
- 5 Q. If I showed you the video of you in the interview
- 6 room would that refresh your memory about whether or not
- 7 you called Tina from the room while you were sitting in
- 8 there waiting for hours for the police to talk to you?
- 9 A. On my phone?
- 10 Q. Yes, or someone's phone; I don't know.
- 11 A. I ain't have my phone. How I gonna call someone
- 12 when I ain't got my phone.
- 13 Q. So it would not refresh your memory to watch that
- 14 video?
- 15 A. Huh?
- 16 Q. If I showed you the video of you on the phone would
- 17 that help you remember whether or not you made a phone
- 18 call?
- 19 A. No, you can't help me do that because I ain't going
- 20 to waste my time. If I was on the phone or I wasn't on
- 21 the phone; I don't remember.
- 22 Q. Okay. So you don't want to waste your time?
- 23 A. Because I was sleeping and every time they come in
- 24 they would wake me up.
- 25 Q. We'll move on and we'll talk about the video in a

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1 little while.

2 A. Okay.

3 Q. Do you remember telling the police that your home
4 boy snapped that night?

5 A. Yep, for no reason. I ain't know why but both of
6 them snapped at each other anyway.

7 Q. Okay. Do you remember that after Charles punched
8 Kenneth y'all continued to like hang out a while before
9 Kenneth comes out right?

10 A. No.

11 Q. No, Kenneth comes right out?

12 A. No, Charles went and Charles come back.

13 Q. Okay. So Charles goes to the car and then comes
14 back.

15 A. He gone around the corner, they went to the store
16 they come back and we still sitting down on the side of
17 the wall.

18 Q. Okay. Do you remember telling police that after
19 Kenneth came out with the gun you jumped in front of
20 Charles?

21 A. No. When -- jumped in front of Charles and Charles
22 get shoot in the middle of the road. I still be sitting
23 on the side where I been sitting out standing on ---

24 Q. --- so you never told Charles -- do you remember
25 telling Charles let this shit go?

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Earl Gregg-Cross-Examination by Ms. Ehrlich
June 8, 2015

1 A. Yes, I told Charles go and don't come back.
2 Q. Right. You told him I think like you better chill
3 out right?
4 A. Let that shit go and go ahead.
5 Q. Right. And then Charles said, and excuse me
6 language, fuck that right?
7 A. That's the word.
8 Q. All right. And you said again Charles let that
9 shit walk?
10 A. Amen.
11 Q. And then he said I don't walk.
12 MR. KIDD: Objection, Judge.
13 THE COURT: What's the basis?
14 MR. KIDD: She is testifying.
15 THE COURT: Overruled.
16 MR. KIDD: Hearsay.
17 THE COURT: Overruled.
18 Q. [Ms. Ehrlich] He said I don't walk and came back
19 right?
20 A. He came back on his own. Once I tell you go and you
21 come back you're on your own right.
22 Q. He said -- he came back.
23 A. On his own.
24 Q. Yes. I'm not blaming you. Trust me, I'm not
25 blaming you.

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- 1 A. Okay.
- 2 Q. So after you told him to let it go he came back?
- 3 A. Yes, ma'am.
- 4 Q. Okay. And I think when you were testifying earlier
- 5 you said something about Kenneth saying like you're next
- 6 or something?
- 7 A. Huh?
- 8 Q. Just a minute ago when you were testifying did you
- 9 testify that Kenneth said after he shot Charles you're
- 10 next?
- 11 A. That's what he said.
- 12 Q. Were you not telling him like ---
- 13 A. --- I tell him ---
- 14 Q. --- go ahead and shoot me?
- 15 A. That's what I tell him. Ask me to tell you right
- 16 now; I ain't lying.
- 17 Q. All right. I was just making sure.
- 18 A. Yes, ma'am.
- 19 Q. You were angry because your friend got shot?
- 20 A. Yes, ma'am.
- 21 Q. And you were kind of going back and forth still with
- 22 Kenneth?
- 23 A. Yes, we still been changing words.
- 24 Q. But he didn't shoot you did he?
- 25 A. No. That was as far as that going.

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June 8, 2015

1 Q. All right.

2 MS. ERHLICH: Beg the court's indulgence.

3 [Whereupon, Ms. Ehrlich and Mr. Loignon confer]

4 Q. [Ms. Ehrlich] Mr. Gregg I don't have any other
5 questions.

6 A. Thank you, ma'am.

7 MR. KIDD: May it please the court?

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State v Vaughn Hilliard
Earl Gregg-Redirect Examination by Mr. Kidd
June 8, 2015

1 REDIRECT EXAMINATION

2 BY MR. KIDD:

3 Q. Mr. Gregg maybe you can sense my frustration. Why
4 would you tell the jury that you knew Troy for six to
5 nine months when you just said you knew him for over 20
6 years?

7 A. See what happened me and Charles been together a
8 long time that's why I said 20 years because we was
9 together over 20 years.

10 I said 20 years because we been together so long
11 because we went to school together, lived together, we
12 did all kinds of stuff together. So I apologize to y'all
13 the jury. I've known him more than 20 years we did stuff
14 together for a long time you know.

15 Q. And see all I want you to be able to do is be clear
16 okay.

17 A. Yes, sir.

18 Q. One of the problems I have is when you're saying
19 things to us today that aren't the same as things you
20 told me, my investigator ---

21 MS. ERHLICH: --- objection.

22 A. Yes, sir.

23 THE COURT: Please approach.

24 [Whereupon, an off the record bench conference is
25 held]

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1 Q. [Mr. Kidd] Mr. Gregg?

2 A. Yes, sir.

3 Q. I have -- did you actually see Charles punch Kenneth
4 with your own eyes?

5 A. When I turn around like that -- when I turned real
6 quick I could see the hand go back in the fence that's
7 when I turned back around and I go and sit down.

8 Q. So you did see his hand ---

9 A. --- going through the fence, that's it.

10 Q. Do you recall giving a statement to North Charleston
11 Police Department?

12 A. [No response]

13 Q. The night that Charles was shot do you recall giving
14 a written statement to North Charleston Police
15 Department?

16 A. Yeah.

17 [Whereupon, State's exhibit number 14 is marked by
18 the court reporter]

19 Q. Let me show you what has been marked as State's
20 exhibit 14 for identification.

21 [Whereupon, the witness is shown document]

22 Q. Do you recognize that?

23 A. Yep.

24 Q. You do?

25 A. Yep.

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1 Q. What is that?

2 A. It seems like this is what I told the police in
3 North Charleston.

4 Q. All right. I'm going to direct you to the second
5 line on the second page. Can you read that for me not
6 out loud but to yourself.

7 [Whereupon, the witness reviews document]

8 A. I remember this, yeah.

9 Q. You remember that?

10 A. Yeah.

11 Q. You don't tell the police that night that Charles
12 punched Kenneth in the face did you?

13 A. Charles punched Kenneth through the fence to the
14 face and then I going.

15 Q. But in your statement you didn't say that he punched
16 him did you? What did you tell the police?

17 A. Charles punch him in the face.

18 Q. That's not what you say here is it on the second
19 line of that second page?

20 [Whereupon, the witness reviews document]

21 A. No, you right. My bad. I see what you're talking
22 about now.

23 Q. So which was it?

24 A. Charles did punch Kenneth through the fence now and
25 Kenneth fall to the ground.

State v Vaughn Hilliard
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June 8, 2015

- 1 Q. How do you describe it to the police?
- 2 A. The same way I'm telling you right now. It happened
3 so quick you know.
- 4 Q. That's not what it says in your statement is it?
- 5 A. No, sir. It happened so quick.
- 6 Q. Did Kenneth have a black eye?
- 7 A. I don't know.
- 8 Q. Did you see any blood?
- 9 A. No.
- 10 Q. Any bruising?
- 11 A. I ain't know. I couldn't tell.
- 12 Q. How did you describe it in your statement?
- 13 A. I describe he fall -- knocked through the gate and
14 fall on the ground.
- 15 Q. As he was pushed.
- 16 A. Through the gate I think so. He could have been
17 pushed now.
- 18 Q. So it could have been a push and not a punch?
- 19 A. One of the two. I think it was a push or a punch.
20 One of the two it was. It happened so quick.
- 21 Q. Do you recall meeting with myself and my
22 investigator Ms. Niblock in my office?
- 23 A. Yes, sir.
- 24 Q. And the way you described where you were standing at
25 the time of the shooting just now isn't the same as you

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1 described it when you met with us was it?

2 A. Yes, sir.

3 Q. You didn't tell Ms. Niblock and myself that you were
4 standing between Charles and Kenneth at the time of the
5 shooting?

6 A. No. I said I was standing on the side of the wall
7 when Kenneth shoot Charles on the corner of the wall.

8 Q. You didn't tell myself and Ms. Niblock that right
9 before the shooting you tripped over a root to that tree?

10 A. It was two of us that tripped first and I tripped
11 last. Like I said the guy who had been in front of me
12 first tripped first and then I fell on him.

13 It was two of us by the tree at the stump and the
14 hole -- didn't know where the road at. The same problem
15 we got the high sidewalk at the roots sitting right
16 there.

17 Q. So you did stumble right before the shot?

18 A. Yes, sir.

19 Q. Okay. When I asked you the first time you said
20 that didn't happen.

21 A. I'm saying...

22 Q. Are you on any medication today Mr. Gregg?

23 A. No, I ain't took my medicine yet. I leave my
24 medicine at home. My foot just painful. My foot swell
25 up that's why I'm in this pain.

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1 MR. KIDD: No further questions.
2 THE COURT: Ms. Ehrlich?
3 MS. ERHLICH: I don't have any questions.
4 THE COURT: You may step down. Thank you.
5 [Whereupon, the witness is excused and exits the
6 witness stand]
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1 THE COURT: Are y'all ready for a break?

2 MS. ERHLICH: We're good.

3 THE COURT: All right. Call your next witness.

4 MR. KIDD: The State calls Tammy Sad.

5 MS. ERHLICH: Your Honor, may we approach?

6 THE COURT: You may.

7 [Whereupon, an off the record bench conference is
8 held]

9 THE COURT: Ladies and gentlemen, we're going to go
10 ahead and take our break. You may leave your notepads in
11 your chair or take them with you. Please remember all my
12 admonitions. We'll be about 10 minutes. Thank you.

13 [Whereupon, the jury exits at 3:40 p.m.]

14 THE COURT: Anything before we take our break Mr.
15 Kidd?

16 MR. KIDD: No, ma'am.

17 THE COURT: Ms. Ehrlich?

18 MS. ERHLICH: No, Your Honor.

19 THE COURT: Thank you.

20 [Whereupon, court is in recess from 3:41 p.m. until
21 3:52 p.m.]

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1 THE COURT: Anything before we bring in the jury
2 from the State?

3 MR. KIDD: No, ma'am.

4 THE COURT: Was that a no?

5 MR. KIDD: No, ma'am.

6 MS. ERHLICH: No, Your Honor.

7 THE COURT: Let's bring in the jury.

8 [Whereupon, the jury enters at 3:53 p.m.]

9 THE COURT: Mr. Kidd, call your next witness.
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State v Vaughn Hilliard
Tammy Sad-Direct Examination by Mr. Kidd
June 8, 2015

1 MR. KIDD: Thank you, Your Honor. The State calls
2 Tammy Sad.

3 [Whereupon, Ms. Sad comes forward]

4 [Whereupon, the witness is duly sworn by the Clerk
5 of Court]

6 CLERK OF COURT: Please state your first and let
7 name and then spell your last loudly and clearly into the
8 microphone for the record please.

9 THE WITNESS: Tammy Sad, S-A-D.

10 THE COURT: Mr. Kidd?

11 MR. KIDD: Thank you, Your Honor. May it please
12 the court?

13 - - - - -

14 TAMMY SAD,

15 Having been first duly sworn,

16 Was examined and testified as follows:

17 DIRECT EXAMINATION

18 BY MR. KIDD:

19 Q. Good afternoon. Can you tell the jury where you are
20 currently employed please?

21 A. North Charleston Police Department.

22 Q. How long have you been a member of the North
23 Charleston Police Department?

24 A. A little over 24 years.

25 Q. And what's your current position with North

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June 8, 2015

1 Charleston?

2 A. I'm a Lieutenant in Special Investigations.

3 Q. And what about in September 2013?

4 A. I was a Lieutenant in Special Investigations. I was
5 the on-call Lieutenant.

6 Q. Okay. So you've held the same role but you were an
7 on-call detective that night is that fair to say?

8 A. Yes, sir.

9 Q. Do you recall becoming involved in the murder
10 investigation that occurred at [REDACTED] Dayton Street in
11 North Charleston?

12 A. Yes, sir.

13 Q. Can you tell the jury how did you become involved in
14 that case?

15 A. I was contacted by the on-duty patrol lieutenant,
16 Lieutenant Candy Johnson.

17 Q. And what did Ms. Johnson have you do?

18 A. She advised that there was a victim had been shot
19 and she had a witness with her and she was going to at
20 the South Bureau and I responded with Lieutenant Johnson
21 and a witness at the South Bureau.

22 Q. Do you remember approximately what time this was
23 that you did that?

24 A. The shooting actually occurred sometime a little
25 after 7:00. By the time I was notified and responded it

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1 was probably about two hours; two, two and a half hours
2 total.

3 Q. What was this witness's name?

4 A. Angela Steed.

5 Q. And you met with -- I think you just said you met
6 with her at the precinct?

7 A. That's correct.

8 Q. And what did you do with Ms. Steed at that point?

9 A. Well Ms. Steed wasn't familiar with the location,
10 the area that she was in. She didn't know any street
11 names but she said that she could show Lieutenant Johnson
12 and I where the incident took place at.

13 So at that point we got Ms. Steed in her car, in
14 Lieutenant Johnson's car, and the three of us rode around
15 the Chicora Cherokee neighborhood until we came upon the
16 location.

17 Q. And sometimes I like to assist you with recap so she
18 said I can't give you an address but I can take you
19 there?

20 A. Correct.

21 Q. In essence. And so y'all put her in a police car?

22 A. It was an unmarked Chevy Impala.

23 Q. So an unmarked police car it's yourself, Lieutenant
24 Johnson, and Ms. Steed?

25 A. Yes, that's correct.

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1 Q. So the three of y'all are in an unmarked car and she
2 is telling you where to go?

3 A. Yes, that's correct.

4 Q. And where did she take you?

5 A. We ended up on North Carolina. As soon as we got
6 onto North Carolina she advised us to take an immediate
7 right onto Grayson Street and as soon as we rounded the
8 corner she observed the suspect sitting in the back and
9 she said that's him; that's the shooter.

10 MS. ERHLICH: Objection; hearsay.

11 THE COURT: Overruled.

12 MR. KIDD: Thank you, Your Honor.

13 Q. [Mr. Kidd] I'm going to show you what has been
14 marked State's exhibit 6. Do you recognize this ---

15 MS. ERHLICH: --- Your Honor, I'm sorry can I renew
16 our prior objections pretrial as well?

17 THE COURT: Yes.

18 [Whereupon, the witness is shown photograph]

19 Q. [Mr. Kidd] Do you recognize this?

20 A. Yes, I do.

21 Q. Does that fairly and accurately depict the area that
22 you just talked about?

23 A. Yes, it does.

24 MR. KIDD: The State would offer State's exhibit 6
25 into evidence.

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1 THE COURT: Any objection noting your prior?

2 MS. ERHLICH: No.

3 THE COURT: Any objection? No objection?

4 MS. ERHLICH: No.

5 THE COURT: State's 6 into evidence without
6 objection. You may publish.

7 [Whereupon, State's exhibit number 6 is entered into
8 evidence by the court]

9 MR. KIDD: Thank you, Your Honor.

10 Q. [Mr. Kidd] And Ms. Sad that screen in front of you
11 is a touch screen. Does this map indicate that area you
12 just testified about?

13 A. Yes, it does.

14 Q. Can you indicate to the jury which way you were
15 travelling?

16 A. Yes. Basically we were travelling down this way
17 [indicates] and we make an immediate right onto Grayson
18 where she advised us.

19 Q. Okay. So Grayson is the cross street and North
20 Carolina is the sort of north and south street on this
21 picture?

22 A. Yes, sir.

23 Q. Okay. So yourself, Ms. Johnson, Ms. Steed are in
24 the car y'all take a right onto Grayson and what happens
25 at that point?

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1 A. As soon as we made the right onto Grayson she said
2 that's him; that's the shooter. At that time there was a
3 subject later identified as the suspect, Mr. Hilliard,
4 sitting at the end of a trailer.

5 But there were also two additional subjects sitting
6 or standing over near the apartment complex nearby. I
7 asked her which one just for clarification and she
8 identified the one behind the fence by the trailer.

9 Q. I'm going to show you what has been marked for I.D.
10 as State's 7, 8, and 9 and see if you recognize these
11 photographs.

12 [Whereupon, the witness is shown photographs]

13 A. Yes, sir.

14 Q. Do those fairly and accurately represent that
15 location that you were just representing?

16 A. Yes, they do.

17 MR. KIDD: At this time, Judge we would offer
18 State's 7, 8, and 9 into evidence.

19 MS. ERHLICH: No objection.

20 THE COURT: State's 7, 8, and 9 into evidence
21 without objection. You may publish.

22 MR. KIDD: Thank you, Your Honor.

23 [Whereupon, State's exhibit numbers 7, 8, and 9 are
24 entered into evidence by the court]

25 Q. [Mr. Kidd] Ms. Sad I'm going to start with State's

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1 exhibit 7.

2 [Whereupon, the witness is shown photograph]

3 Q. Can you tell the jury what we're looking at here?

4 A. This lane right here [indicates] is when we made
5 that immediate right onto Grayson Street; that's right
6 there [indicates]. The trailer is right here [indicates]
7 to your right and the apartments is just right past that
8 tree area [indicates].

9 Q. Okay. I'm going to show you State's exhibit 8.

10 [Whereupon, the witness is shown photograph]

11 Q. Is that the same area that we are looking at there?

12 A. Yes, sir.

13 Q. So we're looking at the trailer on the right and the
14 apartment building on the left is that accurate?

15 A. Yes.

16 Q. And finally State's exhibit number 9.

17 [Whereupon, the witness is shown photograph]

18 Q. Do you recognize that photograph?

19 A. Yes, I do.

20 Q. What are we looking at here?

21 A. This [indicates] is actually the backside of the
22 trailer, the rear side that was facing Grayson when we
23 turned onto Grayson Street and this [indicates] is where
24 the defendant was sitting at.

25 Q. So when Ms. Steed said that's the guy what did you

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1 do next as part of law enforcement?

2 A. At that point we already had patrol units that were
3 in the area because we all came upon the scene at roughly
4 the same time.

5 Lieutenant Johnson contacted Sergeant Hoose who was
6 the patrol sergeant on duty and requested that he gather
7 the defendant and two other subjects that were standing
8 in the apartments together for a show up lineup. So we
9 had left the area and waiting until that was ready to be
10 seen. We basically just circled the block.

11 Q. Okay. So y'all circled the block while they
12 rounded everybody up. Did the two people who were in
13 front of the apartment building were they shown to Ms.
14 Steed?

15 A. In the show up lineup they were, yes sir.

16 Q. And what did she say about those?

17 A. She immediately dismissed those two ---

18 MS. ERHLICH: --- Your Honor, I want to renew my
19 pretrial objection.

20 THE COURT: All right. You may continue.

21 Q. [Mr. Kidd] I'm going to skip ahead just a little
22 bit. Before y'all left the scene that night after the
23 show up had been completed did Ms. Steed point anyone
24 else out to y'all before you left?

25 A. No, sir. When we were leaving she did identify

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1 somebody that was standing by one of our sergeants that
2 was present, another witness.

3 Q. Okay. So she identified someone else that was
4 present at the time of the shooting?

5 A. Yes, that's correct.

6 Q. And when y'all left the scene where did you take Ms.
7 Steed from there?

8 A. She was transported back to City Hall to provide a
9 written statement.

10 Q. Now when you first arrived on the scene with Ms.
11 Steed did y'all as law enforcement have any idea who the
12 suspect was?

13 A. No, we did not.

14 Q. So what did y'all -- how did you develop a suspect?

15 A. Based on Ms. Steed's identification when we turned
16 onto Grayson Street.

17 MR. KIDD: Thank you, Judge. No further questions.

18 THE COURT: Ms. Ehrlich?

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State v Vaughn Hilliard
Tammy Sad-Cross-Examination by Ms. Ehrlich
June 8, 2015

1 CROSS-EXAMINATION

2 BY MS. EHRLICH:

3 Q. Good afternoon Lieutenant Sad. Were you still out
4 there when Mr. Hilliard was actually taken into custody?

5 A. At that point we were driving away. I don't
6 physically remember him being taken into custody.

7 Q. When you were out there he was still on his
8 property?

9 A. For the show up lineup?

10 Q. Uh Huh?

11 A. No ma'am, he was not.

12 Q. No, before the show up lineup. Like he was at --
13 y'all drove Ms. Steed out there to try to find out what
14 happened right?

15 A. Correct.

16 Q. And he was still right there the person that she
17 said was the shooter?

18 A. Yes.

19 Q. He hadn't left the area or anything right?

20 A. At that time yes. Had he left earlier and came back
21 I don't know.

22 Q. And that night when he was brought out for the
23 identification he was walking with a cane?

24 A. Yes, that's correct.

25 Q. And I think you said before that he was having some

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1 difficulty so somebody brought a chair for him to sit on?

2 A. They did bring a chair out to the roadway and he did
3 sit on a chair.

4 Q. When -- I guess you weren't the what we would think
5 of as the lead detective in the case right?

6 A. Correct.

7 Q. It later got assigned to Detective Andrews?

8 A. I believe so, yes.

9 Q. But part of your job as one of the supervisors on
10 scene would be to assign people to follow up on certain
11 things?

12 A. That's actually not my responsibility.

13 Q. Okay. Did you not instruct Officer Martin to
14 locate two possible witnesses to the shooting?

15 A. Yes. He -- in a different realm of my
16 responsibilities Officer Martin works for me ---

17 Q. --- okay ---

18 A. --- and the area where the incident took place at is
19 his assigned area so he was asked to try to locate a
20 couple extra people.

21 Q. I think you asked him to try to locate Julia Wigfall
22 right?

23 A. Correct.

24 Q. And also a gentleman named Carlton Moore [phonetic]?

25 A. Yes.

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Tammy Sad-Cross-Examination by Ms. Ehrlich
June 8, 2015

1 Q. But you're not responsible for making sure that
2 happens or anything right?

3 A. Not necessarily. Often times -- like I said I'm the
4 on-call lieutenant so basically I'm the one they are
5 going to call in the middle of the night and wake up.
6 I'm going to be the one that responds. The lieutenant
7 over the detective division is the one responsible for
8 following up and ensuring.

9 Basically at that point I'm just asked to hey, can
10 you get Officer Martin to go see if he can identify these
11 two people or locate these two people. And I may not
12 have any more knowledge about that.

13 Q. And that's all I'm trying...

14 A. Okay.

15 Q. You would -- you would tell them hey, go look at
16 these witnesses and then not know what happened
17 afterwards?

18 A. That's possible, yes.

19 Q. And your role in this case ended that night really?

20 A. Yes ma'am, more or less.

21 MS. ERHLICH: Beg the court's indulgence.

22 [Whereupon, Ms. Ehrlich and Mr. Loignon confer]

23 MS. ERHLICH: I don't have any other questions,
24 Your Honor.

25 MR. KIDD: Very briefly.

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1 REDIRECT EXAMINATION

2 BY MR. KIDD:

3 Q. So as part of investigating a crime like this we
4 want to talk to any and all witnesses who might know
5 something is that fair to say?

6 A. That's correct.

7 Q. And so what she's talking about was an effort to
8 locate people who might know something.

9 A. That's correct.

10 Q. No further questions.

11 THE COURT: Ms. Ehrlich, re-cross?

12 MS. ERHLICH: No.

13 THE COURT: You may step down. Thank you.

14 [Whereupon, the witness is excused and exits the
15 witness stand]

16 THE COURT: Call your next witness.

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State v Vaughn Hilliard
Fred Hoose-Direct Examination by Mr. Kidd
June 8, 2015

1 MR. KIDD: The State calls Sergeant Hoose.

2 [Whereupon, Mr. Hoose comes forward]

3 [Whereupon, the witness is duly sworn by the Clerk
4 of Court]

5 CLERK OF COURT: If you could please state your
6 first and last name and then spell you last loudly and
7 clearly into the microphone for the record please, sir.

8 THE WITNESS: My name is Fred Hoose. The spelling
9 of my last name is H-O-O-S-E.

10 THE COURT: Mr. Kidd?

11 MR. KIDD: Thank you, Your Honor.

12 - - - - -

13 FRED HOOSE,

14 Having been first duly sworn,

15 Was examined and testified as follows:

16 DIRECT EXAMINATION

17 BY MR. KIDD:

18 Q. Good afternoon Sergeant. Could you tell the jury
19 where you are employed?

20 A. North Charleston Police Department.

21 Q. How long you been with North Charleston?

22 A. Probably going on 18 years.

23 Q. So you've got some time under your belt. What's
24 your current rank and position with North Charleston?

25 A. I'm a sergeant and I'm a supervisor of an evening

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1 shift team in the south end of our city.

2 Q. So in the south end of North Charleston?

3 A. Yes, sir.

4 Q. What about in September of 2013?

5 A. The same position.

6 Q. The same position. Do you recall being called out
7 to a murder scene at [REDACTED] Dayton Street?

8 A. I do.

9 Q. And under what circumstances did you get called out
10 to that scene?

11 A. About 6:30 or so we initially received a call from
12 our dispatcher that there was a shooting victim at one of
13 the hospitals so one of my officers, Officer Cummings
14 [phonetic] went down there.

15 A little bit later Lieutenant Candy Johnson notified
16 me that we needed to start looking for a scene around the
17 Spruill Avenue North Carolina Avenue area.

18 Q. And did you meet or were you on scene with
19 Lieutenant Johnson and Lieutenant Sad?

20 A. I got a call on the radio to go to a particular
21 location on Grayson Street [REDACTED] Dayton Street I believe.
22 It's at the corner of North Carolina and Grayson Street
23 and that's where -- I didn't physically meet with
24 Lieutenant Johnson at the time but she pulled up later in
25 her car.

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1 Q. I'll show you what has been marked as State's
2 exhibit 6.

3 [Whereupon, the witness is shown photograph]

4 Q. Can you tell was that sort of the area we're talking
5 about?

6 A. That is.

7 Q. Of Grayson and North Carolina?

8 A. Correct.

9 Q. When you arrived on scene what was going on?

10 A. When I arrived on scene there was -- [REDACTED] Dayton is
11 on the corner of Dayton and -- of Grayson and North
12 Carolina.

13 There is a red brick apartment building right next
14 to it if you are facing immediately to the left. And
15 there were some individuals that are normally out there
16 all day and all night drinking that were standing over
17 there.

18 Q. I'm going to show you what's marked as State's
19 exhibit number 1.

20 [Whereupon, the witness is shown photograph]

21 Q. Is that what we're talking about?

22 A. Yes, sir.

23 Q. Okay. So this is sort of -- I guess what you just
24 said sort of a common place for people to hang out and
25 drink?

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1 A. That's correct.

2 Q. And this is -- is this in your sort of jurisdiction
3 your area ---

4 A. --- it is ---

5 Q. --- that your team is assigned to patrol?

6 A. Yes, sir.

7 Q. Can you describe or how would you describe the
8 property to the right of the apartment building?

9 A. It's fenced in. I believe there might be barbed
10 wire on top. It has an access gate for vehicles on the
11 back end that goes through a parking lot of a little
12 store.

13 And if you go down in between the fence and the red
14 building if you go down probably about 60 feet or so
15 there is a walk through gate.

16 Q. I want to first show you what has been marked
17 State's exhibit number 2.

18 [Whereupon, the witness is shown photograph]

19 Q. Is that sort of the breezeway or walk through that
20 you were talking about?

21 A. Right, right.

22 Q. And then I want to show you for identification what
23 has been marked as State's 10 and 11 and see if you can
24 recognize those photographs.

25 [Whereupon, the witness is shown photographs]

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1 A. Yes. That's the walk through gate coming -- I'm
2 looking at it -- this picture was taken from the property
3 of [REDACTED] Dayton Street and so is the second one.

4 Q. Okay. Does that fairly and accurately represent
5 that gate between those two properties?

6 A. That's the gate. It wasn't open at the time that I
7 was there though.

8 MR. KIDD: Your Honor, at this time the State would
9 offer 10 and 11 into evidence.

10 THE COURT: Any objection?

11 MS. ERHLICH: No objection.

12 THE COURT: State's 10 and 11 into evidence without
13 objection.

14 [Whereupon, State's exhibit numbers 10 and 11 are
15 entered into evidence by the court]

16 Q. [Mr. Kidd] So I'm first showing you what has been
17 marked and entered as State's 11. This is the gate that
18 we're referring to that separates the [REDACTED] Dayton, which
19 is the trailer and the apartment building?

20 A. Uh Huh.

21 Q. And as you testified earlier -- well, we didn't get
22 that far -- so when you arrive on scene what are you
23 instructed to do at that point?

24 A. We were going to do a lineup because this is where
25 the scene was according to Lieutenant Johnson. So first

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1 of all we looked around and I remember Detective Dipaolo
2 showed up shortly after I did. He looked around the
3 property for any kind of shell casings or evidence of a
4 shooting. At that time we didn't see any.

5 Q. Were there any individuals out there that evening?

6 A. Yes, there were.

7 Q. Where were they located?

8 A. They were -- well, there were some individuals in
9 this breezeway [indicates] with the apartments and there
10 were a few people outside near the street.

11 There was an individual that was inside the fenced
12 in area but he was sitting towards the -- if you go back
13 to one of the other photos that shows the front of the
14 apartment building.

15 Q. Okay. I'm going to show you State's exhibit ---

16 A. --- that ---

17 Q. --- number 1. That'll work?

18 A. That'll work. There were a few people sitting
19 around the front here [indicates], a few in the back ---

20 Q. --- that screen is a touch screen so you can on it
21 and it'll mark it.

22 A. Okay. There were a few individuals right here
23 [indicates] and I recall there was an individual sitting
24 in a chair somewhere towards the front of this trailer
25 right here [indicates] on the inside of that gate right

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1 about there [indicates].

2 Q. And just -- when you say the front of that trailer
3 is it the front or the back?

4 A. It's probably the back. They access it from the
5 other end from the backside. I call it front because it
6 is facing the street.

7 Q. It's facing Grayson.

8 A. Right.

9 Q. I'll show you State's exhibit 3.

10 [Whereupon, the witness is shown photograph]

11 Q. Is that the same trailer?

12 A. Yes, that's the same trailer. That's the door they
13 go in and out of.

14 Q. So the picture we're looking at here would be on the
15 gate side of the trailer ---

16 A. --- that's correct ---

17 Q. --- versus the street side would be that back corner
18 where you ---

19 A. --- that's correct.

20 Q. So you get on scene and there's one person behind
21 the fence in the back corner of that trailer and there is
22 a couple in front of the apartment building. What do you
23 do?

24 A. Well, at some point I was indicated -- Lieutenant
25 Johnson indicated over the radio that we needed to get

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- 1 this individual out for a lineup.
- 2 Q. Okay. And so did you get that individual out?
- 3 A. We did. We called them up and he met Detective
- 4 Dipaolo and I at the gate, the walk through gate.
- 5 Q. And that would be this gate here State's exhibit 4?
- 6 [Whereupon, the witness is shown photograph]
- 7 A. That's correct.
- 8 Q. Sorry, I've got a few pictures; that's not even the
- 9 same one I just showed you. But State's exhibit 4, 11,
- 10 and 10 are all at same gate correct?
- 11 A. Right.
- 12 Q. And so how did you get the suspect from behind the
- 13 fence out?
- 14 A. We just asked him to come out and he came to the
- 15 gate and opened the gate and came out.
- 16 Q. When you arrived on the scene was the gate open or
- 17 closed?
- 18 A. It was closed.
- 19 Q. Do you know whether it was locked or not?
- 20 A. I can't say if it was locked or not.
- 21 Q. Did he walk out on his own?
- 22 A. He did. It took him a while. As I recall he had
- 23 some sort of back injury so it took him a while to walk
- 24 out.
- 25 Q. Was he walking with a cane or something like that?

State v Vaughn Hilliard
Fred Hoose-Direct Examination by Mr. Kidd
June 8, 2015

1 A. I don't recall that but I know he seemed very
2 feeble. He was walking with some trouble.

3 Q. I have no further questions.

4 THE COURT: Ms. Ehrlich?

5 MS. ERHLICH: Beg the court's indulgence.

6 [Whereupon, Ms. Ehrlich and Mr. Loignon confer]

7 MS. ERHLICH: Your Honor, I don't have any
8 questions.

9 THE COURT: You may step down. Thank you.

10 [Whereupon, the witness is excused and exits the
11 witness stand]

12 THE COURT: Call your next witness.
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State v Vaughn Hilliard
Casey Pace-Direct Examination by Mr. Waring
June 8, 2015

1 MR. WARING: The State calls Detective Pace.
2 [Whereupon, Mr. Pace comes forward]
3 [Whereupon, the witness is duly sworn by the Clerk
4 of Court]
5 CLERK OF COURT: If you could please state your
6 first and last name and then spell your last loudly and
7 clearly into the microphone for the record.
8 THE WITNESS: My name is Casey Pace, P-A-C-E.
9 MR. WARING: Thank you, Your Honor.
10 - - - - -
11 CASEY PACE,
12 Having been first duly sworn,
13 Was examined and testified as follows:
14 DIRECT EXAMINATION
15 BY MR. WARING:
16 Q. Good afternoon detective. How are you?
17 A. Good, sir.
18 Q. Detective briefly some background information.
19 Where do you work?
20 A. I work for the City of North Charleston Police
21 Department.
22 Q. And how long have you worked there?
23 A. A little over nine years.
24 Q. And can you tell the jury what your job title is?
25 A. I'm the senior property detective in the

State v Vaughn Hilliard
Casey Pace-Direct Examination by Mr. Waring
June 8, 2015

1 Investigations Division.

2 Q. And can you rattle off a few of your duties and
3 responsibilities?

4 A. Primarily I handle property cases, burglaries, any
5 kind of thefts that occur but also I assist in any
6 person's cases, white collar cases, special victim's
7 cases.

8 We're on call once a month where if anything happens
9 on the weekend or after hours that needs immediate
10 investigations we're called out immediately to respond
11 and we arrive to begin the investigations.

12 Q. And were you involved with the Vaughn Hilliard case?

13 A. Yes sir, I was.

14 Q. And how did you initially get brought into that
15 case?

16 A. The call comes out to our call-out sergeant and he
17 decides how many detectives he needs and then he calls us
18 directly and has us respond to where he needs us to.

19 Q. So on this particular occasion what was the call?

20 A. I was called in reference to somebody being shot. I
21 didn't have a lot of specifics in the case at that point
22 I was just called and told to report.

23 Q. And do recall about the time you got that call?

24 A. It was roughly about 8 p.m.

25 Q. And where did you respond?

State v Vaughn Hilliard
Casey Pace-Direct Examination by Mr. Waring
June 8, 2015

1 A. I responded to North Charleston City Hall to the
2 Detective Bureau.

3 Q. When you got to the Detective Bureau what were you
4 tasked with doing?

5 A. I was asked to do what they call a gunshot residue
6 kit on the witness Gregg and the defendant.

7 Q. And can you briefly explain to the jury what gunshot
8 residue is.

9 A. I guess the easiest way to explain it is when a
10 bullet is fired it has gun powder in it. It explodes
11 which -- the explosion causes the bullet to fly out the
12 end of the barrel.

13 The gunpowder also -- it's also burnt and unburnt it
14 goes out the end of the gun but also comes out the back
15 and the sides and then gets on hands and clothing of
16 anybody that is standing next to it or that fires it.

17 Q. So is there an abbreviation for gunshot residue?

18 A. Yes, it's called GSR.

19 Q. Okay. And is gunshot residue visible to the naked
20 eye?

21 A. No, it is not. It's always when they do the testing
22 on it it's through a microscope that they are able to see
23 it.

24 Q. What kind of equipment is typically used to collect
25 GSR?

State v Vaughn Hilliard
Casey Pace-Direct Examination by Mr. Waring
June 8, 2015

1 A. We have a sealed kit that we get from one of the
2 manufacturers that's been approved by SLED. Inside the
3 kit are -- there are four vials and they have caps on
4 them.

5 When you remove the cap there is a sticky substance
6 on it that you use to dab on the hands. There is also a
7 pair of gloves, there is an instruction sheet, and a
8 questionnaire is also inside there.

9 Q. And what specifically are you looking for when you
10 are conducting a GSR kit?

11 A. That's the burnt and unburnt gunpowder that comes
12 off after a bullet is fired.

13 Q. In grand total how many of these have you performed?

14 A. In the last two years since I began doing them 10 to
15 12.

16 Q. Okay. And ultimately what are you hoping to
17 accomplish by using a GSR kit?

18 A. To identify if anybody has fired a weapon; fired a
19 firearm.

20 Q. And in this particular case who are the individuals
21 you were tasked with taking GSR kits for?

22 A. From the defendant Mr. Hilliard and from Mr. Gregg;
23 I can't remember recall his first name.

24 Q. On this particular occasion did you wear gloves?

25 A. Yes, I did. I always wear gloves whenever I do a

State v Vaughn Hilliard
Casey Pace-Direct Examination by Mr. Waring
June 8, 2015

1 gunshot residue kit.

2 Q. Okay. And can you briefly explain the process that
3 you underwent in order to take GSR kits from both these
4 witnesses; the defendant and the witness Earl Gregg?

5 A. It was the same for both. I go in and I ask a
6 standard -- the questionnaire that come in the packet,
7 place gloves on both my hands; the gloves that come with
8 the actual kit itself.

9 I remove all four vials, which are capped, I remove
10 the cap and they are all -- one is for the left palm and
11 front of the hand and one is for the left back and the
12 same for the right; so you've got the four vials.

13 You start -- whichever one you decide you want to
14 start with because they're all marked I usually start
15 with the left palm and I just start going across with a
16 dabbing effect that goes across.

17 Then you do all he fingers and the entire palm.
18 Then you cap it, put it back and then you do the same for
19 the back of the hand and then you do the right hand also.

20 Q. Did you actually touch their hands with your hands?

21 A. The only time my hands touched theirs was with
22 gloves on.

23 Q. Okay. Now what primarily touches their hand?

24 A. It's usually the sticky piece that is on the end of
25 that cap and it gets resealed back up.

State v Vaughn Hilliard
Casey Pace-Direct Examination by Mr. Waring
June 8, 2015

1 Q. Now in this case were these kits brand new?

2 A. Yes, they were.

3 Q. Were they completely unopened?

4 A. Yes. They are sealed when they come to us.

5 Q. And what happens when you're done?

6 A. When we're finished we put everything back into the
7 kit into the envelope that it comes in, we seal it and it
8 also have an evidence sticker that goes across the end of
9 it that seals it back. Then we turn it into either the
10 evidence tech or into -- I'm sorry; the crime scene tech
11 or the evidence room itself.

12 Q. And ultimately where do the kits go?

13 A. Ultimately they end up at SLED for processing at the
14 lab.

15 Q. Did you seal the GSR kits in this case?

16 A. Yes, I did.

17 Q. And did you label them?

18 A. Yes, I did.

19 MR. WARING: Your Honor, may I approach the
20 witness?

21 THE COURT: You may.

22 Q. [Mr. Waring] I'm showing you what has been marked
23 for identification purposes only as State's exhibits 12
24 and 13.

25 [Whereupon, the witness is shown exhibits]

State v Vaughn Hilliard
Casey Pace-Direct Examination by Mr. Waring
June 8, 2015

1 Q. Do you recognize those?

2 A. Yes sir, my handwriting is on both of them.

3 Q. What are they?

4 A. They are the gunshot residue kits that I took from
5 Earl Gregg and from Vaughn Hilliard.

6 Q. Are they in substantially the same condition as when
7 you last saw them?

8 A. Yes.

9 Q. And do they fairly and accurately depict both the
10 defendant's and witness, Earl Gregg, GSR kits as they
11 were?

12 A. Yes, sir.

13 MR. WARING: Your Honor, court's indulgence.

14 THE COURT: Take your time.

15 [Whereupon, Mr. Kidd and Mr. Waring confer]

16 Q. [Mr. Waring] A few more brief questions detective.
17 In particular in this case after you were done where did
18 you specifically turn them in?

19 A. I believe I turned them in to Sergeant Hallman. It
20 would have been -- I believe he was our crime scene tech
21 that night.

22 We have a crime scene officer that assists us in all
23 gunshot cases and I believe he was the one that was on;
24 I'm not for sure.

25 Q. And at that time was that standard procedure?

State v Vaughn Hilliard
Casey Pace-Direct Examination by Mr. Waring
June 8, 2015

1 A. Yes, it was and a chain of custody was signed as
2 such.

3 MR. WARING: Beg the court's indulgence.

4 [Whereupon, Mr. Kidd and Mr. Waring confer]

5 Q. [Mr. Waring] Please answer any questions the defense
6 has.

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State v Vaughn Hilliard
Casey Pace-Cross-Examination by Ms. Ehrlich
June 8, 2015

1 CROSS-EXAMINATION

2 BY MS. EHRLICH:

3 Q. You went into the interview room where Mr. Hilliard
4 had been waiting?

5 A. Yes, ma'am.

6 Q. When you walked into the room was he laying on the
7 ground?

8 A. I recall that he was, yes.

9 Q. And do you recall him having a cane?

10 A. I don't recall whether he did or not.

11 Q. Do you recall if he was wearing a back brace?

12 A. I don't recall whether he was or not.

13 MS. EHRLICH: Beg the court's indulgence.

14 [Whereupon, Ms. Ehrlich and Mr. Waring confer]

15 Q. [Ms. Ehrlich] Is it Detective Pace?

16 A. Yes, ma'am.

17 Q. If we showed you some video from that night of you
18 in the interview room do you think that would potentially
19 refresh your memory about Mr. Hilliard having a cane or a
20 back brace?

21 A. It possibly could. It's been two years so.

22 MS. EHRLICH: Your Honor, could we take a brief
23 recess to show that to Mr. Pace outside the presence of
24 the jury?

25 THE COURT: Ladies and gentlemen, there is a matter

State v Vaughn Hilliard
Casey Pace-Cross-Examination by Ms. Ehrlich
June 8, 2015

1 that I must take up outside of your presence. You may
2 leave your notepads right where they are or take them
3 with you.

4 [Whereupon, the jury exits at 4:29 p.m.]

5 THE COURT: All right Ms. Ehrlich?

6 MS. ERHLICH: Your Honor, we're going to try to
7 pull it up on here [indicates] and I have the time stamp
8 so it shouldn't take too long once it comes up. Thank
9 you.

10 [Off the record momentarily]

11 MS. ERHLICH: Your Honor, I think everyone is okay
12 if I just show a picture.

13 THE COURT: Okay.

14 Q. [Ms. Ehrlich] This is a still from the interview
15 room.

16 [Whereupon, the witness is shown photograph]

17 Q. Does that refresh your memory?

18 A. I still don't remember him having a cane but that
19 doesn't mean he didn't have it. I mean obviously ---

20 THE COURT: --- I'm sorry; I'm having a hard time
21 hearing you.

22 A. I'm sorry, ma'am. I don't recall it because when I
23 walked in he was on the floor. He got helped up to the
24 -- he was laying out on the floor because he said his
25 back was bothering him. I don't exactly remember how he

State v Vaughn Hilliard
Casey Pace-Cross-Examination by Ms. Ehrlich
June 8, 2015

1 got up into the chair but I did the GSR when he was
2 sitting in the chair. I don't remember the cane.

3 MS. ERHLICH: Your Honor, I'll just ask him about
4 him being on the ground.

5 THE COURT: Do you just want to watch it?

6 MS. ERHLICH: We can.

7 THE COURT: We're here.

8 [Whereupon, the video plays]

9 [Whereupon, the video stops]

10 Q. [Ms. Ehrlich] Did that help?

11 A. He got himself up into the chair. I didn't see the
12 cane because I was concentrating on the GSR kit.

13 Q. Did you see the back brace?

14 A. I see that he has it on but I didn't pay attention
15 to it at the time. I just know he was complaining about
16 back pain.

17 THE COURT: Do we need anything else? Can we bring
18 the jury back in?

19 MS. ERHLICH: We can bring them back in, Your
20 Honor. I'll just ask him about being on the ground and
21 getting up and being in pain and then I'll sit down.

22 THE COURT: Do you have any redirect?

23 MR. WARING: No, Your Honor.

24 THE COURT: Do you have another witness or are you
25 done for the day?

State v Vaughn Hilliard
Casey Pace-Cross-Examination by Ms. Ehrlich
June 8, 2015

1 MR. KIDD: Done for the day.
2 THE COURT: Are we okay to push on through? We
3 don't need another break do we?
4 MS. ERHLICH: No, we're fine. I was just going to
5 ask him those three questions.
6 THE COURT: Just check with your client.
7 [Whereupon, Ms. Ehrlich confers with her client]
8 MS. ERHLICH: No.
9 THE COURT: All right. Let's bring in the jury.
10 [Whereupon, the jury enters at 4:36 p.m.]
11 THE COURT: Ms. Ehrlich?
12 MS. ERHLICH: Thank you, Your Honor.
13 Q. [Ms. Ehrlich] So when you came into the room Mr.
14 Hilliard was on the ground?
15 A. Correct.
16 Q. And that was apparently because of back pain?
17 A. He said it felt better if he was laying on the
18 ground because his back was bothering him.
19 MS. ERHLICH: I don't have any other questions,
20 Your Honor.
21 THE COURT: Mr. Waring?
22 MR. WARING: No further questions, Your Honor.
23 THE COURT: All right. You may step down.
24 [Whereupon, the witness is excused and exits the
25 witness stand]

State v Vaughn Hilliard
Proceedings
June 8, 2015

1 THE COURT: Ladies and gentlemen, I usually try to
2 stop as close to 5:00 as practical. So we've reached the
3 end of our witnesses for today. Please remember all of
4 my admonitions. Do not discuss this case with anyone; do
5 not begin your deliberations. Do not read or watch any
6 news accounts regarding this case should be any and do
7 not do any independent investigation.

8 If you'll take your note pads with you we'll lock
9 them up over the evening hour and give them back to you
10 in the morning. Please be back in your jury room and
11 ready to begin at 9:30 in the morning; at 9:30 in the
12 morning. Thank you. Have a wonderful evening.

13 [Whereupon, the jury exits at 4:38 p.m.]

14 THE COURT: Any motions or matters before we break
15 for the evening?

16 MR. KIDD: None from the State.

17 MS. ERHLICH: Nothing, Your Honor.

18 THE COURT: All right, 9:30. Thank you.

19 [Whereupon, court adjourns at 4:40 p.m.]
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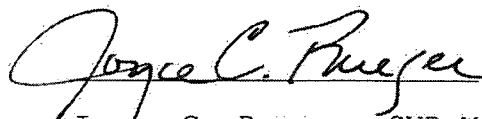
State v Vaughn Hilliard
Certificate of the Court Reporter
June 8, 2015

C E R T I F I C A T E

I, the undersigned, Joyce C. Rueger, Official
Circuit Court Reporter for the Ninth Judicial Circuit of
the State of South Carolina, do hereby certify that the
foregoing is a true, accurate, and complete Transcript of
Record of the proceedings had and evidence introduced in
the trial of the captioned case, relative to appeal, in
the Court of General Sessions for Charleston County,
South Carolina on the 8th day of June, 2015.

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

August 13, 2015


Joyce C. Rueger, CVR-M
Court Reporter

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

STATE OF SOUTH CAROLINA

vs.

VAUGHN HILLIARD

Defendant

COURT OF GENERAL SESSIONS

DOCKET NO. 2014-GS-10-1341

TRANSCRIPT OF RECORD

June 9, 2015

Charleston, South Carolina

VOLUME 2 (OF 3)

B E F O R E:

THE HONORABLE KRISTI L. HARRINGTON, JUDGE

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

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PROCEEDINGS

[Whereupon, State's exhibit numbers 15 through 34
are marked by the court reporter]

THE COURT: Anything before we bring in the jury
from the State?

MR. KIDD: No, Your Honor.

THE COURT: From the defendant?

MS. ERHLICH: No, Your Honor.

THE COURT: Thank you. Mr. Kidd, who is your next
witness?

MR. KIDD: The State calls Al Hallman.

THE COURT: Is he right outside? Let's bring in
the jury.

MR. KIDD: He is, Judge.

[Whereupon, the jury enters at 9:46 a.m.]

THE COURT: Good morning Madame Foreperson, ladies
and gentlemen of the jury. If you complied with the
court's instructions over the evening hour please raise
your right hand.

[Whereupon, all jurors raise their hand]

THE COURT: Thank you. All fourteen jurors have
complied with the court's instructions. Mr. Kidd, please
call your next witness.

MR. WARING: Thank you, Your Honor.

State v Vaughn Hilliard
Al Hallman-Direct Examination by Mr. Waring
June 9, 2015

1 MR. WARING: The State calls Sergeant Hallman.

2 [Whereupon, Mr. Hallman comes forward]

3 [Whereupon, the witness is duly sworn by the Clerk
4 of Court]

5 CLERK OF COURT: If you would please state your
6 first and last name and then spell your last loudly and
7 clearly into the microphone for the record please.

8 THE WITNESS: Al Hallman, H-A-L-L-M-A-N.

9 MR. WARING: Thank you, Your Honor.

10 - - - - -

11 AL HALLMAN,

12 Having been first duly sworn,

13 Was examined and testified as follows:

14 DIRECT EXAMINATION

15 BY MR. WARING:

16 Q. Good morning Sergeant. How you doing?

17 A. Good morning.

18 Q. Sergeant, could you tell the jury who your employer
19 was on September 8th, 2013?

20 A. Yes. The City of North Charleston Police
21 Department.

22 Q. Okay. And how long had you worked there?

23 A. In 2000 -- when?

24 Q. In that year how long had you been working there?

25 A. Approximately 24, 25 years; somewhere in there.

State v Vaughn Hilliard
Al Hallman-Direct Examination by Mr. Waring
June 9, 2015

1 Q. What was your job title at that point?

2 A. At that time I was assigned to the Forensics
3 Investigations Division.

4 Q. How long had you been in that division at that
5 point?

6 A. Approximately 17 years.

7 Q. And could you go through a few of your duties and
8 responsibilities?

9 A. Yes. While I was assigned to the Forensics unit I
10 want to say back in '96 or '94 I did five years I think
11 as a forensics investigator.

12 I was then promoted to the unit supervisor and I was
13 the unit supervisor until approximately 2009 when I went
14 back on the street for approximately three years.

15 I retired from the police department in December of
16 2012, returned back to the Forensics unit in January of
17 2013 as a civilian investigator and did another year and
18 a half there.

19 Q. And were you involved with the Vaughn Hilliard case?

20 A. Yes, I was.

21 Q. How did you get brought into that case?

22 A. I was called -- I was on-call the night the incident
23 occurred and I received a call from dispatch to respond
24 to MUSC to process a vehicle that had been involved in a
25 shooting.

State v Vaughn Hilliard
Al Hallman-Direct Examination by Mr. Waring
June 9, 2015

1 Q. Do you remember approximately when you got the call?

2 A. No, I would have to reflect on my report.

3 MR. WARING: May I approach the witness, Your
4 Honor?

5 THE COURT: You may.

6 [Whereupon, the witness is shown document]

7 A. It was approximately 8 p.m. on September 7, 2013.

8 Q. And where did you respond?

9 A. The MUSC parking lot.

10 Q. And what were you tasked with doing initially when
11 you got there?

12 A. Initially I was told that a red Suzuki Forenza had
13 been involved in a shooting incident and I was there to
14 process the vehicle.

15 Once I arrived I was almost immediately advised that
16 North Charleston investigators were securing search
17 warrants for the vehicle so at that point nothing was
18 done. I was instructed to collect some clothing items
19 from the shooting victim at MUSC. I collected those
20 items.

21 I then called for a wrecker, one of our North
22 Charleston rotation wreckers, they responded they picked
23 up the vehicle and then I followed them to the North
24 Charleston warehouse where the vehicle was secured until
25 the search warrant was secured.

State v Vaughn Hilliard
Al Hallman-Direct Examination by Mr. Waring
June 9, 2015

1 Q. And did you perform any duties while you were there?

2 A. Prior to the search warrant I photographed the
3 vehicle and processed the exterior only for latent
4 fingerprints. I did not enter the vehicle until the
5 search warrant was secure.

6 Q. What happened after that?

7 A. After that I received a call from Sergeant Al
8 Kuechler to respond to the area of Grayson and North
9 Carolina Avenue in North Charleston in reference to
10 locating the actual crime scene.

11 I responded to that location and met with Sergeant
12 Kuechler on Grayson Street. He escorted me back to a lot
13 where there were two trailers and a chain length fence
14 separating the two trailers and their lot from the
15 apartment complex.

16 I was advised that the shooting had occurred there
17 and at that time it was believed that the shooting
18 occurred from the purple deck on the back of the first
19 trailer towards an open gate that led into the courtyard
20 of the apartment complex next door.

21 Q. Now that location where you responded to was that in
22 Charleston County?

23 A. Yes.

24 Q. And when you arrived what was your mission?

25 A. To document the scene by photographs and to search

State v Vaughn Hilliard
Al Hallman-Direct Examination by Mr. Waring
June 9, 2015

1 for and collect any items of potential evidence involved
2 in the shooting.

3 Q. Was there anything in specific you were tasked with
4 looking for?

5 A. I was told to look for any kind of shell casings or
6 projectiles or guns or you know evidence thereof of a
7 shooting such as bullet strikes or anything like that.

8 Q. And do you recall where you searched?

9 A. I searched -- I started on the purple deck outside
10 the first trailer, searched the top of the deck, searched
11 underneath it as best I could and then I searched the lot
12 between the deck, the trailer, and the open gate that led
13 to the apartment complex. I was advised that the victim
14 was believed to have been in the apartment courtyard but
15 that was later disputed.

16 Q. Did you actually go into the house?

17 A. I did not go into the house until detectives secured
18 a search warrant for the house.

19 Q. Once they secured the search warrant did you go
20 inside?

21 A. I did.

22 Q. Okay. And what did you find?

23 A. We found several firearms, three long guns as we
24 call it. One was a .22 rifle with a scope. I don't
25 recall the types of the other two guns but that was the

State v Vaughn Hilliard
Al Hallman-Direct Examination by Mr. Waring
June 9, 2015

1 only gun that had a scope on it. We found a large
2 assortment of various types of caliber firearm -- I mean
3 ammunition inside the house.

4 Once I found all these things or all these things
5 were located I photographed them in place as they were
6 found and then they were all secured by me and collected
7 as evidence.

8 Q. Was the rifle with the scope loaded?

9 A. Yes, it was.

10 Q. Do you recall what it was loaded with; what kind of
11 ammunition?

12 A. .22 Long Rifle Super X rounds.

13 Q. And how many rounds?

14 A. There were 11 rounds unfired in the rifle.

15 Q. Other than yourself did anybody handle the rifle or
16 the ammunition?

17 A. No.

18 MR. WARING: May I approach the witness, Your Honor.

19 THE COURT: You may.

20 Q. [Mr. Waring] I'm now showing you what has been
21 marked for identification purposes only as State's
22 exhibits 15 through 23.

23 [Whereupon, the witness is shown photographs]

24 Q. Do you recognize those?

25 A. Yes.

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1 Q. Can you tell the jury what they are?

2 A. They are photographs taken at the crime scene by me.
3 You want me to go through them individually?

4 Q. In a general way.

5 A. Okay. Fifteen is the exterior from the apartment
6 complex looking towards the trailer. Sixteen is a
7 picture of the trailer and the purple deck. Seventeen is
8 a photograph of the .22 long rifle with the scope on it
9 found in the residence.

10 Eighteen is the same photograph just a distance shot
11 showing how it was located next to the bed. Nineteen is
12 the serial number of the gun. Twenty is a photograph of
13 a box of PMC ammunition and a clip for a semi automatic
14 pistol loaded with an unknown type of caliber ammunition;
15 I can't recall that one.

16 Twenty-one is a cup full of ammunition. I believe
17 it might have been .45 caliber or .40 caliber; I'm not
18 sure but it was a cup loaded just full of those
19 ammunitions.

20 Twenty-two is a photograph of the other two actually
21 three long guns, there were four total; I'm sorry. One
22 is a shot gun and two are rifles; none of which have
23 scopes on them. They were found in the very back corner
24 of that room. And 23 is a photograph of a South Carolina
25 I.D. card, South Carolina State Ports Authority card and

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1 another card for Vaughn Lewis Hilliard.

2 Q. And do those photos fairly and accurately depict the
3 property and the area that you searched that night?

4 A. That's correct.

5 MR. WARING: Your Honor, at this point the State
6 moves in exhibits 15 through 23 admitted into evidence.

7 THE COURT: Any objection?

8 MS. ERHLICH: No objection, Your Honor.

9 THE COURT: State's 15 through 23 into evidence
10 without objection. You may publish.

11 MR. WARING: Thank you, Your Honor.

12 [Whereupon, State's exhibit numbers 15 through 23
13 are entered into evidence by the court]

14 Q. [Mr. Waring] Sergeant, I'm now going to put these
15 photos up on the overhead and could you please tell the
16 jury what you see in each one?

17 [Whereupon, a photograph is shown]

18 A. As I stated a few minutes ago that is a photograph
19 that I took from the courtyard of the apartment complex
20 through the open gate to the left here [indicates] and
21 the chain link fence looking towards the trailer that has
22 the purple deck on it.

23 [Whereupon, a photograph is shown]

24 A. That's a photograph of the trailer and the purple
25 deck.

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1 [Whereupon, a photograph is shown]

2 A. That's a photograph of the .22 rifle with the scope
3 and that's exactly how it was when it was located in the
4 residence.

5 Q. Had anybody moved anything before you got there?

6 A. No. I instructed everyone not to touch anything
7 until I was able to document it with photography.

8 [Whereupon, a photograph is shown]

9 A. That's just a close-up shot of the rifle. And if
10 you look to the right on the night stand you'll be able
11 to see the box of PMC ammo and the clip as well as the
12 cup of ammunition.

13 Q. And this one Sergeant?

14 [Whereupon, a photograph is shown]

15 A. That's a photograph of the serial number of the gun.

16 Q. Is that the same one with the scope?

17 A. Yes. That is the PMC ammo and the clip with the
18 unknown caliber rounds on the nightstand right there next
19 to the bed.

20 [Whereupon, a photograph is shown]

21 A. And that's the cup or measuring cup with the
22 assorted ammunition that was just also on the same night
23 stand just to the left of that box of PMC ammo.

24 [Whereupon, a photograph is shown]

25 A. That's the three long guns that were found in the

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1 corner. The one to the far left is an unknown caliber
2 shotgun. I have no idea but I think it's a .16 gauge but
3 I'm not sure, and the other two are rifles.

4 Q. And this last photo Sergeant?

5 [Whereupon, a photograph is shown]

6 A. That's a photograph of the three I.D.'s that I just
7 briefly described for the jury.

8 Q. And did you in fact find these inside of the
9 defendant's apartment?

10 A. They were located by one of the detectives and I put
11 them down like that and photographed them for
12 documentation.

13 Q. Sergeant, was that gate open when you got there?

14 A. Yes.

15 Q. And can you tell the jury what you did with the
16 ammunition and the weapons?

17 A. They were all secured in my vehicle as evidence and
18 I transported them back to the North Carolina Police
19 Department back to my lab where the long guns were
20 processed for fingerprints using a system called
21 cyanoacrylate --

22 THE COURT REPORTER: Say it again for me.

23 A. Cyanoacrylate, C-Y-A-N-O-A-C-R-Y-L-A-T-E. It's
24 commonly called super glue fuming. After I processed it
25 with super glue, the guns, I also obtained a swab from

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1 the trigger of the .22 rifle with the scope on it for
2 touch D-N-A. All the ammunition was packaged together in
3 a box because it was basically found in a box.

4 And the 11 rounds, the 11 .22 rounds that I removed
5 from the rifle with the scope were packaged in a manila
6 envelope by myself and included with the rest of the ammo
7 because of the amount of ammo that we had.

8 Q. [Mr. Waring] And ultimately where did you turn all
9 this stuff into?

10 A. That was all turned over directly to the NCPD
11 property unit.

12 Q. Was that per procedure?

13 A. Yes, that's per procedure. And once it goes to the
14 property unit we don't see it again until -- it's done
15 via a chain of custody and we don't see it again until
16 usually trial or until further processing is necessary.

17 MR. WARING: May I approach the witness, Your
18 Honor?

19 THE COURT: You may.

20 Q. [Mr. Waring] I'm now showing you what has been
21 marked for identification purposes only as State's
22 exhibits 24 and 25.

23 [Whereupon, the witness is shown exhibits]

24 Q. Do you recognize those?

25 A. I do.

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1 Q. Can you tell the jury what they are?

2 A. This is the .22 rifle with the scope recovered from
3 the residence there at the scene that night. The serial
4 number matches the one on the screen. And I know this is
5 the gun that I collected because I applied an evidence
6 sticker with my signature on it, or with my name on it.

7 And these are the -- I believe these are the 11 .22
8 rounds that I removed from that rifle [indicates]. Yes,
9 11 .22 Long Rifle Super X rounds.

10 Q. And is the rifle and are the 11 .22 caliber bullets
11 are they in substantially the same condition as when you
12 last saw them?

13 A. They are.

14 Q. And do they fairly and accurately depict the .22
15 caliber scope rifle and ammunition the night you found
16 it?

17 A. Yes, they do.

18 MR. WARING: Your Honor, at this point the State
19 would like to move exhibits 24 and 25 into evidence.

20 THE COURT: Any objection?

21 MS. ERHLICH: No, Your Honor.

22 THE COURT: State's 24 and 25 into evidence without
23 objection.

24 [Whereupon, State's exhibit numbers 24 and 25 are
25 entered into evidence by the court]

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1 Q. [Mr. Waring] Sergeant, did you have any other
2 involvement other than with this evidence in the case?

3 A. I don't believe so other than the latent evidence
4 from the vehicle that was later determined not to be a
5 player in the investigation.

6 Q. Did you have any involvement with the gunshot
7 residue kits?

8 A. Yes. The investigators at the scene, or two
9 investigators collect GSR kits or gunshot residue kits
10 on I believe Mr. Hilliard and the victim at the scene.
11 And as per procedure with North Charleston any gunshot
12 residue kits collected by investigators gets turned over
13 to the senior crime scene person which was myself.

14 So I accepted those from them via chain of custodies
15 and those were secured into the property room with the
16 rest of the evidence. I also prepared the SLED
17 transmittal sheet to have the two GSR kits sent to SLED
18 for examination by trace.

19 Q. Was that a standard procedure?

20 A. Yes.

21 MR. WARING: Beg the court's indulgence.

22 [Whereupon, Mr. Kidd and Mr. Waring confer]

23 Q. [Mr. Waring] Just briefly Sergeant, we earlier spoke
24 about your search for shell casings. Were you able to
25 locate any shell casings?

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1 A. I located no firearms evidence whatsoever in the
2 area that I searched, no.

3 Q. And where were you told that you were supposed to
4 search?

5 A. From between -- from the purple deck on the back of
6 that trailer to the open gate leading to the apartment
7 complex and then the courtyard of the apartment complex
8 itself.

9 Q. And is that primarily where you searched?

10 A. Yes. I conducted a standard grid search meaning I
11 searched 24 by 24 inch squares as I went back and forth
12 through that area both on the side of the trailer and on
13 the side of the apartment complex and no evidence was
14 found from firearms.

15 MR. WARING: Beg the court's indulgence.

16 [Whereupon, Mr. Kidd and Mr. Waring confer]

17 Q. [Mr. Waring] Please answer any questions the defense
18 has.

19 THE COURT: Ms. Ehrlich?

20 MS. ERHLICH: May I approach the witness?

21 THE COURT: You may. You have continued
22 permission.

23 MS. ERHLICH: Thank you.
24
25

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Al Hallman-Cross-Examination by Ms. Ehrlich
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1 CROSS-EXAMINATION

2 BY MS. EHRLICH:

3 Q. Mr. Hallman I know the solicitor had you kind of
4 identify ammunition.

5 A. Yes, ma'am.

6 Q. What else do you see on that table?

7 [Whereupon, the witness is shown photograph]

8 Q. Do you see a medicine bottle?

9 A. Yes, I do.

10 Q. And I'm showing you now what has been marked as
11 State's exhibit 17.

12 [Whereupon, the witness is shown photograph]

13 Q. Do you see several medicine bottles?

14 A. I see three, yes ma'am I do.

15 Q. Do you also see a cane; one cane?

16 A. I do. Yes, ma'am actually two canes.

17 Q. Thank you.

18 [Whereupon, fire alarm sounds]

19 THE COURT: Please remember all my admonitions.
20 Please escort the jury.

21 [Whereupon, the jury exits]

22 [Whereupon, court is in recess]

23 THE COURT: Mr. Kidd, anything before we bring in
24 the jury?

25 MR. KIDD: No, ma'am.

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1 THE COURT: From the defendant?

2 MS. ERHLICH: No, ma'am.

3 [Whereupon, the jury enters at 10:35 a.m.]

4 THE COURT: Ms. Ehrlich, your witness.

5 CROSS-EXAMINATION (resumes)

6 BY MS. EHRLICH:

7 Q. Okay. So we were talking about the photographs,
8 what was on the photographs.

9 A. Yes, ma'am.

10 Q. And I was just about to ask you if you were part of
11 that group of people looking for the shell casing the
12 night of the shooting?

13 A. I was the main ---

14 Q. --- the only person?

15 A. Yes, ma'am.

16 Q. Okay. And it wouldn't be like your call to decide
17 if you should go back the next day right?

18 A. No.

19 Q. Somebody would have to tell you to go do that.

20 A. Well, if they were to request it then of course we
21 would definitely do that but that was the sole purpose
22 for me doing what I just described as a grid search.

23 Q. Right.

24 A. Once you do a grid search -- we could not search
25 that particular area with a metal detector because there

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1 was because 2,000 beer tabs and cans and all kinds of
2 stuff.

3 Q. But had somebody told you to go back and search ---

4 A. --- I would have gone back absolutely ---

5 Q. --- the area you would have right?

6 A. Yes, absolutely.

7 Q. And when you did search the trailer you found the
8 rifle like in plain view.

9 A. Yes.

10 Q. It wasn't under a bed?

11 A. No, it was as in that picture leaning against the
12 wall.

13 Q. It wasn't like under the trailer it was just right
14 there; easy for you to find right?

15 A. Correct.

16 Q. And then you talked a little bit earlier about the
17 red car?

18 A. Yes, very vaguely.

19 Q. You processed it just the exterior?

20 A. I just processed the exterior because the detectives
21 had stated they were getting a search warrant for the
22 vehicle.

23 Q. But they never had you go back and search the
24 interior?

25 A. No, because it was later determined that the vehicle

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1 was not in play as far as the investigation goes.

2 Q. Okay. So bear with me. So as far as your role you
3 never processed the interior part of the vehicle?

4 A. I just took some photographs of the interior and
5 that was it.

6 Q. But you didn't go through the glove compartment or
7 anything like that.

8 A. No, ma'am.

9 Q. And you didn't go through the like middle panel
10 between the front two seats.

11 A. No, I don't recall doing that at all.

12 Q. You didn't check under the seats?

13 A. No, I didn't go in the vehicle.

14 Q. I know.

15 Q. Okay.

16 Q. I'm just making sure.

17 A. Okay.

18 Q. And also because you didn't go in the vehicle you
19 didn't search the trunk area or anything.

20 A. No.

21 Q. I don't have any other questions.

22 THE COURT: Mr. Waring?

23 MR. WARING: Beg the court's indulgence.

24 [Whereupon, Mr. Kidd and Mr. Waring confer]

25

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Al Hallman-Redirect Examination by Mr. Waring
June 9, 2015

1 REDIRECT EXAMINATION

2 BY MR. WARING:

3 Q. Sergeant, you said you did take some photographs of
4 the interior of the vehicle?

5 A. Yes.

6 Q. From where you were standing taking those
7 photographs did you see any weapons?

8 A. No.

9 Q. You didn't see any weapons of any kind?

10 A. I don't recall seeing any in the car, no.

11 MR. WARING: No further questions, Your Honor.
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Al Hallman-Recross-Examination by Ms. Ehrlich
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1 RE CROSS-EXAMINATION

2 BY MS. EHRLICH:

3 Q. What he's asking about of whether or not you saw any

4 weapons you just looked from the outside of the car in

5 correct?

6 A. Correct.

7 Q. You didn't search through the car?

8 A. No, ma'am.

9 Q. And I just asked you about five different places

10 that you didn't search. You didn't search those places.

11 A. No, ma'am.

12 Q. Okay. Thank you.

13 THE COURT: Thank you. You may step down.

14 [Whereupon, the witness is excused and exits the

15 witness stand]

16 THE COURT: Call your next witness.

17 MR. WARING: Thank you, Your Honor.

18

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Whitney Berry-Direct Examination by Ms. Waring
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1 MR. WARING: The State calls Whitney Berry.
2 [Whereupon, Ms. Berry comes forward]
3 [Whereupon, the witness is duly sworn by the Clerk
4 of Court]

5 CLERK OF COURT: If you would please state your
6 first and last name and then spell your last loudly and
7 clearly into the microphone for the record please.

8 THE WITNESS: My name is Whitney Berry, B-E-R-R-Y.

9 THE COURT: Mr. Waring?

10 MR. WARING: Thank you, Your Honor.

11 - - - - -

12 WHITNEY BERRY,

13 Having been first duly sworn,

14 Was examined and testified as follows:

15 DIRECT EXAMINATION

16 BY MR. WARING:

17 Q. Good morning Ms. Berry, how are you?

18 A. Good.

19 Q. Can you tell the jury where you work?

20 A. I work for the South Carolina Law Enforcement agency
21 also known as SLED.

22 Q. How long have you worked there?

23 A. I've worked there for two years.

24 Q. And what has your role been there?

25 A. I am a forensic scientist in the Trace Evidence

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1 department. I do gunshot residue examination.

2 Q. Can you describe some of your duties and
3 responsibilities?

4 A. My main duties are to prepare and analyze gunshot
5 residue samples as well as write up reports generated by
6 the data and the instrument received.

7 Q. Have you ever been declared an expert?

8 A. Yes, I have.

9 Q. In what field?

10 A. In the field of gunshot residue analysis.

11 Q. And approximately how many times were you declared
12 that?

13 A. I've been declared an expert in that for nine times
14 now.

15 Q. Will you briefly tell the jury what your educational
16 background is?

17 A. I have a Bachelor of Science degree in chemistry
18 from the University of South Carolina. Once I began
19 working at SLED I completed our in house gunshot residue
20 training program, which was approximately nine months.

21 During this time I did many book and journal
22 readings in the area of gunshot residue as well as the
23 theory of how the instrument works. I also completed
24 many hands on practical tests as well as written
25 examinations during this time. I observed courtroom

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1 testimony by qualified analysts and then I worked actual
2 case work under the supervision of a qualified analyst
3 for approximately three months at the end.

4 Then it culminated with a mock court scenario where
5 I had to work my own case and defend it in front of my
6 peers as though I was going to be in court.

7 Additionally I've had extra training by going to the
8 Hooke College of Applied Sciences in Westmont, Illinois
9 and taking their scanning electron microscope course for
10 gunshot residue analysis.

11 Q. Are there any yearly standards of testing that you
12 have to complete?

13 A. Yes. Every year I am required by SLED as well as
14 our ICE-O [phonetic] standards to take a proficiency test
15 in gunshot residue and I have to pass it in order to
16 continue working.

17 Q. What is ICE-O [phonetic]?

18 A. ICE-O [phonetic] is the international organization
19 for standardization. It is an international body of
20 standards that labs can be held to in order to get
21 accreditation.

22 Q. Is it a strict standard?

23 A. Yes, it is. We are actually accredited through ICE-
24 O [phonetic] standards 17025 at SLED. It's a very long
25 expansive list of specific standards and requirements you

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1 have to meet to get that accreditation.

2 Q. Now Ms. Berry can you take the jury briefly through
3 what gunshot residue is?

4 A. Yes. Gunshot residue is everything that comes out
5 of the ---

6 MS. ERHLICH: --- Your Honor, I'm going to object.
7 I think he needs to have her qualified as an expert.

8 THE COURT: I don't think she needs to be an expert
9 to testify to that question but I'm assuming that that is
10 coming soon. Are you planning to qualify her as an
11 expert?

12 MR. WARING: Yes, Your Honor.

13 THE COURT: Why don't we go ahead and do that now.

14 MR. WARING: Thank you, Your Honor. At this point
15 the State would like to declare the witness as an expert
16 in the field of gunshot residue analysis.

17 THE COURT: Ladies and gentlemen -- is there any
18 objection?

19 MS. ERHLICH: No, Your Honor.

20 THE COURT: Normally when a person testifies they
21 cannot give opinion testimony. They must testify as to
22 either what they heard or saw or sensed by smell or
23 something of that nature. There is an exception in our
24 law when someone is qualified because of their education
25 and experience they will be qualified as an expert. Ms.

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1 Berry will be qualified in the area of gunshot residue
2 analysis to give opinion testimony in that area. That
3 does not mean that you must accept her opinion. It is
4 simply evidence for you to use in any way that you see
5 fit. Mr. Waring?

6 MR. WARING: Thank you, Your Honor.

7 Q. [Mr. Waring] Ms. Berry, can you tell the jury what
8 gunshot residue is?

9 A. Yes. Gunshot residue is everything that comes out
10 of the muzzle under the gun when it is fired. This
11 includes primer residue as well as any dirt, debris or
12 oil that might be in the barrel of the gun.

13 What we're specifically looking for when we do
14 gunshot residue analysis is the primer residue analysis.
15 The primer is kept in the bottom of the cartridge which
16 is where the bullet is held. Can I draw on the screen?

17 Q. Sure.

18 A. So if you've got the bullet about right there
19 [indicates] is the bullet and down here [indicates] is
20 where the primer is kept.

21 When someone pulls the trigger on a gun the firing
22 pin will strike the bottom of the cartridge and that will
23 ignite the primer inside with a small explosion. That
24 primer explosion is what is going to push your bullet
25 down the end of your gun. Those primer particles are

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1 unique to bullets. They're unique to cartridges so we
2 call them gunshot residue because that is the unique
3 residue we're looking for when we're looking for whether
4 or not somebody handled a firearm or was near a firearm
5 when it went off.

6 Primer residue consists of three components. They
7 are metals; it's a lead bearing antimony. When that
8 explosion goes off those metals which are solid super
9 heat into a liquid kind of like a mist and then as it
10 cools back down the particles cool in more of a molten
11 shape.

12 So when we're looking for gunshot residue and we're
13 analyzing it we're not just looking for those three
14 components of lead bearing antimony we're also looking
15 for molten particles.

16 Q. And so what happens in the life of a gunshot residue
17 kit?

18 A. A gunshot residue kit well first off we issue them
19 to any agency who requests them free of charge; SLED
20 gives them out. The reason we give out our own is
21 because we perform the quality control on these
22 particular kits.

23 That means every time they go to generate a kit they
24 send us a bunch of samples to test to make sure that the
25 kit is indeed free from contaminants. So we do the

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1 quality control on them. We then issue them out to any
2 agency who wants them and from there when a gunshot
3 residue kit is going to be taken it is opened up, the
4 contents inside are a set of disposable gloves, a set of
5 directions for how to sample kit, gunshot residue
6 information sheet as well as four particle lifts.

7 I actually have an example of a particle lift.
8 There are four of these [indicates] inside. It doesn't
9 look like much but they are all labeled for different
10 parts of the hand. And inside this sterile container you
11 have this little black stub.

12 This black stub is covered in double sided carbon
13 sticky tape. And what someone would do when they were
14 going to sample is they would put it on the hand like a
15 stamp and when the tackiness starts to wear off you would
16 then put it back in its container.

17 So for a gunshot residue the samples that are
18 provided are for the right palm of the hand which would
19 go from down here [indicates], all the way through the
20 fingers, all the way on the surface of the palm, the
21 right back of the hand which would again start right here
22 [indicates] and go all the way up including the webbing
23 between the thumb and index finger and then we also have
24 the left palm and the left back. These areas are
25 sampled because when a gun goes off there is a plume of

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1 smoke that comes out of the gun depending on what kind of
2 gun a little more or a little less may come out. But if
3 you think to an old western movie when they pull the
4 trigger of a gun you see that little plume of smoke that
5 comes and engulfs the hands that's where a lot of the
6 gunshot residue comes from. So that's where we would see
7 it on the hands.

8 Once it is sampled it would then be sealed with
9 tamper evidence tape, it would then be submitted to SLED
10 and it would undergo our log in process. For our log in
11 process they would -- someone would bring the evidence to
12 SLED the case would then be assigned its unique lab
13 identifying number.

14 Each item would then be assigned a unique item
15 number within that case and then it would be logged into
16 our system. This is so we can electronically track each
17 piece of evidence as it moves throughout the lab.

18 Once it is logged in sometimes it sits downstairs in
19 our storage area which is climate controlled and is only
20 for authorized personnel.

21 In this case it's I'd say under 10 people have the
22 key to where the evidence lock up is so that would be the
23 technicians who work there plus upper management. And
24 when it's time for me to get the evidence I'd go down
25 there and I would get it from an evidence technician.

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1 From there I would then follow our GSR protocol for
2 preparing the samples for analysis.

3 Q. Were you involved in the Vaughn Hilliard case Ms.
4 Berry?

5 A. Yes, I was.

6 Q. Initially how did you get brought into this case?

7 A. I was brought into this case as the gunshot residue
8 analyst. I was called and requested to analyze the GSR
9 kits for court.

10 Q. Were GSR kits for this case brought to SLED?

11 A. Yes, they were.

12 Q. And do you know who brought them?

13 A. Shawnta Middleton.

14 Q. Do you know which agency she works for?

15 A. It says here she works with the North Charleston
16 Police Department.

17 Q. Whose kits were brought to SLED?

18 A. I had kits that came from Earl Gregg and Vaughn
19 Hilliard.

20 MR. WARING: May I approach the witness, Your Honor?

21 THE COURT: You may.

22 Q. [Mr. Waring] I'm now showing you what has been
23 marked for identification purposes only as State's
24 exhibits 12 and 13.

25 [Whereupon, the witness is shown exhibits]

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1 Q. Do you recognize those?

2 A. Yes, I do.

3 Q. Can you tell the jury what they are?

4 A. Yes. This is SLED lab number L13-13237 item number
5 one. This is a GSR kit from Earl Gregg. I have also lab
6 number L13-13237 item number two which is a GSR kit from
7 Vaughn Hilliard.

8 Q. Are those kits in substantially the same condition
9 as when you last saw them?

10 A. Yes, they are.

11 Q. And do they fairly and accurately depict both the
12 defendant Vaughn Hilliard's and the witness Earl Gregg's
13 GSR kits?

14 A. Yes, they do.

15 MR. WARING: Your Honor, at this point the State
16 would like to admit exhibits 12 and 13 into evidence.

17 THE COURT: 12 and 13 any objection?

18 MS. ERHLICH: No objection, Your Honor.

19 THE COURT: State's 12 and 13 into evidence without
20 objection.

21 [Whereupon, State's exhibit numbers 12 and 13
22 entered into evidence by the court]

23 Q. [Mr. Waring] On this particular case what happened
24 with these kits provided to SLED?

25 A. When they arrived at SLED and I'm referencing a copy

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1 of our electronic chain of custody they were logged in
2 through forensic technician Nikki Hughes. They were then
3 put into a storage area, a secured storage area that
4 evidence control maintains. From there they moved
5 through custody through different evidence technicians as
6 they were being moved around on the shelves downstairs.

7 That's pretty common. We don't have a whole lot of
8 storage area for the amount of evidence that we take in
9 so sometimes things get moved to different shelves.

10 On April 16th of 2014 the evidence was retrieved by
11 my lieutenant, Lieutenant Jennifer Nates [phonetic] and
12 brought upstairs and put in our arson evidence storage
13 room which is another climate controlled room.

14 Only members of the trace department and upper
15 management have access to it. It is secured by the
16 magnet lock and key locks to get to. The evidence was
17 then stored there until I took custody of it on February
18 13th of 2015.

19 When I took custody of it I initialed and dated the
20 back of the envelope they were contained in as well as
21 the GSR kits themselves. I then opened the two kits one
22 at a time to verify the contents.

23 Also inside there is an information sheet that is
24 filled out by the officer. And these information sheets
25 have the name of the subject the kit was taken of even

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1 though it's written on the outside we like to have the
2 sheet on the inside too to verify because SLED takes
3 things on a said to contain basis so we like to double
4 verify that it belongs to who it says it belongs to.

5 There is also a time written down on this
6 information sheet. The times are the time of the
7 incident as well as the time of collection.

8 SLED will not analyze a GSR kit that has been
9 collected after six hours from the incident on a living
10 person because it's accepted in the scientific community
11 that after four to six hours you won't have GSR on your
12 hands anymore from an incident. It will wear off through
13 normal daily activities.

14 So in this case the times were within the time limit
15 to be analyzed. They were then loaded onto the
16 instrument. The instrumentation I use is a scanning
17 electron microscope with an energy dispersed x-ray
18 detector or SEM.

19 It sounds really complicated but it's not. You just
20 load the samples in and an electron beam shoots down onto
21 your sticky tape sample. If you think of like a science
22 fiction movie of something scanning the surface of a
23 planet or something you get the topography of what is on
24 the sample. So these samples aren't perfectly flat. You
25 have bumps and divots and the instrument sweeps over all

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1 of this. And as it does if it finds a particle that
2 we've told the software is of interest it takes a picture
3 as well as it takes an x-ray spectrum of it to verify
4 what the elements are.

5 So from there once the automated run is complete I
6 go back through and I relocate to each particle that the
7 computer said was of interest to verify that it actually
8 does contain all three components and that it meets our
9 standard for being a molten particle.

10 A molten particle we consider something round a
11 molten particle or something like that [indicates] would
12 be a molten particle. When we're saying molten we're
13 saying molten as opposed to crystalline which would be
14 something with hard angles.

15 We wouldn't want to call something that is
16 crystalline a particle of GSR because it doesn't show
17 that it was under that hot heat and pressure that you
18 would expect from firing a weapon.

19 So once I get all the particles of interest and I
20 relocate it to all of them I pick what I am going to put
21 in my report based on if it meets the criteria and then I
22 generate a bunch of raw data that goes into a report that
23 is then issued.

24 Q. When you picked up these GSR kits had they had been
25 tampered with at that point?

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1 A. No, they had not.

2 Q. If they had been would you have noticed it?

3 A. Yes, I would have.

4 Q. Would you tell the jury what the results were of
5 these gunshot residue kits?

6 A. For the GSR kit from Earl Gregg there was no primer
7 or gunshot residue found on the right palm, the right
8 back, the left palm of the hand. On the left back of the
9 hand we found one round particle that is consistent with
10 gunshot residue.

11 For the kit from Vaughn Hilliard we had no primer
12 gunshot residue found on the right palm. One particle of
13 gunshot residue was found on the right back. One
14 particle associated with gunshot residue was found on the
15 left palm and no primer or gunshot residue was found on
16 the left back.

17 Q. How conclusive is the standard that was found on the
18 defendant?

19 A. His results could imply that he was within the
20 vicinity to a gun when it was discharged. It could also
21 mean that he came into contact with something that was in
22 the vicinity to the discharge of a firearm.

23 Or it would imply that he was either in the vicinity
24 or came into contact with something that was in the
25 vicinity with gunshot residue on it.

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1 Q. Which hand was that?

2 A. One particle of gunshot residue was found on the
3 right back so that would be the back of the right hand.

4 Q. Could that be consistent with a right handed person
5 firing a weapon?

6 A. It could.

7 Q. Now briefly what are the standards again as far as
8 lowest to highest in gunshot residue? Can you explain
9 that to the jury?

10 A. So when we say one particle of gunshot residue we
11 mean one three component molten particle. So that is the
12 most conclusive we can get for gunshot residue. If you
13 think about a pyramid, that's the top of the pyramid;
14 that's your most conclusive.

15 Right below that we would have a consistent
16 particle. A consistent particle would be a two component
17 particle so it would contain two of those elements. So
18 instead of being lead barium antimony it might just be a
19 lead antimony particle.

20 But these particles aren't necessarily common in the
21 environment but they could possibly come from other
22 sources. They also have to be round. They don't get to
23 be molten; they have to be perfectly round in order to be
24 considered a consistent particle. For the next level
25 down you would have an associated particle which again

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1 would have to be round but it's a single component
2 particle. So it's either just round lead or just round
3 antimony or just round barium. These are the least
4 conclusive particles because elements such as round lead
5 you can find all over in the environment.

6 If you go to a hardware store and you pick up an
7 extension cord that was made in China there's a good
8 chance you're going to get some round lead particles on
9 your hand.

10 Q. How conclusive were the standards that were found on
11 the witness Earl Gregg?

12 A. On Earl Gregg's hand only one consistent particle
13 was found on the back of the left hand. That could
14 indicate or corroborate that he was a witness; that he
15 was near a gun when it went off or that he came into
16 contact with something that was near a gun when it came
17 off -- or when it went off.

18 MR. WARING: Beg the court's indulgence.

19 [Whereupon, Mr. Kidd and Mr. Waring confer]

20 Q. [Mr. Waring] Ms. Berry, just briefly going back to
21 the defendant's standard so you gave the example of a
22 pyramid?

23 A. Yes.

24 Q. Where would he be on that?

25 A. With the one particle of gunshot residue that is --

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1 that particle of gunshot residue only could have come
2 from gun primer. I can't say if it is from firing a gun
3 necessarily or if it is just from handling something that
4 was near the fired gun; a gun would be included in that.

5 If there was anything laying around that was in the
6 vicinity to the discharge of a firearm that he handled it
7 could have transferred onto his hand that way. But that
8 one particle could only come from gun primer.

9 And he had one associated particle with that on his
10 left palm which kind of backs up that initial particle so
11 it kind of supports that particle saying that yes this
12 did most likely come from being in the vicinity to the
13 discharge of a firearm or handling something that had
14 been.

15 Q. So was that the most conclusive gunshot residue
16 standard on the defendant?

17 A. Yes.

18 Q. On his right back hand?

19 A. Yes.

20 Q. And on the witness Earl Gregg was that the least
21 conclusive standard on him?

22 A. No, that was the second to least conclusive the
23 consistent particle. So that would again once two
24 components indicate that he was around maybe when there
25 was gun fire or that he may have handled something that

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1 was around gun fire.

2 Q. Could that be consistent with a projectile?

3 A. It could be.

4 MR. WARING: Beg the court's indulgence.

5 [Whereupon, Mr. Kidd and Mr. Waring confer]

6 Q. [Mr. Waring] Ms. Berry, can you discuss a little bit
7 about the distance that the gunshot residue can travel?

8 A. It depends on the caliber of the gun that is used as
9 well as how well it has been taken care of and cleaned
10 and the ammunition. There's also other factors such as
11 if it was outside was the wind blowing and different
12 things like that can affect the distance. What caliber
13 firearm was used in this particular incident?

14 Q. A .22 caliber.

15 A. A .22 caliber? So for a .22 that's relatively small
16 ammunition so we wouldn't expect it to travel more than
17 maybe four to six feet in general.

18 Q. Would you expect the most conclusive standard to be
19 from somebody who was in the closest proximity to a gun
20 being fired?

21 A. Yes.

22 Q. Therefore would you expect a lesser standard from
23 somebody who was farther away?

24 A. Yes.

25 MR. WARING: Beg the court's indulgence.

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1 [Whereupon, Mr. Kidd and Mr. Waring confer]

2 Q. [Mr. Waring] Please answer any questions the defense
3 has.

4 THE COURT: Ms. Ehrlich?

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1 CROSS-EXAMINATION

2 BY MS. EHRLICH:

3 Q. Ms. Berry, you only test the items that are given to

4 you right?

5 A. That's correct.

6 Q. And in this situation the police agency would send

7 off a kit for you to test?

8 A. Yes.

9 Q. And in this case you didn't get a kit on a gentleman

10 named Troy Cason did you?

11 A. No, I did not.

12 Q. And you also didn't receive any sort of clothing to

13 test?

14 A. No, I did not.

15 Q. And if I'm correct you can test clothing for gunshot

16 residue.

17 A. Yes, we can.

18 Q. And that could potentially help determine how far

19 away a shooter was from the person shot?

20 A. That would specifically be what we call distance

21 determination. SLED no longer performs that specific

22 analysis. We're not accredited in that and we don't

23 perform that. We used to I guess years ago but we don't

24 anymore.

25 Q. But you can test for -- you have -- do you have the

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1 ability to test for gunshot residue?

2 A. What we would be doing is taking a particle similar
3 to this one and we would dab specific areas of the
4 clothing that are most likely to have gunshot residue on
5 them. And we would then analyze that.

6 Q. And you didn't get clothing from any individuals in
7 this case to test?

8 A. Not that I'm aware of no.

9 Q. And the particle on Mr. Gregg was consistent with
10 gunshot residue that's the middle of the road?

11 A. Yes.

12 Q. And so I believe you indicated that could mean that
13 somebody was in the vicinity of a discharge of a firearm?

14 A. Yes. Gunshot residue as well as coming out in a
15 plume around the hands some of it will follow the path of
16 projectiles.

17 So if you have a person who fires a gun and say
18 there is someone standing off to the side they could
19 potentially get gunshot residue on them or a particle
20 consistent or associated with it just from the bullet
21 coming out.

22 It typically follows kind of a cone pattern and
23 anything in that cone could potentially have gunshot
24 residue on it.

25 Q. Okay. And your job really is just to test for the

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1 presence of the particles?

2 A. I actually can relocate two specific particles so
3 it's not ---

4 Q. --- but you're not -- they don't send stuff to you
5 for you to figure out what happened on the scene.

6 A. No.

7 Q. You're just testing for the presence of particles.

8 A. Yes, ma'am.

9 Q. And so you can't tell why somebody fires a gun; just
10 maybe that they potentially did it.

11 A. Yes, that's correct.

12 Q. Thank you.

13 THE COURT: Mr. Waring?

14 MR. WARING: No further questions, Your Honor.

15 THE COURT: You may step down. Thank you.

16 [Whereupon, the witness is excused and exits the
17 witness stand]

18 THE COURT: Call your next witness.
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1 MR. WARING: The State calls Doctor Schandl.
2 [Whereupon, Doctor Schandl comes forward]
3 [Whereupon, the witness is duly sworn by the Clerk
4 of Court]

5 CLERK OF COURT: If you could please state your
6 first and last name and then spell your last loudly and
7 clearly into the microphone for the record please.

8 THE WITNESS: Cynthia Anna Schandl, S-C-H-A-N-D-L.

9 - - - - -

10 CYNTHIA SCHANDL,

11 Having been first duly sworn,

12 Was examined and testified as follows:

13 DIRECT EXAMINATION

14 BY MR. WARING:

15 Q. Good morning Doctor Schandl how are you doing?

16 A. I'm doing well, thank you.

17 Q. Doctor Schandl, please tell the jury where you work.

18 A. I'm employed at the Medical University of South
19 Carolina here in Charleston, South Carolina in the
20 department of Pathology and Laboratory Medicine in the
21 Forensic and Medical Autopsy section.

22 Q. And what's your occupation?

23 A. I'm an anatomic pathologist, clinical pathologist,
24 and forensic pathologist.

25 Q. Please tell the jury what forensic pathology is.

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1 A. Sure. So pathology is the study of disease
2 pathology -- the study of disease. And in order to
3 become a forensic pathologist one is first training to be
4 a physician so a forensic pathologist is a doctor.

5 I did my undergraduate training at the California
6 State University system in San Bernardino and then did my
7 medical school training here at the Medical University of
8 South Carolina here in Charleston.

9 After getting a medical degree before you can sub-
10 specialize in forensic pathology you need to train in
11 anatomic pathology. So there is a residency program that
12 follows medical school for training in pathology and I
13 went through the anatomic and clinical pathology training
14 program.

15 And with that training in hand then you can do an
16 additional year which is called a fellowship in forensic
17 pathology specifically. And in that year you learn many
18 techniques related to autopsy procedure and other things
19 where the study of disease and injury intersect with
20 legal implications.

21 So forensic pathology itself is the study of disease
22 as it applies to the law essentially.

23 Q. Have you ever been declared an expert in court
24 before?

25 A. Yes, sir.

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1 Q. And approximately how many times?

2 A. More than a hundred.

3 Q. More than a hundred?

4 A. Yes, sir.

5 Q. What exactly was the area you were qualified in?

6 A. Forensic pathology.

7 MR. WARING: Your Honor, at this time the State
8 asks that the witness be declared an expert in the area
9 of forensic pathology.

10 THE COURT: Any objection?

11 MR. LOIGNON: No objection, Your Honor.

12 THE COURT: The witness will be so qualified.

13 Q. [Mr. Waring] Doctor Schandl, please tell the jury
14 what an autopsy is?

15 A. Sure. So an autopsy is a medical and surgical
16 procedure that is performed on someone who has died.
17 There are many different reasons to do an autopsy.

18 For the forensic pathology world usually you're
19 trying to find out the cause and manner of death because
20 there is either some suspicion of foul play or there is
21 no history of disease process so we just don't know why
22 the person died.

23 On the other side of the coin they have the thing
24 called the medical autopsy and that's frequently done to
25 document all the changes of a disease process. If you

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1 have a good idea what happened like first he's been in
2 the hospital awhile but you want to document specifically
3 what kind of tumor for example, what did the tumor
4 affect, were there any other illnesses or diseases
5 underlying that were not discovered clinically or by
6 radiology.

7 So basically an autopsy is a medical and surgical
8 procedure that begins with an external examination.
9 First I'll look at the outside of the body, take a set of
10 photographs how that person comes to me, whether they
11 have clothes or they don't have clothes and then look at
12 the surfaces of the body, write down things that might
13 help in identification such as the length, hair color,
14 eye color, any scars, tattoo; those sorts of things.

15 And then also look for injury or other things that
16 you could see on the surface of the body. I take a
17 series of photographs at that point as well and also do
18 diagrams if there is anything interesting that I find
19 that I think needs to be written down.

20 So following the external examination sometimes
21 there is clothing that needs to be looked at separately
22 and sometimes there's not. In a case similar to this
23 where there has been a gunshot wound get radiology to
24 come and take a series of x-rays. The reason for that is
25 to look for a bullet if it's still in the body and that

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1 helps me find the bullet in the body so that I can give
2 it to law enforcement for investigation later. So in
3 this case there were also x-rays taken. And then
4 following those things; the external examination and x-
5 ray examination then we turn our attention to the inside
6 of the body.

7 So the internal examination which is what is usually
8 thought of as the autopsy where we perform a Y-incision
9 and we're going to look at each and every organ in the
10 body for disease processes, evidence of injury.

11 We'll take fluids for toxicology if that makes sense
12 in the case and in forensic cases we try to find a good
13 source for toxicology testing in every case.

14 Also part of the autopsy the autopsies that I
15 perform I take samples to look at under the microscope;
16 again to document any injury, to document any pathology
17 or disease processes.

18 Then I put all those things together into a report
19 and that report is given back to the coroner who referred
20 the case to us.

21 Q. Were you involved specifically with the victim Troy
22 Cason?

23 A. Yes, sir.

24 Q. How did you get brought into that?

25 A. So again in this state we have a coroner system. So

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1 the coroner's office will let us know that somebody has
2 died and give us basic information what they know at the
3 time as to the circumstances surrounding the death. So
4 basically the cases are referred to the forensic
5 pathologist from the coroner. And that's what happened
6 in this case.

7 Q. Do you recall the date he was brought in?

8 A. Yes. So I also have the report with me so that I
9 can refer to things like dates and I'm going to pull it
10 out now.

11 So the report that I generated and gave to the
12 coroner, I have a copy of that here. The date that we
13 performed the autopsy was September 9th of 2013.

14 Q. And where was the victim initially brought?

15 A. It's my information that he was first brought not to
16 MUSC but to another local hospital. They gave me the
17 name Roper but I don't have any way to confirm that.

18 Q. What would have been the reason for taking him
19 there?

20 A. I have no idea. So as far as I know he was brought
21 there by private vehicle so I guess they wanted to go
22 there.

23 Q. What happened after that?

24 A. So after that according to the record, and again I
25 wasn't involved in the case at this point but according

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1 to the record at this point they asked emergency
2 physician surgeon to come over and consult from Roper
3 emergency room from MUSC. So an MUSC physician went over
4 to Roper and had him transferred to MUSC because there
5 were no surgeons on staff for that sort of procedure at
6 Roper at that time.

7 So they then brought him over to MUSC and he went
8 through the emergency room and then went up to the
9 operating room so they could try to find what was
10 happening.

11 Q. What was his condition when he was brought to MUSC?

12 A. Again, I'm referring to the medical records that
13 I've read. Again, I was not involved in his care at this
14 point but according to the records he was not stable.
15 His blood pressure was dropping and they were concerned
16 that he was bleeding.

17 Q. Based on your reading of the report do you know what
18 kind of surgeries they performed on him?

19 A. Yes. So again according to the operating note what
20 they did was they opened up his belly so a midline
21 incision from the chest down to the belly button, they
22 call it a laparotomy.

23 So they opened up his belly and looked inside and it
24 was full of blood. So they got all the blood out, this
25 is paraphrasing the op note mind you; they got all the

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1 blood out and packed the different quadrants. So we
2 consider the abdomen to have four quadrants. We have a
3 left upper quadrant, a right upper quadrant, a left lower
4 and right lower so if you can just think of it that way.

5 They said they packed all the quadrants of the
6 abdomen so basically what that means is they shoved
7 towels up in there; things to absorb the blood and
8 hopefully stop the bleeding just by compression.

9 And then after that they would take out the packing
10 that they stuck in there from a particular quadrant and
11 see where is our bad area, where do we need to turn our
12 attention. They discovered that there was a lot of
13 bleeding from the left upper quadrant so on your left
14 side right under your rib cage.

15 The left upper quadrant was bleeding quite a bit
16 when they took those towels out and so we better try to
17 work on this area. So during their procedure they had to
18 take out the left kidney, they had to take out the
19 spleen, they took out part of his colon and they took out
20 part of his pancreas as well as trying to stop the
21 individual bleeding vessels as they were going through.

22 At that point it sounds like then they tried to put
23 him back together, you know just close the wounds
24 temporarily and put him in the critical care unit for
25 care but then it seemed like he was still bleeding. They

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1 could not get him to bring his blood pressure up and to
2 come back. So they brought him back to the emergency
3 room and opened him and he's still bleeding. So one of
4 the things that happen when you bleed a lot is that you
5 use up all the things in your blood that help you to clot
6 so to stop bleeding.

7 So if you bleed a really lot you become very bad at
8 not bleeding so you can keep bleeding. So they call that
9 coagulopathy so coagulation pathology so not coagulating
10 well and he wasn't.

11 They brought him back and he's still bleeding and
12 they're still trying to sort out if there is anything in
13 particular that they can work on to stop the bleeding and
14 they just couldn't find anything particular; he was
15 bleeding from pretty much everywhere.

16 And then eventually he died from all of that blood
17 loss. And then at that point that's when the coroner
18 gets involved and they contact us and the body would come
19 down to the morgue at MUSC.

20 Q. Do you know what the date and time of death was?

21 A. Yes. I have his date of death as September 9th,
22 2013 and the time as 12:44 a.m.

23 Q. Now Doctor Schandl did you conduct the autopsy?

24 A. Yes sir, me and a trainee.

25 Q. And at that point I know you briefly mentioned it

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1 but did you review medical records?

2 A. Yes, I looked through his records the ones that I
3 described to you.

4 Q. Did you ascertain what the cause of death was?

5 A. Yes, sir.

6 Q. And what was the cause of death?

7 A. The cause of death is a gunshot wound to the
8 abdomen.

9 Q. Did you actually observe any injuries on the victim?

10 A. Yes. So on the external examination I saw the
11 entrance gunshot wound and that was also at the left
12 upper quadrant of the abdomen. And I could follow that
13 pathway through what organs were still in the body.

14 So it went through between ribs nine and ten on the
15 left and then it seemed to sneak into the soft tissue
16 next to the back. Interestingly the bullet was not in
17 the body either by x-ray or by my exam and there was no
18 exit wound either.

19 And I found that although unfortunate to probably be
20 a reason be because all the surgical intervention. They
21 have towels in him and they're getting blood out and
22 they're taking organs out.

23 So during that process things like that can get lost
24 so that's my assumption is that the bullet ended up
25 somewhere in the trash in the operating room.

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1 Q. Do you recall if there was any soot on the entry
2 wound?

3 A. At my examination there was no soot on the entrance
4 wound.

5 Q. And what organs were missing?

6 A. So again the organs that were missing was the
7 kidney, the left kidney, part of the spleen -- no not
8 part of the spleen; sorry, part of the pancreas, the
9 entire spleen and part of the colon or the large bowel as
10 well as they also ended up taking a bit of the small
11 bowel when they had to go back and cut again.

12 Q. In your opinion what does it mean that those organs
13 were removed?

14 A. So those were most likely damaged due to the gunshot
15 wound. And when you go back and look at the pathology
16 reports they take the organ out and then they send it to
17 the pathology department.

18 So that's another area of pathology. Those organs
19 didn't come through autopsy. They went through what's
20 called surgical pathology because he was having surgery
21 at the time so that makes sense.

22 So those organs went through surgical pathology and
23 the description of the kidney for example is that it had
24 a penetrating wound that was more than an inch wide. So
25 I'm presuming that's where the bullet went through. And

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1 there was also described with the spleen that there was
2 -- that the capsule, so it's covered in kind of this
3 smooth skin thing so the capsule was damaged so that may
4 have been where the spleen had been hit.

5 The pancreas was more described as being hemorrhagic
6 or bloody so it's a little difficult to tell whether the
7 bullet actually went through the spleen or not but then
8 the bowel clearly had it described that there was a hole
9 through it. So I'm presuming that the bullet also went
10 through that.

11 MR. WARING: May I approach the witness, Your Honor?

12 THE COURT: You may.

13 Q. [Mr. Waring] I'm now showing you what has been
14 marked for identification purposes only as State's
15 exhibits 26 and 27.

16 [Whereupon, the witness is shown exhibits]

17 Q. Do you recognize those Doctor?

18 A. Yes. These are each x-rays of Mr. Cason. One is
19 closer up on the chest from front to back and one is at
20 the abdomen from front to back; so two x-rays.

21 Q. Do they fairly and accurately depict the victim's
22 X-rays on the day that you examined them?

23 A. Yes, sir.

24 MR. WARING: Your Honor, at this point the State
25 would like to move exhibits 26 and 27 into evidence.

State v Vaughn Hilliard
Cynthia Schandl-Direct Examination by Mr. Waring
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1 THE COURT: Any objection?

2 MR. LOIGNON: No objection, Your Honor.

3 THE COURT: State's 26 and 27 into evidence without
4 objection. You may publish.

5 [Whereupon, State's exhibit numbers 26 and 27 are
6 entered into evidence by the court]

7 MR. WARING: Thank you, Your Honor.

8 Q. [Mr. Waring] Doctor Schandl, would you tell the jury
9 what we're looking at here?

10 A. Yes, sure. So this again is an x-ray that is taken
11 from front to back. This thing in the middle here
12 [indicates] this is his vertebral column going all the
13 way down like that. This thing over here [indicates] is
14 one of the towels or surgical sponges that has been left
15 in there to try to keep the bleeding at bay.

16 You see there is a little sort of fragment here that
17 is in the area where the bullet went so I'm presuming
18 that is a bullet fragment. It looks like all we have
19 left of what happened to the bullet in this story. And
20 that's about it.

21 Q. And on this one Doctor?

22 A. So here's we're just a little bit lower down. We
23 still have his vertebral column which you can see going
24 up that way. Over here this is his hip bone, his pelvis.
25 So we're lower down; the other one was higher up in his

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1 belly. But again we're just seeing this little fragment
2 there [indicates] that is likely a piece from the bullet.
3 That's about it.

4 Q. Is that fragment consistent with what you believe
5 the trajectory of the bullet to be?

6 A. Well I wouldn't say trajectory but it is in the area
7 where I think the bullet went after it came. I know
8 where the entrance wound is and following essentially the
9 destruction I can see where the bullet should have been
10 on exam and by x-ray and it wasn't. It's sort of in that
11 area where that little fragment is.

12 Q. Could that be consistent with the victim having his
13 side turned to the defendant?

14 A. So in this case the entrance wound is again to the
15 left upper quadrant so you go right down from there
16 [indicates]. And then where the bullet went is it went
17 -- so for him it went from front to back just a little
18 bit and slightly down and about -- instead of going left
19 on him it went about 45 degrees to the right like that
20 [indicates].

21 So I don't know anything else except how it
22 travelled through his body. He could have been turning,
23 he could have been lying down; he could have been doing
24 all kinds of things. I just know sort of where the
25 bullet entered his body and where it stopped.

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1 MR. WARING: May I approach the witness, Your Honor?

2 THE COURT: You may.

3 Q. [Mr. Waring] I'm not showing you what has been
4 premarked for identification purposes only as State's
5 exhibit 28.

6 [Whereupon, the witness is shown exhibit]

7 Q. Could you please tell the jury what that is?

8 A. This is part of a man. This seems to be a hollow
9 thing shaped like a guy's chest with no arms and no head.
10 That's what that is.

11 Q. Does that fairly and accurately represent what a
12 male torso looks like?

13 A. One who is in pretty good shape.

14 Q. Doctor, do you notice a hole on the side of that
15 torso?

16 A. I do. There is a little hole right here
17 [indicates].

18 Q. And does that hole fairly and accurately represent
19 where the victim was shot approximately?

20 A. Yes. It is a good approximation of where the
21 entrance wound is.

22 Q. Would you be so kind as to show the jury with that
23 skewer what the approximate trajectory of the bullet was?

24 A. Sure, not a problem. So we were talking about if
25 the entrance wound is here [indicates], this would be if

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1 it was going straight back and not left or right or up or
2 down right so it's going slightly down and it's going
3 slightly back as well like that [indicates] and then to
4 the right about 45 degrees.

5 So if he is straight on with you like that
6 [indicates] if it was going left it would go like that
7 [indicates] that would be 45 degrees left but it's going
8 to the right.

9 So 45 degrees right on him so if we turned him
10 around [indicates]. Now you can see how it is going
11 right? So it's based on how he is positioned not how
12 you're looking at it. So I guess that's like stage right
13 or something.

14 So about 45 degrees right, a little bit down and a
15 little bit back so it's kind of like this [indicates].
16 There is some stuff in there to make it stick. So like
17 that [indicates]; it really doesn't want to stay.

18 So something like that [indicates]. So let me start
19 over so you can see again more accurately. So 45 to his
20 right, slightly down, slightly back like that
21 [indicates].

22 So then it went through all the stuff in the way;
23 spleen, kidney, bowel, pancreas, and then -- it's not
24 going to really stay in there very well.

25 Q. What you showed the jury is that an accurate

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1 representation of the trajectory?

2 A. Yes, that's what we call the trajectory; it's where
3 the angle between where it goes into the body and where
4 it ended up in the body, that's correct.

5 MR. WARING: Your Honor, at this point the State
6 would like to move exhibit 28 into evidence.

7 THE COURT: Mr. Loignon?

8 MR. LOIGNON: No objection, Your Honor.

9 THE COURT: State's 28 into evidence without
10 objection.

11 [Whereupon, State's exhibit number 28 is entered
12 into evidence by the court]

13 Q. [Mr. Waring] Now Doctor switching gears just a
14 little bit was there a toxicology report done?

15 A. Yes. So in his case he was in the hospital for some
16 hours and he received a lot of blood as you might imagine
17 because he was bleeding. So that was what they were
18 doing is giving him a lot of blood.

19 So although normally in an autopsy the sample that
20 we send for toxicology is a sample that we get at
21 autopsy. In this case that wouldn't have made any sense
22 to me because by that time he's got somebody else's blood
23 in him right.

24 So in this case they still had what they call the
25 admission blood sample. So as soon as somebody comes in

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1 particularly if they are a trauma victim they need to get
2 a sample because they're going to have to type and cross
3 them for blood. And then as time goes on of course they
4 get different samples for different purposes. So in this
5 case we were quite fortunate that they had an admission
6 sample that we could send for toxicological analysis.

7 So this serum sample that I got from the lab
8 essentially I sent off for toxicology and yes, there was
9 a toxicology report generated and I can give you the
10 results.

11 Q. Please?

12 A. In that sample there was ethanol which is alcohol at
13 208 milligrams per deciliter, that is equivalent in a
14 percentage how we think of it for driving and such as
15 point two zero eight.

16 So that's higher than you would want to be driving
17 with because the driving limit in this state is point
18 zero eight and this is point two zero eight. So that's
19 more than two times higher than what you would want to be
20 driving with.

21 And the other thing that was found is something
22 called benzoylecgonine. And benzoylecgonine is a
23 breakdown product or metabolite or however you want to
24 say it of cocaine. It's not active but it means at some
25 point in the past his body had been exposed to cocaine.

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1 Q. How much of that benzoylecgonine did he have in his
2 system?

3 A. The amount of benzoylecgonine is 110 nanograms per
4 milliliter.

5 Q. Is that a large or small amount?

6 A. It's a relatively small amount essentially.

7 Q. Doctor, can you tell whether or not the victim was
8 actually under the influence of cocaine at the time his
9 blood was taken?

10 A. I have no evidence that he was. Again,
11 benzoylecgonine is not active. It's an inactive
12 metabolite and no cocaine was identified in his sample so
13 I have no evidence to suggest that he was under that
14 influence.

15 Q. How would you be able to tell if there was cocaine
16 in his system?

17 A. Well I mean for one thing cocaine is one of the
18 things that they test for in the sample. So the most
19 straightforward answer to that is there cocaine in the
20 sample? And the answer to that is no.

21 The other thing you can look for is other breakdown
22 products of cocaine that may be active. So one of those
23 is called one of those ridiculous words, one of them is
24 called cocaethylene. Cocaethylene is actually a
25 metabolite and it forms when you put together alcohol and

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1 cocaine you can get cocaethylene which happens to be an
2 active metabolite. So that wasn't there either so he's
3 not under that influence.

4 So I have no evidence in his toxicology that he was
5 under the influence of cocaine since no cocaine -- there
6 is no active metabolite. The only thing is have is
7 benzoylecgonine, the B one, which is not active.

8 MR. WARING: Beg the court's indulgence.

9 THE COURT: Take your time.

10 [Whereupon, Mr. Kidd and Mr. Waring confer]

11 Q. [Mr. Waring] Just briefly Doctor, could you tell the
12 distance that the projectile was fired from?

13 A. So in forensic pathology we look at the skin to see
14 if we can estimate the range of fire. So I presume he's
15 referring to what we call the range of fire which is the
16 distance from the muzzle, or the business end of the gun,
17 to the target which in this case was Mr. Cason's left
18 upper quadrant.

19 So there are only really two things that we can look
20 for; soot on the skin or stippling on the skin. So soot
21 would be deposited right around the wound if the muzzle
22 or the business end of the weapon was up against the skin
23 or in very close proximity so we call that a contact
24 gunshot wound. Stippling is other particulates that are
25 coming out of the muzzle that have come from the barrel

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Cynthia Schandl-Direct Examination by Mr. Waring
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1 of the gun and actually get out there and scrape the
2 skin. So stippling is a scraping of the skin. So we
3 look for those two things. That means that it wasn't
4 contact but it was close enough that those things coming
5 out of the end of the gun could get to the skin to scrape
6 it.

7 In this case I don't find any soot or stippling. So
8 from my point of view that means it's an indeterminate
9 range so there are a number of explanations for why there
10 would be nothing on the skin.

11 One is that it's a distant gunshot wound so it's
12 outside of that range. It's not contact, it's not close
13 range where things would scrape the skin and cause
14 stippling. It's far enough that nothing gets there
15 except for the bullet.

16 But there are other explanations. There could have
17 been something between the muzzle of the gun and him.
18 There could have been some of these deposits on the
19 clothing of which I did not see -- I didn't receive
20 clothing so I can't tell you if there was or wasn't
21 something on his clothing.

22 So from my point of view rather than calling that a
23 distant I call it an indeterminate because there is more
24 than one explanation for finding nothing on the skin.
25 Another possibility is that soot, which can wipe off, was

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1 somehow wiped off during all his surgical procedures. So
2 again from my point of view no it's indeterminate.

3 MR. WARING: Beg the court's indulgence.

4 [Whereupon, Mr. Kidd and Mr. Waring confer]

5 Q. [Mr. Waring] Please answer any questions the defense
6 has.

7 THE COURT: Mr. Loignon?

8 MR. LOIGNON: Thank you, Your Honor.

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State v Vaughn Hilliard
Cynthia Schandl-Cross-Examination by Mr. Loignon
June 9, 2015

1 CROSS-EXAMINATION

2 BY MR. LOIGNON:

3 Q. Hi Doctor Schandl.

4 A. Hi.

5 Q. You were just talking about soot and stippling. You
6 mentioned that the lack of soot on Mr. Cason's body could
7 be from being a particular distance away from the
8 gunshot.

9 A. Yes.

10 Q. And how far away would someone need to be to not get
11 any soot?

12 A. Well soot again is associated with those gunshot
13 wounds where the muzzle is right up near or against the
14 skin, so contact gunshot wound. So if you get out more
15 than about six inches you're not going to get soot on the
16 skin.

17 Q. And you mentioned that you weren't provided with any
18 of Mr. Cason's clothing.

19 A. That's correct.

20 Q. So you have no idea if there was soot on the
21 clothing?

22 A. I do not know.

23 Q. And you're unable to tell us how close Mr. Cason was
24 to the shooter?

25 A. That's correct.

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1 Q. You only have the entrance wound to study to give
2 you any indication of that correct?

3 A. That's correct.

4 Q. And speaking of the entrance wound you were also
5 talking about the direction that the bullet came from?

6 A. Yes, the trajectory.

7 Q. Right. You said the entrance wound was to the left
8 upper abdominal quadrant?

9 A. Yes.

10 Q. And you pointed out it's just below the chest. You
11 indicated with the item there, the skewer that went into
12 the hole the direction that the bullet may have come
13 from.

14 A. Well it doesn't really tell me what direction the
15 bullet came from. It really only tells me how it
16 traveled through the body because if you can imagine the
17 number of different ways that a person can move, both the
18 person who is being shot and the shooter.

19 Even if you just take the variable that somebody has
20 a gun so they can shoot you from down here [indicates],
21 they can shoot you from up here [indicates], they can
22 shoot you from up here [indicates], they can shoot you
23 from over here [indicates], they can shoot you from over
24 there [indicates]. Already I don't know where the two
25 people are. Again, all I know is how it went through Mr.

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1 Cason's body. And then of course you have the person
2 who gets shot and they could be moving quite a bit as
3 well. They could be running, they could be turning, they
4 could be I don't know ducking, diving, dodging; those
5 sorts of things.

6 MR. LOIGNON: May I approach, Your Honor?

7 THE COURT: You may.

8 Q. [Mr. Loignon] So when you were manipulating this
9 [indicates] you were indicating how the bullet was
10 travelling once it passed the skin into the body?

11 A. Yes.

12 Q. You weren't indicating that this [indicates] is the
13 direction that the bullet came from or this [indicates]
14 was the direction that the bullet came from.

15 A. That's correct. All I know -- if you put this item
16 just standing straight still like that [indicates] and
17 not moving at all I can show you where the bullet went in
18 and what it went through and where it stopped.

19 But he could have been on the floor and then the
20 bullet would have been coming from up there [indicates].
21 I don't know those things.

22 Q. So when you examined the entrance wound you examined
23 the circumferential abrasion border?

24 A. Yes, sir.

25 Q. And that's one of the tools that you use to tell if

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1 the bullet came from an extreme angle?

2 A. It can help with that. So what he is referring to
3 is that the bullet is spinning as it's going through
4 space. In modern weaponry it puts a twist on a bullet
5 and so as it goes through the skin it actually causes an
6 abrasion of the skin as it goes into the body.

7 So if there was a great angle that abrasion might
8 take off some skin at an angle. So in this case there
9 wasn't any extreme angle to that abrasion border. It was
10 the same all the way around.

11 Q. So that indicates that the bullet did not come at an
12 extreme angle.

13 A. Essentially when it hit him it was essentially going
14 pretty much from -- through the skin perpendicularly.

15 Q. So you can't rule out that Mr. Cason was facing Mr.
16 Hilliard when he was shot?

17 A. No, I can't rule out -- I don't know where these
18 people were; no, no idea.

19 Q. And you can't rule out that Mr. Cason was even
20 moving towards Mr. Hilliard when he was shot?

21 A. That I do not know.

22 Q. You also mentioned the toxicology report.

23 A. Yes, sir.

24 Q. And you mentioned that ethanol was found in Mr.
25 Cason's blood?

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Cynthia Schandl-Cross-Examination by Mr. Loignon
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1 A. Yes, it was.

2 Q. And his blood alcohol content was point two zero
3 eight is that right?

4 A. That's correct.

5 Q. And you mentioned it was over twice the legal limit.
6 So what are some affects that alcohol can have on an
7 individual?

8 A. Well it's very dependent on that individual so I
9 can't say what any particular person what kind of affects
10 they might have. So it's a high level so many of us
11 would be you know tired and our reflexes would be slowed
12 and those sorts of things.

13 But many of us have a similar experience with people
14 who drink and they get tired, maybe they get activated,
15 maybe they get angry. The number of different things
16 that happens to an individual at a specific level of
17 alcohol really has to do with that person.

18 And in other people a 200, a point two of alcohol
19 that's how they function. That's the level that they
20 function at and you're not going to see any impairment
21 because that's how they are all the time. So I can't say
22 in this particular case how it would have affected Mr.
23 Cason.

24 Q. How old was Mr. Cason?

25 A. He was 46 at the time of his death.

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1 Q. And do you recall his height and weight?

2 A. I recall his height was 6-1 and his weight I can
3 look.

4 [Whereupon, the witness reviews document]

5 A. Two hundred and forty-three.

6 MR. LOIGNON: Beg the court's indulgence.

7 THE COURT: Take your time.

8 [Whereupon, Ms. Ehrlich and Mr. Loignon confer]

9 Q. [Mr. Loignon] Nothing further.

10 THE COURT: Redirect?

11 MR. WARING: Thank you, Your Honor just briefly.

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State v Vaughn Hilliard
Cynthia Schandl-Redirect Examination by Mr. Waring
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REDIRECT EXAMINATION

BY MR. WARING:

Q. Was the victim -- would you say he was in shape?

A. Was he in shape? I'd have to look at the pictures.
Was he in shape? Give me a minute.

[Whereupon, the witness reviews photographs]

A. He appeared to be in reasonably good condition; not
-- he doesn't have a fat appearance. And the other thing
that is a little difficult is that he had a lot of water
weight by the time I got him just from all the surgeries
and stuff so he looks a little bloated. But I think in
general he's in reasonably good shape.

MR. WARING: Beg the court's indulgence.

[Whereupon, Mr. Kidd and Mr. Waring confer]

Q. [Mr. Waring] Doctor just briefly at what distance
would you expect to see stippling?

A. So look back to the subject of range of fire. We
talked about how with soot you're very close to or up
against the target.

With stippling, stippling is again when the skin is
actually scraped when the particulates are leaving the
end of the gun so that backs you up as much as two or
three feet you can see stippling.

The only way to really know is to use the same gun
and the same ammunition, use a practice target and start

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June 9, 2015

1 there and start right at it and then move back and see
2 what kind of pattern you're making with that particular
3 gun and that particular ammunition. But as a general
4 idea stippling won't deposit, it won't get all the way to
5 the body after two or three feet away.

6 MR. WARING: Beg the court's indulgence.

7 [Whereupon, Mr. Kidd and Mr. Waring confer]

8 Q. [Mr. Waring] Was there any stippling in this case?

9 A. No, there was no stippling in this case.

10 MR. WARING: No further questions, Your Honor.

11 THE COURT: Mr. Loignon?

12 MR. LOIGNON: Nothing further, Your Honor.

13 THE COURT: You may step down. Thank you.

14 [Whereupon, the witness is excused and exits the
15 witness stand]

16 THE COURT: Ladies and gentlemen we're going to
17 take a quick mid morning break. Do not begin your
18 deliberations. Do not discuss the case amongst
19 yourselves. Take your note pads with you or leave them
20 in your chair. Thank you.

21 [Whereupon, the jury exits at 11:48 a.m.]

22 THE COURT: Counsel, approach just for scheduling.

23 [Whereupon, an off the record bench conference is
24 held]

25 THE COURT: Let's take about ten minutes.

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1 [Whereupon, court is in recess from 11:51 a.m. until
2 12:01 p.m.]

3 THE COURT: Let's bring in the jury.

4 [Whereupon, the jury enters at 12:02 p.m.]

5 THE COURT: Call your next witness, Mr. Waring.

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State v Vaughn Hilliard
Michael Cook-Direct Examination by Mr. Waring
June 9, 2015

1 MR. WARING: The State calls Officer Cook.
2 [Whereupon, Mr. Cook comes forward]
3 [Whereupon, the witness is duly sworn by the Clerk
4 of Court]

5 CLERK OF COURT: If you could please state your
6 first and last name and then spell your last loudly and
7 clearly into the microphone for the record.

8 THE WITNESS: Michael Cook, C-O-O-K.

9 MR. WARING: Thank you, Your Honor.

10 - - - - -

11 MICHAEL COOK,

12 Having been first duly sworn,

13 Was examined and testified as follows:

14 DIRECT EXAMINATION

15 BY MR. WARING:

16 Q. Good afternoon Officer Cook, how are you?

17 A. Good. How are you sir?

18 Q. Good. Officer Cook could you tell the jury where
19 you work?

20 A. At the North Charleston Police Department.

21 Q. And how long have you worked there?

22 A. Thirteen years.

23 Q. What is your job title there?

24 A. I am currently assigned to the Crime Scene unit.

25 Q. Can you go through a few of your duties and

State v Vaughn Hilliard
Michael Cook-Direct Examination by Mr. Waring
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- 1 responsibilities?
- 2 A. Respond to scenes, process for latent prints, blood
3 evidence, also collect and package evidence.
- 4 Q. Were you involved with the Vaughn Hilliard case?
- 5 A. No, not until recently.
- 6 Q. Were you involved in any capacity?
- 7 A. No.
- 8 Q. Evidentiary wise?
- 9 A. No.
- 10 Q. Were you -- did you get brought into that case after
11 the fact?
- 12 A. I did.
- 13 Q. And how did you get brought into it?
- 14 A. Sherry Niblock who is an investigator with the
15 Solicitor's office contacted my supervisor in reference
16 to checking for a shell casing behind a residence.
- 17 Q. Do you recall which date you were tasked with doing
18 that?
- 19 A. I believe it was May 19th.
- 20 Q. Did you initially have any involvement in this case
21 other than what you're telling us now?
- 22 A. No.
- 23 Q. Do you recall the address you were searching for the
24 casing at?
- 25 A. [REDACTED] Dayton Street.

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Michael Cook-Direct Examination by Mr. Waring
June 9, 2015

1 Q. And is that in Charleston County?

2 A. It is.

3 Q. Were you told what kind of caliber bullet it was?

4 A. No.

5 Q. Had you studied up on the case or did you otherwise
6 know anything about the case?

7 A. No.

8 Q. Where specifically did you look for the casing?

9 A. If you look at the trailer it would be the right
10 corner 10 to 12 feet on either side of that right corner.

11 Q. When you were actually physically searching for this
12 casing were people standing over your shoulder or were
13 you conducting this search by yourself?

14 A. I was by myself.

15 Q. And did you end up finding anything?

16 A. I did.

17 Q. And what did you find?

18 A. A shell casing.

19 MR. WARING: May I approach the witness, Your Honor?

20 THE COURT: You may.

21 Q. [Mr. Waring] I'm showing you what has been marked as
22 State's exhibit 34 for identification purposes only.

23 [Whereupon, the witness is shown exhibit]

24 Q. Do you recognize that?

25 A. I do.

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Michael Cook-Direct Examination by Mr. Waring
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1 Q. Can you tell the jury what it is?

2 A. It's a white envelope with evidence tape around it
3 and my initials and the date that I collected it on the
4 back.

5 Q. And what specifically is it?

6 A. It's a Super X .22 caliber shell casing.

7 Q. Is that the casing you found that day?

8 A. It is.

9 Q. And is it in substantially the same condition as
10 when you last saw it?

11 A. Yes, sir.

12 Q. Does it fairly and accurately depict the casing that
13 you found that day?

14 A. It does.

15 MR. WARING: Your Honor, may I approach the witness
16 again?

17 THE COURT: You may.

18 Q. [Mr. Waring] I'm now showing you what has been
19 marked State's exhibit 29 through 33.

20 [Whereupon, the witness is shown photographs]

21 Q. Do you recognize those?

22 A. I do.

23 Q. And can you tell the jury what they are?

24 A. They are photos of the shell casing along with the
25 area that I searched.

State v Vaughn Hilliard
Michael Cook-Direct Examination by Mr. Waring
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1 Q. Do they fairly and accurately depict those things?

2 A. Yes, sir.

3 MR. WARING: Your Honor, at this time the State
4 moves to have exhibits 29 through 33 admitted into
5 evidence.

6 THE COURT: Any objection?

7 MS. ERHLICH: No objection, Your Honor.

8 THE COURT: State's 29 through 33 into evidence
9 without objection. You may publish.

10 MR. WARING: Thank you, Your Honor.

11 [Whereupon, State's exhibit numbers 29 through 33
12 entered into evidence by the court]

13 Q. [Mr. Waring] Officer Cook I'm going to put these on
14 the overhead and if you could just tell the jury what you
15 see in each one.

16 A. Yes, sir.

17 [Whereupon, the photograph is shown]

18 A. That is the right side of the trailer looking down
19 towards the back corner.

20 Q. Did you go back there through this path [indicates]?

21 A. I did. I started where the cement pillar is and
22 swept from there back.

23 Q. And it's a touch screen you can actually mark it.

24 A. Okay. I started right about this area here
25 [indicates] and swept either side with the department

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1 issued metal detector all the way around to the back
2 side.

3 Q. And what do you see here?

4 [Whereupon, the photograph is shown]

5 A. The shell casing that I located.

6 Q. Do you see it -- can you indicate on there where you
7 see it? What do you see there?

8 A. This [indicates] is the shell casing.

9 Q. Here's one more.

10 [Whereupon, the photograph is shown]

11 Q. Is that the same casing?

12 A. It is.

13 Q. And lastly can you tell the jury what that is?

14 [Whereupon, the photograph is shown]

15 A. That is the head stamp on the shell casing which
16 reads Super X.

17 Q. And is the one that you found that day?

18 A. It is.

19 Q. Officer Cook did you take those photos?

20 A. I did.

21 Q. After you found the shell casing what did you do
22 with it?

23 A. When I first located it I asked Investigator Niblock
24 what caliber we were looking for just to confirm that
25 this may be the right shell casing.

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1 Q. And so did you turn it into evidence?

2 A. I did. I did.

3 Q. Did you label it?

4 A. I did.

5 Q. And did you put any other identifying markers on it?

6 A. I put my initials and the date on the back of the
7 red evidence tape.

8 Q. Did you comply with North Charleston Police
9 Department procedures for turning it into evidence?

10 A. I did.

11 MR. WARING: Beg the court's indulgence.

12 [Whereupon, Mr. Kidd and Mr. Waring confer]

13 Q. [Mr. Waring] Please answer any questions the defense
14 has.

15 THE COURT: Ms. Ehrlich?

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State v Vaughn Hilliard
Michael Cook-Cross-Examination by Ms. Ehrlich
June 9, 2015

1 CROSS-EXAMINATION

2 BY MS. EHRLICH:

3 Q. Officer Cook?

4 A. Yes, ma'am.

5 Q. Do you know how you got onto that property? Did
6 y'all get permission do you know?

7 A. I was shown a consent to search.

8 Q. So somebody on that property consented to allow you
9 on there?

10 A. Yes, ma'am.

11 Q. Do you know if it was Charlotte Hilliard?

12 A. I believe it was.

13 Q. And Mr. Waring asked you like when you became
14 involved.

15 A. Yes, ma'am.

16 Q. And when you said May you mean May 2015 right?

17 A. Yes, ma'am.

18 Q. And you know that the shooting occurred sometime in
19 2013 or you don't even know that?

20 A. When I entered my supplemental report I was aware
21 that it was in 2013.

22 Q. Okay. And the shell casing has like rounded edges
23 right?

24 A. Yes, ma'am.

25 Q. So twenty months had passed since something gets on

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1 the ground that is rounded that doesn't necessarily mean
2 it's in the same place the entire time right?

3 A. Correct.

4 Q. And so you can't determine exactly where somebody
5 was standing when the rifle was fired based on where you
6 found it.

7 A. No, ma'am.

8 MS. ERHLICH: Beg the court's indulgence.

9 [Whereupon, Ms. Ehrlich and Mr. Loignon confer]

10 MS. ERHLICH: I don't have any other questions, Your
11 Honor.

12 MR. WARING: Just briefly one question, Your Honor.

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State v Vaughn Hilliard
Michael Cook-Redirect Examination by Mr. Waring
June 9, 2015

1 REDIRECT EXAMINATION

2 BY MR. WARING:

3 Q. How far away from that crate was that shell casing
4 found?

5 A. I would estimate between two and three feet.

6 MR. WARING: No further questions, Your Honor.

7 THE COURT: Ms. Ehrlich?

8 MS. ERHLICH: No questions, Your Honor.

9 THE COURT: Ladies and gentlemen we've reached an
10 appropriate time for us to take our lunch break. Please
11 remember all my admonitions. Do not begin deliberations.
12 Do not discuss this case with anyone; that does include
13 your fellow jurors. Please take your notepads with you.
14 We will collect them and lock them up over lunch. Please
15 return back at 2:15, 2:15 for lunch. Have a wonderful
16 lunch break. Thank you.

17 [Whereupon, the jury exits at 12:13 p.m.]

18 THE COURT: You can step down Officer Cook. Thank
19 you.

20 [Whereupon, the witness is excused and exits the
21 witness stand]

22 THE COURT: Anything before we break for lunch?

23 MR. KIDD: No, ma'am.

24 THE COURT: So you have two witnesses left?

25 MR. KIDD: At least two; maybe three but one of

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1 them -- I'll make my decision on the third one over the
2 lunch break.

3 THE COURT: All right. Thank you. 2:15.

4 [Whereupon, court is in recess from 12:14 p.m. until
5 2:30 p.m.]

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1 THE COURT: Anything before we bring in the jury?

2 MR. KIDD: Nothing from the State.

3 MS. ERHLICH: No, Your Honor.

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

5 Thank you.

6 [Whereupon, the jury enters at 2:31 p.m.]

7 THE COURT: Ladies and gentlemen did every member
8 of the jury comply with the court's instructions? If you
9 did please raise your right hand.

10 [Whereupon, all jurors raise their hands]

11 THE COURT: Thank you. All fourteen jurors have
12 complied with the court's instructions. I appreciate
13 your patience. Over the lunch hour there were some
14 matters unrelated to this case that I had to take up
15 outside of your presence. So I appreciate you
16 accommodating the court and for your patience. Call your
17 next witness.

18 MR. KIDD: Thank you, Your Honor.

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State v Vaughn Hilliard
Dan DeFreese-Direct Examination by Mr. Kidd
June 9, 2015

1 MR. KIDD: The State calls Dan DeFreese.

2 [Whereupon, Mr. DeFreese comes forward]

3 [Whereupon, the witness is duly sworn by the Clerk
4 of Court]

5 CLERK OF COURT: If you could please state your
6 first and last name and then spell your last loudly and
7 clearly into the microphone for the record please.

8 THE WITNESS: My name is Frank Dan DeFreese.
9 DeFreese is spelled capital D-E capital F-R-E-E-S-E.

10 THE COURT: Mr. Kidd?

11 MR. KIDD: Thank you, Your Honor.

12 - - - - -

13 DAN DEFREESE,

14 Having been first duly sworn,

15 Was examined and testified as follows:

16 DIRECT EXAMINATION

17 BY MR. KIDD:

18 Q. Good afternoon Mr. DeFreese. I appreciate you being
19 here. Can you tell the jury where you are employed
20 please?

21 A. I work for the South Carolina Law Enforcement
22 Division in the Forensic Services Laboratory in Columbia.

23 Q. Do you work for a specific sector of the Forensic
24 Services department?

25 A. I do. Within the laboratory I work in the

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1 department where we do the analysis of firearms and
2 toolmark evidence.

3 Q. Firearms and toolmark evidence, okay. Can you tell
4 the jury a little bit of your background as far as
5 education and training that qualifies you for that role?

6 A. I'm a graduate of the University of South Carolina
7 in Columbia. After my employment with SLED; we refer to
8 the South Carolina Law Enforcement Division as SLED for
9 short, I was first assigned to the firearms laboratory.
10 I undertook a course of instruction that lasted
11 approximately two and a half years studying the
12 techniques of firearm and toolmark identification.

13 I studied these under a gentleman by the name of
14 Millard Cate. Mr. Cate established the SLED laboratory
15 when SLED itself was established in 1947. I also studied
16 with Lieutenant Carl Stokes who was another examiner at
17 that time.

18 After approximately two and a half years of studying
19 under their supervision I began accepting cases on my own
20 and testifying as to my results, which I've been doing
21 since 1969.

22 Q. And I think that was going to be my next question.
23 How long is that 45, 46 years?

24 A. Something like that.

25 Q. And have you testified in court before?

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1 A. I have.

2 Q. In your testimonies have you been qualified as an
3 expert in any specific field?

4 A. Yes, in firearm and toolmark identification.

5 Q. And about how many times have you been qualified as
6 an expert?

7 A. I don't know exactly. I estimate it between 600 and
8 700 times.

9 MR. KIDD: Your Honor, at this time the State would
10 offer Dan DeFreese as an expert in firearms
11 identification.

12 THE COURT: Any objections?

13 MS. ERHLICH: No, Your Honor.

14 THE COURT: He will be so qualified. You may
15 continue.

16 MR. KIDD: Thank you, Your Honor.

17 Q. [Mr. Kidd] Mr. DeFreese did you analyze two pieces
18 of evidence in relation to this case regarding the
19 suspect Vaughn Hilliard?

20 A. I did.

21 MR. KIDD: If I may approach the witness, Your
22 Honor?

23 THE COURT: You may.

24 Q. [Mr. Kidd] And it might be procedural Judge but at
25 this time the State would offer State's exhibit I believe

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1 it's 33 into evidence -- excuse me; 34 into evidence.

2 THE COURT: Any objection?

3 MS. ERHLICH: No, Your Honor.

4 THE COURT: State's 34 into evidence without
5 objection.

6 [Whereupon, State's exhibit number 34 is entered
7 into evidence by the court]

8 Q. [Mr. Kidd] Mr. DeFreese, first I'm going to hand you
9 State's exhibit number 34 and see if you can recognize
10 that item.

11 [Whereupon, the witness is shown exhibit]

12 A. Yes sir, I recognize State's exhibit 34.

13 Q. And how do you recognize it? What is it?

14 A. State's exhibit 34 is a fired .22 long or long rifle
15 caliber cartridge case. And I recognize it by the marks
16 which I made on the interior surface of the mouth of the
17 cartridge case just before I examined it.

18 Q. So you actually made some marks on the cartridge
19 case itself?

20 A. I did. In order to prevent damage to any marks that
21 might have been on the cartridge case I made my marks on
22 the inside rather than the outside.

23 Q. And for what purpose do you do that?

24 A. So that there would be no confusion of the specimens
25 and that I'd be able to recognize it at a later time.

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1 Q. At a time like this?

2 A. Right.

3 Q. And that's kind of because a lot of .22 cartridge
4 casings look similar?

5 A. Right.

6 Q. And so ---

7 A. --- all look essentially alike but this one is
8 rather unique in the fact that it is rather badly
9 weathered. This brownish color is not the typical color
10 for this cartridge casing. It would typically be the
11 color of brass.

12 Q. And Mr. DeFreese I'm also going to hand you what has
13 been marked as State's exhibit number 24 and see if you
14 recognize that?

15 [Whereupon, the witness is shown exhibit]

16 A. I do.

17 Q. And did you -- what did you do with that rifle when
18 it came into your custody?

19 A. After I examined it and marked it and collected
20 information about it I test fired the rifle, State's
21 exhibit 24 to obtain test cartridge cases that I knew
22 this rifle had fired.

23 I did that for the purpose of doing a side-by-side
24 microscopic comparison of my test cartridge cases with
25 the cartridge case in State's exhibit 34.

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1 Q. And before we talk about those results I want to
2 talk a little bit about that rifle itself. Was it in
3 working order?

4 A. It was.

5 Q. Did you have any problem conducting the test fires
6 with that rifle?

7 A. No. It functioned and fired normal.

8 Q. How many cartridges will that rifle hold?

9 A. You can load as many as 15 cartridges in the tubular
10 magazine under the rifle's barrel. If you add the round
11 in the chamber the rifle is capable of firing as many as
12 16 times without reloading.

13 Q. Is it -- would you call it a semi-automatic rifle?

14 A. It is.

15 Q. So when there is a cartridge loaded and you pull the
16 trigger what does the rifle do?

17 A. For one pull of the trigger when the rifle fires one
18 bullet is expelled down the bore and out of the gun. And
19 then thereafter a short while the fired cartridge case
20 from which the bullet originated is extracted and ejected
21 so that there is room for the next cartridge to be loaded
22 to prepare the gun for the next fire.

23 Q. And then to fire the gun again you just pull the
24 trigger again?

25 A. You let up on the trigger and pull the trigger

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1 again.

2 Q. But the shell casing is automatically expelled?

3 A. Right. It requires no effort on the part of the
4 shooter. The gun itself extracts and ejects fired
5 cartridge cases each time it's fired so long as it's in
6 working order.

7 Q. What direction would that rifle expel a shell
8 casing?

9 A. Generally to the right of the gun. The ejection
10 port is on the right hand side of the receiver and the
11 top of the receiver is closed and the left side is closed
12 so the cartridge casing pretty well has to come out the
13 right hand side.

14 Q. Do you know whether it would go frontwards or
15 backwards?

16 A. No, I don't.

17 Q. Just generally ---

18 A. --- I didn't fire it for that purpose.

19 Q. Okay. And tell me about -- I know you addressed it
20 briefly but about the process of loading that firearm.
21 Is it a quick process, long process?

22 A. It's fairly simple but it's a little involved in
23 that there is within the magazine tube assembly there are
24 two tubes. There is what is called the inner magazine
25 tube and the outer magazine tube. Normally loaded one

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1 retracts the inner magazine tube to the point where the
2 small cut, the loading port, is present on the outer
3 tube. At this point you can drop -- with the bolt closed
4 you can drop as many as 15 cartridges in the magazine.

5 Then as you close the inner magazine tube it puts
6 spring tension against the cartridges so that they will
7 feed into the gun when required.

8 The inner magazine tube is locked and then
9 thereafter one could pull the bolt to the rear, let the
10 bolt go forward and the gun will be prepared for firing.

11 The only other thing that would be necessary would
12 be for the safety catch to be placed in a fire position
13 if it weren't already in a fire position.

14 Q. All right. Can you tell the jury about the results
15 of your examination with the test cartridge casings that
16 you produced from that rifle to State's exhibit number 24
17 which you just testified to...

18 A. Yes, sir. I found matching firing pin impressions
19 on State's exhibit 34 and on test cartridge cases fired
20 by the rifle, by State's exhibit 24 from which I
21 concluded that this cartridge case was fired by this
22 rifle.

23 Q. Thank you. And just one more follow up question.
24 If you could look at State's exhibit number 25 for me.

25 [Whereupon, the witness is shown exhibit]

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Dan DeFreese-Direct Examination by Mr. Kidd
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1 A. State's exhibit number 25 consists of 11 unfired .22
2 Long Rifle caliber cartridges, which are the correct
3 caliber of ammunition for use in this rifle in State's
4 exhibit 24. These bear the Super X head stamp which is
5 the same head stamp that is present on State's exhibit
6 34.

7 Q. I think you probably answered all those questions.
8 Now earlier in your testimony you indicated that there is
9 that sort of tarnished appearance on State's exhibit
10 number is it 24 or 34?

11 A. I thought you said it was 34.

12 Q. It was 34, correct. Does State's exhibit 25 bear
13 that same sort of tarnished look?

14 A. State's exhibit 25 the cartridges in this specimen
15 are somewhat discolored like as from handling. When you
16 buy .22 long rifle caliber cartridges they are coated
17 with a wax and when they're new they are a bright brassy
18 color.

19 If you handle them and get your sweat on them they
20 tend to brown down a little bit or tarnish slightly. But
21 the cartridges in State's exhibit 25 are not nearly as
22 degraded as item 34.

23 These still have a brassy appearance although they
24 have the appearance of having been handled to some extent
25 but they are not weathered like State's exhibit 34 is.

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1 Q. But they are the same make, caliber, and brand?

2 A. To the extent I can tell. As I said State's exhibit
3 34 is a .22 long or long rifle caliber cartridge case
4 because it happens that .22 long ammunition and .22 long
5 rifle use exactly the same cartridge case.

6 But what there is of State's exhibit 34 is perfectly
7 consistent with the cartridge case portions of State's
8 exhibit 25.

9 Q. Okay. And just so -- this might help a little bit.
10 I'm going to show you what has been marked and entered as
11 State's exhibit 33.

12 [Whereupon, the witness is shown photograph]

13 Q. That should be a close up picture of State's exhibit
14 -- I keep forgetting which number it is ---

15 A. --- thirty-four.

16 Q. Thirty-four. And that's the shell casing you
17 analyzed?

18 A. It is.

19 Q. And it bears the same markings as State's exhibit
20 number 25?

21 A. Well it bears the same head stamp.

22 Q. The same head stamp?

23 A. Yes, sir.

24 Q. Not the same firing pin?

25 A. Right. There are no firing pin impressions on

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Dan DeFreese-Direct Examination by Mr. Kidd
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1 State's exhibit 25 cartridge.

2 Q. And it's your opinion based on your comparison that
3 this cartridge casing here was fired by State's exhibit
4 number 24?

5 A. Yes.

6 Q. Thank you. No further questions.

7 THE COURT: Ms. Ehrlich?

8 MS. ERHLICH: I don't have any questions, Your
9 Honor.

10 THE COURT: You may step down. Thank you.

11 [Whereupon, the witness is excused and exits the
12 witness stand]

13 THE COURT: Call your next witness.
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State v Vaughn Hilliard
Angela Steed-Direct Examination by Mr. Kidd
June 9, 2015

1 MR. KIDD: The State calls Angela Steed.

2 [Whereupon, Ms. Steed comes forward]

3 [Whereupon, the witness is duly sworn by the Clerk
4 of Court]

5 CLERK OF COURT: If you could please state your
6 first and last name and then spell your last loudly and
7 clearly into the microphone for the record.

8 THE WITNESS: Angela Steed, S-T-E-E-D.

9 THE COURT: Mr. Kidd?

10 MR. KIDD: Thank you, Your Honor.

11 - - - - -

12 ANGELA STEED,

13 Having been first duly sworn,

14 Was examined and testified as follows:

15 DIRECT EXAMINATION

16 BY MR. KIDD:

17 Q. Good afternoon Ms. Steed. Thank you for being here
18 with us. Would you please tell the jury how old are you?

19 A. Fifty.

20 Q. Fifty years old? Where are you from originally?

21 A. North Carolina.

22 Q. North Carolina? Where in North Carolina?

23 A. Raleigh, North Carolina.

24 Q. When did you move to the Charleston area?

25 A. I moved here in July 2011.

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Angela Steed-Direct Examination by Mr. Kidd
June 9, 2015

- 1 Q. July of 2011?
- 2 A. Un Huh.
- 3 Q. Do you recall when Troy Cason was shot?
- 4 A. Yes.
- 5 Q. And that was in September of 2013?
- 6 A. Yes.
- 7 Q. So you had been here for a little over two years?
- 8 A. Yes.
- 9 Q. At that point?
- 10 A. Yes.
- 11 Q. And do you have any children?
- 12 A. Yes.
- 13 Q. How many children you got?
- 14 A. Three.
- 15 Q. You have three kids? How old are they?
- 16 A. Thirty one, 28, and 22; something like that.
- 17 Q. And let me get right to it Ms. Steed. How did you
- 18 know Troy Cason?
- 19 A. I met him July the 20th.
- 20 Q. July 20th of 2013?
- 21 A. Yes.
- 22 Q. So at the time he was shot how long had you known
- 23 him?
- 24 A. Probably about -- I met him July -- I guess maybe
- 25 two months. Not really knowing him knowing him because

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Angela Steed-Direct Examination by Mr. Kidd
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1 for a whole month I was gone. I met him July the 20th
2 and the whole month of August I was in Columbia and only
3 came home on the weekend so it wasn't...

4 Q. So you had known him for two months but of that time
5 you'd only really been spending time with him maybe that
6 last month?

7 A. Most of the time just the last couple of weeks.

8 Q. It was really the last couple of weeks leading up to
9 this?

10 A. Right.

11 Q. Did you know many of his friends?

12 A. No.

13 Q. Did you know a guy by the name of Earl Gregg?

14 A. No.

15 Q. Did you know the defendant Vaughn Hilliard?

16 A. No.

17 Q. So I want to get right to the day in question; the
18 day that Troy was shot all right. Can you tell the jury
19 what you and Troy were up to that day?

20 A. That day we was at his father's house. I had called
21 my daughter from there because my car had tore up and I
22 called my daughter for her car.

23 And she had to go to work at Walmart over on James
24 Island. So she came and I got her car but she didn't
25 have any gas -- too much gas in the car so I needed money

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Angela Steed-Direct Examination by Mr. Kidd
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1 for gas. I took her to work on James Island and I had
2 left Troy there at his father's house. I went and come
3 back and when I come back and I didn't have any gas Troy
4 said he was going somewhere to get some gas money or
5 something like that.

6 He left for a couple of hours and came back. And
7 when he came back he had hugged me and I just smelled
8 perfume on him. He said it was nothing, just somebody or
9 something.

10 He said -- he wanted to take me to go meet these
11 people. And I was like no, I didn't really want to go I
12 wanted to go home because I was having problems with my
13 car and I wasn't really interested in meeting anyone.

14 But he was more determined that I go somewhere so
15 what I did I just drove and he showed me where to go
16 because I don't know the area or streets or anything. So
17 I just went where he told me to go and that's how we
18 ended up there.

19 Q. So y'all are in your daughter's car?

20 A. Right.

21 Q. Right? Who is driving?

22 A. I'm driving.

23 Q. You're driving. Where is Troy?

24 A. He's on the passenger side.

25 Q. He's in the passenger seat and he's sort of telling

State v Vaughn Hilliard
Angela Steed-Direct Examination by Mr. Kidd
June 9, 2015

1 you where to go?

2 A. Correct.

3 Q. Now where do y'all end up going?

4 A. It's called Garrison Street I think; I'm not sure.

5 I wasn't too familiar with the streets; I'm not...

6 Q. Okay. Well, and I'm sorry I didn't mean the
7 address. Where y'all went is that where the shooting
8 occurred?

9 A. That's where the shooting occurred.

10 Q. I'm going to show you first what's been marked as
11 State's exhibit number 1.

12 [Whereupon, the photograph is shown]

13 Q. Does that look like the place where Troy took you
14 that day?

15 A. Yes.

16 Q. So when you and Troy arrived here do you remember
17 roughly what time it was? I don't need an exact time but
18 afternoon, morning?

19 A. It was afternoon.

20 Q. It was in the afternoon. Late in the afternoon?

21 A. Late in the afternoon that evening like.

22 Q. Was it dark outside yet?

23 A. No, it wasn't dark.

24 Q. So late in the afternoon. We can leave it at that
25 if that's fair to say ---

State v Vaughn Hilliard
Angela Steed-Direct Examination by Mr. Kidd
June 9, 2015

- 1 A. --- late in the afternoon.
- 2 Q. Okay. So who all was out here when you got there?
- 3 A. It was a lady there; it was a guy there and the guy
- 4 behind the fence.
- 5 Q. So you remember at least three other people other
- 6 than yourself and Troy?
- 7 A. Yes.
- 8 Q. Were there any other people milling about?
- 9 A. Yes, people was just walking back and forth going to
- 10 the back.
- 11 Q. So there were some other folks kind of in the
- 12 courtyard of the apartment bldg?
- 13 A. Right, I guess back there. I never went back there
- 14 so I just -- you know people were walking back and forth.
- 15 Q. Okay. So there are other people around but you
- 16 mainly just remember those three?
- 17 A. Correct.
- 18 Q. Other than yourself and Troy?
- 19 A. Correct.
- 20 Q. Okay. Do you know their names?
- 21 A. No.
- 22 Q. So I'm going to show you these pictures to help
- 23 first.
- 24 [Whereupon, photographs are shown]
- 25 Q. So where did you park your car?

State v Vaughn Hilliard
Angela Steed-Direct Examination by Mr. Kidd
June 9, 2015

1 A. The car was parked out in front of this building
2 here [indicates] on the curving of the road there.

3 Q. Okay. I'm going to show you what has been marked
4 as State's exhibit number 7. And that screen in front of
5 you is like a touch screen. Can you kind of indicate
6 where you think your car was parked?

7 A. About right in here [indicates].

8 Q. So kind of on the side of the road kind of on the
9 curve?

10 A. Yes.

11 Q. All right. So you parked on the curve in front of
12 the apartment building. Yourself and Troy got out.
13 Where did y'all walk up to?

14 A. We walked up to right in here [indicates].

15 Q. And is that where the male and the female that you
16 indicated were there were?

17 A. Yes, the male was standing here [indicates] and the
18 female was sitting like on the side of the building here
19 [indicates].

20 Q. Okay. And so what were y'all doing?

21 A. He introduced me to them or whatever and we was just
22 talking conversating.

23 Q. And how long would you say y'all were hanging out
24 right there?

25 A. I guess we hung out for about 35 to 40 minutes or so

State v Vaughn Hilliard
Angela Steed-Direct Examination by Mr. Kidd
June 9, 2015

1 or something...

2 Q. Now you indicated that you saw an individual on the
3 other side of the fence.

4 A. That's correct.

5 Q. At some point did an argument ensue?

6 A. Yes. It took place a while after we had been there.
7 The guy that was inside the fence had -- he was sitting
8 here [indicates] but he had got up and left.

9 Q. I'm sorry I was just about to clear it so maybe say
10 that again please?

11 A. The guy that was inside the fence he was sitting
12 somewhere here [indicates] and he had got up and left and
13 we was still all here [indicates] standing right here
14 [indicates]; me, Troy and the other guy. And we had our
15 backs turned. We were faced towards the road.

16 The guy was drinking beer and when he poured the
17 beer out he poured it out like somewhere in here
18 [indicates]. And the guy that was inside the fence was
19 coming around and he seen the beer and he assumed that I
20 guess Troy was the one that threw the beer and him and
21 Troy and the other guy they all started arguing.

22 Q. So how did he respond when he thought a beer that
23 was thrown out right there?

24 A. He was upset about it because he was saying even
25 though they had poured the beer out here [indicates] and

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1 the fence is here [indicates] he was still saying that
2 that was his property there even though the fence wasn't
3 there and that the city or whoever when they fenced it
4 they should have -- you know like that still was his
5 property too and he was upset about them pouring the beer
6 out right there.

7 Q. And how did Troy respond to that?

8 A. Troy was saying oh you think I'm the one that did
9 it? You think I'm the one that did it? You know he was
10 just back and forth with him about that saying oh you
11 think I'm the one that poured the beer out you know.

12 Q. So they kind of started jawing back and forth?

13 A. All three of them, yes.

14 Q. All three of them?

15 A. Right.

16 Q. So what happened next?

17 A. They just kept arguing. The guy was standing at the
18 fence and Troy and the other guy was standing here
19 [indicates] and they just kept arguing back and forth
20 whatever, whatever.

21 And then the next thing I noticed the guy and Troy
22 starting walking down towards the back of the fence; Troy
23 on one side and he on the other.

24 Q. Do you know why they were heading that way?

25 A. I think because they -- he was -- I think they was

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1 threatening to fight each other or whatever ---

2 MS. ERHLICH: --- Your Honor, objection ---

3 THE COURT: --- hold on one second Ms. Steed.

4 What's your objection?

5 MS. ERHLICH: It calls for speculation.

6 THE COURT: Rephrase your question, Mr. Kidd.

7 MR. KIDD: May we approach?

8 THE COURT: You may.

9 [Whereupon, an off the record bench conference is
10 held]

11 Q. [Mr. Kidd] Did you hear them threaten to fight one
12 another?

13 A. Not necessarily. I don't know what the words were.
14 I'm not sure about as far as the words of what they were
15 saying I'm not sure what each one was saying to each
16 other. So I'm not sure about the exact correct words.

17 Q. What about the tone of the words that were being
18 said back and forth? Was it angry? Was it escalating?

19 A. It was angry but -- it was real angry; real angry.

20 Q. And is that why they started walking towards the
21 back?

22 MS. ERHLICH: Objection.

23 THE COURT: If she knows she may answer.

24 A. I'm not sure why they started walking towards the
25 back but I just know they were angry, they were arguing,

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1 they were fussing and all of a sudden the next thing I
2 know they just started going towards the back.

3 Q. [Mr. Kidd] Okay. Fair enough. I'm going to show
4 you what has been marked as State's exhibit number 2.

5 [Whereupon, the photograph is shown]

6 Q. Is that the path that they walked to the back?

7 A. Yes.

8 Q. And State's exhibit number 4.

9 [Whereupon, the photograph is shown]

10 Q. Do you recognize that?

11 A. Yes.

12 Q. Tell the jury what you saw when they walked to the
13 back towards that gate.

14 A. The only thing I can remember is I remember seeing
15 them just standing there arguing and then all of a sudden
16 I just seen Troy push him sort of and the guy fell.

17 Q. Okay. Where were they standing when Troy pushed
18 him?

19 A. Troy was on this side [indicates] and the guy was
20 on that side [indicates] of the fence.

21 Q. Did the gate ever open?

22 A. I never seen the gate come open.

23 Q. What happened when the guy on the other side of the
24 fence fell down?

25 A. He got up and he went on around this a way

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1 [indicates].

2 Q. Were there any other people standing around when
3 that happened?

4 A. The other guy -- there was another guy back here
5 [indicates] but I can't remember -- it was another but I
6 can't remember who it was but it was like Troy and the
7 other guy was standing here [indicates].

8 Q. Okay. How did they react when the guy on the other
9 side of the fence fell down?

10 A. They just stood there talking to each other sort of
11 and then Troy just started walking back towards me coming
12 back this way and he said well come on let's go you know
13 and that's what happened.

14 Q. So when all this was going on where were you?

15 A. I was right up in here [indicates] sitting right up
16 in here [indicates].

17 Q. Okay. And so after the guy on the other side of
18 the fence fell down I believe you just testified Troy
19 started walking back towards you.

20 A. Correct.

21 Q. So this [indicates] would be the direction he was
22 walking back towards you?

23 A. Yes.

24 Q. Which side of the fence was he on?

25 A. He was still on this side [indicates] on this side

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1 [indicates] of the fence.

2 Q. Okay. So now we get back to the front where you're
3 standing -- where you're sitting right?

4 A. Uh Huh.

5 Q. So can you tell the jury what happens when Troy gets
6 back to the front where you are?

7 A. He comes on back and me and him started coming on
8 this away [indicates], we're getting ready to go. And
9 then we heard someone say oh, he's got a gun and so we
10 turned around and looked and the guy was coming from
11 around here [indicates] with a gun inside the fence.

12 Q. So he was still on his side of the fence but he was
13 coming towards y'all with a gun?

14 A. Yes.

15 Q. Okay. And what did y'all do?

16 A. Troy stopped and the guy came on and the other guy,
17 the one he had introduced me to he was standing there as
18 the guy came up here [indicates] to the fence and he and
19 the guy and Troy all three of them were standing there
20 arguing and fussing.

21 Troy was trying to get to the fence and I kept
22 pulling him and pulling him back but you know he went on
23 and stood up there and they just argued and argued and
24 fussed there for a while. And then all of a sudden then
25 because I remember Troy saying something like I think he

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1 said something like bitch you going to shoot me or
2 something like that and he's arguing and they're arguing
3 and fussing.

4 Then Troy just turned and said come on let's go and
5 me and him was getting ready to go to the car; you know
6 he was going to forget about it. And when he turned
7 that's when he shot.

8 Q. So when Troy turned to head towards you that's when
9 he was shot?

10 A. Yes.

11 Q. Any doubt in your mind about that?

12 A. No.

13 Q. How long were they at the gate just kind of fussing
14 like that before ---

15 A. --- probably about two to three minutes; it wasn't
16 long.

17 Q. So they were just standing on opposite sides of the
18 gate just kind of arguing for a short period of time?

19 A. Yes.

20 Q. Did you ever see Troy with a weapon of any sort?

21 A. Never.

22 Q. A knife?

23 A. No.

24 Q. A gun of any kind?

25 A. No.

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- 1 Q. A beer bottle?
- 2 A. No ---
- 3 Q. --- or anything like that?
- 4 A. No.
- 5 Q. Did you see him charge at the fence and try to get
- 6 over it?
- 7 A. No.
- 8 Q. Now what kind of car did you have? I guess it was
- 9 your daughter's car. Do you remember what kind of car it
- 10 was?
- 11 A. It was a Suzuki -- I can't remember what the -- it
- 12 was a little small burgundy Suzuki four door car.
- 13 Q. Okay. And you ended up getting that car back
- 14 later that night or the next day?
- 15 A. I got it later that night.
- 16 Q. Later than night? Okay. Did you ever see any
- 17 weapons of any sort in the car?
- 18 A. None.
- 19 Q. Now tell the jury what happened after Troy was shot?
- 20 A. After he shot him I grabbed his T-shirt and looked
- 21 and there was a little red spot there and Troy said you
- 22 shot me. And he just took off running.
- 23 Q. And what did you do?
- 24 A. I turned and I looked at the guy. I looked at him
- 25 straight in the eye and I couldn't believe I was shocked;

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1 I was stunned there for a minute. Then that's when Troy
2 ran and he stopped and he hollered at me and said come on
3 take me to the hospital. So I went on to come and got in
4 the car and took him to the hospital.

5 Q. About how far away from the fence was Troy when he
6 got shot?

7 A. [No response]

8 Q. Maybe we can look at it on this photograph.

9 [Whereupon, the photograph is shown]

10 A. We was standing about right here [indicates].

11 Q. Y'all were standing by the corner of the building?

12 A. Right.

13 Q. And where was the shooter at?

14 A. Inside the fence here [indicates].

15 Q. Would you say that's about from me to you? Further?
16 Closer?

17 A. I would say that's probably about I would say.

18 Q. That's about the distance between Troy and the
19 person who shot him?

20 A. Uh Huh.

21 Q. What's that about maybe 10 or 12 feet?

22 A. Yes, something like that.

23 Q. After you took Troy to the hospital do you remember
24 being with some police, some female police officers from
25 North Charleston?

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1 A. Yes.

2 Q. Did you tell them what happened?

3 A. Yes.

4 Q. And do you remember them bringing you back to this
5 scene here [indicates]?

6 A. Yes.

7 Q. And how did that happen? Were you riding with them
8 or were you in your car or how did that happen?

9 A. I was riding with them.

10 Q. You were riding with them? Okay. And what
11 happened when you turned the corner and arrived at the
12 scene here?

13 A. It was a lot of people standing there and -- you
14 know we rode by.

15 Q. Did you see the person behind the fence when you
16 arrived on the scene?

17 A. When we first -- when we came by I know there was a
18 bunch of people because it was more people there in the
19 front here [indicates] than there was before. Now I
20 remember seeing the guy but I'm not sure -- he was still
21 inside this fence here [indicates].

22 Q. So you remember seeing the guy inside the fence?

23 A. Yes, that's where I'm -- yes, I remember seeing him.
24 I'm not sure if he was inside the fence or outside but I
25 remember seeing -- I do remember seeing it was a crowd of

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1 people there just standing right there [indicates].

2 Q. Do you see the person who shot Troy in the courtroom
3 today?

4 A. Yes.

5 MS. ERHLICH: Your Honor, I'm just renewing prior
6 objections.

7 THE COURT: Okay. So noted.

8 Q. [Mr. Kidd] Can you indicate where you see him
9 please?

10 A. Right there [indicates].

11 Q. How do you recognize him?

12 A. His eyes.

13 Q. Had you been drinking that day?

14 A. No.

15 Q. Had Troy been drinking?

16 A. Yes.

17 MR. KIDD: Beg the court's indulgence.

18 [Whereupon, Mr. Kidd reviews documents]

19 Q. [Mr. Kidd] Was the guy who shot Troy was he standing
20 up or sitting down when he shot Troy?

21 A. Standing.

22 Q. Did you notice did he have a cane or anything with
23 him at the time?

24 A. Not when he shot him.

25 Q. Did he have one earlier?

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1 A. He had one earlier.

2 Q. So am I correct to assume that when he came out with
3 a gun he did not have a cane?

4 A. If he did I didn't notice at that time.

5 Q. When you were brought back to the scene by the
6 police officers was it light or dark outside at that
7 point?

8 A. It was light the first time.

9 Q. It was light the first time? What about the second
10 time they came back with you?

11 A. It was dark.

12 Q. It was dark at that point.

13 [Whereupon, Mr. Kidd and Mr. Waring confer]

14 Q. [Mr. Kidd] After the shooter got pushed down by the
15 fence how much time passed before he came back outside?

16 A. Because Troy had walked all the way back up and was
17 still talking to the other guy there for a few minutes so
18 it had to be maybe anywhere from a minute to maybe two or
19 minute and a half; something like that.

20 Q. So just a couple of minutes?

21 A. Yes.

22 Q. I have no further questions Ms. Steed.

23 THE COURT: Ms. Ehrlich?

24

25

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Angela Steed-Cross-Examination by Ms. Ehrlich
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1 CROSS-EXAMINATION

2 BY MS. EHRLICH:

3 Q. Good afternoon Ms. Steed. During -- I guess you

4 said that -- did you call him Troy?

5 A. Yes, I called him Troy.

6 Q. You met him in July right?

7 A. Yes.

8 Q. And y'all were like boyfriend girlfriend talking?

9 Is that how you would describe your relationship?

10 A. Yes, somewhat.

11 Q. But about a month of that time I think you said you

12 were like out of town.

13 A. Yes, and I only came home on weekends.

14 Q. So you knew him but you didn't like ---

15 A. --- know him ---

16 Q. --- know him know him that well right?

17 A. Yes.

18 Q. So you didn't know like all his business and stuff?

19 A. Correct.

20 Q. And the day I guess your car had broken down so you

21 were borrowing your daughter's car?

22 A. Yes.

23 Q. And you needed gas?

24 A. Yes.

25 Q. And so Troy left?

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- 1 A. Yes.
- 2 Q. His dad's house to go get some money for gas for you
3 right?
- 4 A. Yes.
- 5 Q. And he left on a bicycle right?
- 6 A. Yes.
- 7 Q. And when he came back I think you said he smelled
8 like perfume?
- 9 A. Yes.
- 10 Q. And you kind of questioned him about ---
- 11 A. --- yes ---
- 12 Q. --- why do you smell like perfume?
- 13 A. Yes.
- 14 Q. Like who had he been with, where had he been that
15 stuff?
- 16 A. Right.
- 17 Q. Because he had been gone like a couple of hours
18 right I think you said?
- 19 A. Yes.
- 20 Q. And I guess he was trying to explain why he smelled
21 like another lady's perfume to you. Was that what was
22 going on?
- 23 A. It wasn't so much that he was trying to explain. He
24 just told me there was really nothing to it and that
25 where he got it from I could go meet the people --

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- 1 Q. Okay.
- 2 A. That simple.
- 3 Q. You didn't really care to go meet the people.
- 4 A. No.
- 5 Q. But he like insisted?
- 6 A. Yes.
- 7 Q. So when y'all got to North Carolina and Dayton,
8 Grayson Street; that whole area, he had kind of directed
9 you how to get there?
- 10 A. Yes.
- 11 Q. Because you don't know that area that well right?
- 12 A. Correct.
- 13 Q. And like you don't go out there hanging out with
14 those people.
- 15 A. Correct.
- 16 Q. So that's the first time that you met the guy ---
- 17 A. --- those people, yes.
- 18 Q. And that's the first time you met that guy's lady
19 friend right?
- 20 A. Yes.
- 21 Q. And when you got there they were already hanging
22 out?
- 23 A. Yes.
- 24 Q. It wasn't like y'all had to go find them.
- 25 A. No ---

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- 1 Q. --- they were out there on the corner ---
2 A. --- they was all just standing there.
3 Q. And they were drinking?
4 A. Yes.
5 Q. And I think we can -- you testified earlier Troy had
6 been drinking too?
7 A. Yes.
8 Q. You weren't drinking?
9 A. No.
10 Q. His friend, the guy, was drinking?
11 A. Yes.
12 Q. And then something happens and there starts to be an
13 issue between the men right?
14 A. Correct.
15 Q. It like has nothing to do with the ladies?
16 A. None.
17 Q. It's the men stuff going on right?
18 A. Correct.
19 Q. And Troy was arguing with the guy behind the fence
20 and the guy behind the fence is arguing with him right?
21 A. Correct.
22 Q. The guy behind the fence when you first saw him he
23 did have a cane.
24 A. Correct.
25 Q. And I think you described him to police as like

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- 1 having a gray beard.
- 2 A. Yes.
- 3 Q. Fifties -- between 50 and 60 years old.
- 4 A. Yes.
- 5 Q. With a cane.
- 6 A. Yes.
- 7 Q. All right. And when they first start arguing
- 8 you're really not paying that much attention to it are
- 9 you?
- 10 A. Not really, not too much. What they were saying I'm
- 11 not sure about any of the conversation or what it was but
- 12 I knew they were arguing back and forth about who poured
- 13 out the beer.
- 14 Q. Okay. So there is some sort of argument about
- 15 pouring out the beer?
- 16 A. Correct.
- 17 Q. But it's nothing -- no kind of argument that is
- 18 bringing your attention to it and distracting you from
- 19 what you're doing right because you're just hanging out.
- 20 At that point it's not a big deal right?
- 21 A. Not so much as it had escalated into...
- 22 Q. Okay. It escalated. Do you remember talking to I
- 23 think two detectives at the police station.
- 24 A. Correct.
- 25 Q. A lady detective and a male detective right?

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- 1 A. Yes, I remember talking to -- yes.
- 2 Q. Like the lady talked to you first.
- 3 A. Right.
- 4 Q. And then the male detective came in later to kind of
- 5 clarify some stuff.
- 6 A. Correct.
- 7 Q. And do you remember telling one of the detectives
- 8 that they kept arguing with that poor man? Do you
- 9 remember telling them that?
- 10 A. Did I remember telling them -- say that again
- 11 please?
- 12 Q. That all of them kept arguing with that poor man.
- 13 Do you remember saying that?
- 14 A. I don't remember saying no poor man.
- 15 Q. Okay.
- 16 A. I just kept saying they was arguing.
- 17 Q. Okay. Do you remember telling them that all three
- 18 guys were fussing?
- 19 A. Yes.
- 20 Q. Okay. And then you're sitting -- are you on the
- 21 side of the sidewalk facing the trailer or are you on the
- 22 side of the sidewalk facing the street?
- 23 A. Facing the trailer.
- 24 Q. Okay. So you're facing the trailer and at some
- 25 point Troy and the guy with the cane are on the other

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1 end.

2 A. Yes, they walked back.

3 Q. Okay. And you testified today that you saw Troy
4 push the guy right?

5 A. Yes, he kind of shoved him or whatever. I just seen
6 his hand across there.

7 Q. Do you remember meeting with the Solicitor's office
8 prior to coming here today?

9 A. Yes, only once.

10 Q. Okay. And do you remember telling them that it was
11 a punch or a push you weren't sure; something like that
12 is how you worded it.

13 A. Not a punch, no.

14 Q. You did not tell them it was a punch?

15 A. No, I don't -- I said a push; not a punch.

16 Q. You didn't see the guy with the cane push anybody
17 did you?

18 A. No.

19 Q. You didn't see the guy with the cane punch anybody
20 did you?

21 A. No.

22 Q. After the man with the cane goes down that's when
23 Troy comes back towards you right?

24 A. Yes.

25 Q. And says like we're leaving or something along those

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- 1 lines?
- 2 A. Yes. He says come on let's go. Let's just get on
3 out of here.
- 4 Q. But y'all didn't leave right?
- 5 A. No, we didn't.
- 6 Q. And somebody said oh, the guy has a gun?
- 7 A. Yes.
- 8 Q. And the arguing then continues?
- 9 A. Yes.
- 10 Q. And I think the guy who is Troy's friend that y'all
11 went to meet he was trying to kind of stop it right?
- 12 A. Yes, he was.
- 13 Q. And that's when Troy said bitch, you gonna shoot me
14 right is what he said?
- 15 A. Yes.
- 16 Q. And you're trying to hold Troy back.
- 17 A. Right.
- 18 Q. And he's not being held back.
- 19 A. Right. He just pulled away from me. I just kept
20 trying to pull him back ---
- 21 Q. --- you're doing the best you can.
- 22 A. Right.
- 23 Q. But he's pushing past you right?
- 24 A. Correct.
- 25 Q. And he's trying to get closer to the fence is how

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1 you took it right?

2 A. Yes.

3 Q. And you couldn't stop him at that point.

4 A. No.

5 Q. When you -- do you remember -- I mean I know today
6 you said that you were maybe ten feet apart. And I know
7 it's hard to judge distance.

8 A. Yes, it is.

9 Q. I'm bad at it. I think when you talked to Detective
10 Benton you told him it was maybe five and a half six
11 feet.

12 A. Yes.

13 Q. And that you were about five to six feet away from
14 Troy at the time that he actually was shot. He's not
15 right by you when he's shot right? He's already past
16 you.

17 A. He may have been like right in front -- like right
18 -- we was so close.

19 Q. Okay.

20 A. Because when he shot him I just grabbed his T-shirt;
21 he was just that close to me.

22 Q. I mean I'm not asking you to say anything that
23 didn't happen. It all happened like really fast.

24 A. Fast, right.

25 Q. But you didn't really have that much time to think

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- 1 right?
- 2 A. Correct.
- 3 Q. And after the shooting you were just like trying to
- 4 react.
- 5 A. Correct.
- 6 Q. And get out of the situation right?
- 7 A. Correct.
- 8 Q. And Troy actually runs away from the fence after he
- 9 is shot right?
- 10 A. Well he was -- I don't think he was exactly -- he
- 11 wasn't exactly at the fence when he got shot.
- 12 Q. Okay.
- 13 A. He wasn't exactly right at the fence when he got
- 14 shot.
- 15 Q. He's about five to six feet away ---
- 16 A. --- he's a few feet from the fence when he got shot.
- 17 Q. Okay. After he's shot though he runs away from
- 18 that area.
- 19 A. Yes, after he had been shot ---
- 20 Q. --- he's not like running back -- after he's shot he
- 21 doesn't run closer to the fence?
- 22 A. No.
- 23 Q. Okay. And for whatever reason you didn't call 911
- 24 right?
- 25 A. Correct.

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- 1 Q. You just reacted and took him to the hospital.
- 2 A. Correct.
- 3 Q. And think that's how the police got involved once he
4 gets to the hospital.
- 5 A. That's correct.
- 6 Q. Okay. And you met with the police that night
7 right?
- 8 A. Yes.
- 9 Q. You did everything that you could to cooperate with
10 them.
- 11 A. Yes.
- 12 Q. You told them when you went out back to the scene
13 about the witness who had been out there when this whole
14 thing went down right; Troy's friend?
- 15 A. Yes.
- 16 Q. You told them that guy was out there right?
- 17 A. The witness.
- 18 Q. Yes?
- 19 A. Yes.
- 20 Q. And when you met with the police you did tell them
21 that the man who shot Troy had a cane.
- 22 A. Yes.
- 23 Q. And that he was between 50 and 60 years old right?
- 24 A. Yes.
- 25 Q. Grey beard?

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1 A. Yes.

2 Q. And like the Solicitor was asking you if Troy had
3 any weapons. You didn't pat him down or anything right?
4 I mean you're not a police officer.

5 A. No. But Troy never carried a weapon that I know.
6 He didn't walk around with a weapon.

7 Q. But you only knew -- I'm sorry?

8 A. He didn't walk around with a weapon that I know
9 anything of.

10 Q. Right. But you only knew him the two months right?

11 A. Yes.

12 Q. And just to be clear after the man behind the fence
13 presented the gun that's when Troy came back towards the
14 fence. I know he didn't get all the way to the fence but
15 that's when he decided to come back right?

16 A. Yes.

17 Q. And he would not listen when you were trying to keep
18 him back.

19 A. Correct.

20 MS. ERHLICH: Beg the court's indulgence.

21 THE COURT: Take your time.

22 [Whereupon, Ms. Ehrlich and Mr. Loignon confer]

23 Q. [Ms. Ehrlich] I don't have any other questions.

24 MR. KIDD: Just a few.

25

State v Vaughn Hilliard
Angela Steed-Redirect Examination by Mr. Kidd
June 9, 2015

1 REDIRECT EXAMINATION

2 BY MR. KIDD:

3 Q. What were you and Troy doing at the time the guy
4 from behind the fence came out with the gun?

5 A. We were walking -- we were getting ready to leave.

6 Q. Y'all were getting ready to leave?

7 A. Yes.

8 Q. What were y'all doing, you and Troy, doing when Troy
9 got shot?

10 A. We were getting ready to go to the car. He was
11 still -- the other guy, the friend, they was still just
12 talking a little bit there.

13 And we was just getting ready to go get in the car
14 and leave and that's when someone said something about a
15 gun and that's when we all turned and looked back and
16 seen the guy with the gun.

17 Q. Okay. So I got that part. The moment in time when
18 Troy was shot what was Troy doing at that very specific
19 moment?

20 A. At the time when he got shot?

21 Q. Yes, ma'am?

22 A. He was turned coming to me. We was getting ready to
23 leave and when he turned that's when he got shot. That's
24 why it hit him here on the side because he had turned to
25 leave.

State v Vaughn Hilliard
Angela Steed-Redirect Examination by Mr. Kidd
June 9, 2015

1 Q. So you're getting ready to leave when the guy came
2 out with a gun and you were getting ready to leave ---

3 A. --- yes because they were standing there arguing and
4 the other guy and he kept telling him no, no, go; you
5 ain't got to do all this or whatever. So him and Troy he
6 was still arguing and fussing with him.

7 But then Troy just said forget it and he turned
8 towards me to grab me and we was going on to get in the
9 car. And when he turned that's how he got shot right
10 here [indicates].

11 Q. No further questions.

12 MS. ERHLICH: No questions.

13 THE COURT: You may step down. Thank you.

14 [Whereupon, the witness is excused and exits the
15 witness stand]

16 THE COURT: Call your next witness.

17 MR. KIDD: The State rests, Your Honor.

18 THE COURT: Counsel approach just for scheduling.

19 [Whereupon, an off the record bench conference is
20 held]

21 THE COURT: All right ladies and gentlemen that
22 signifies to the court there is a matter of law that I
23 must take up outside of your presence. Due to the time
24 I'm going to go ahead and let you go for the afternoon.
25 Please be back, report back at 9:30 in the morning.

State v Vaughn Hilliard
Angela Steed-Redirect Examination by Mr. Kidd
June 9, 2015

1 Please take all your belongings with you including your
2 notebooks. We'll lock them up over the evening hour.
3 Ladies and gentlemen please remember all my admonitions.
4 Do not begin your deliberations. Do not discuss this
5 case amongst yourselves. Thank you. Have a wonderful
6 evening.

7 [Whereupon, the jury exits at 3:33 p.m.]

8 THE COURT: Any motions or matters? Do you need a
9 break?

10 MS. ERHLICH: I don't, Your Honor.

11 THE COURT: All right.
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State v Vaughn Hilliard
Motion for Directed Verdict-Remarks by Ms. Ehrlich
June 9, 2015

1 MOTION FOR DIRECTED VERDICT

2 MS. ERHLICH: I'd like to go ahead and make a
3 motion for directed verdict. I think at this stage the
4 court would look at whether or not the State has failed
5 to prove in its case in chief whether or not Mr. Hilliard
6 was acting in self defense. I don't have much argument I
7 think leading up to Ms. Steed's testimony I had a better
8 argument.

9 But I do think that there is something to be said
10 for at the end of her testimony she's talking about they
11 were getting ready to leave or whether or not they are
12 really leaving or turning to leave. I think that's a
13 little bit more questionable. I don't think the State
14 has brought in any testimony to disprove how the argument
15 started. It seems to be kind of unclear at this point.

16 THE COURT: Does that matter at this stage?

17 MS. ERHLICH: I don't know that it does matter but
18 I do think that I just want to put my argument on the
19 record, Your Honor because I don't -- I think that they
20 still have to have disproved self defense at this stage
21 or have some sort of evidence to disprove self defense.
22 He -- and I don't think that they've disproven fear or
23 reasonableness of his fear. But like I said I can see
24 that their case is stronger after Ms. Steed's testimony.

25 THE COURT: Mr. Kidd?

State v Vaughn Hilliard
Motion for Directed Verdict-Remarks by Mr. Kidd
June 9, 2015

1 MR. KIDD: Yes, Your Honor. I mean I think we have
2 at least past the directed verdict motion viewing the
3 evidence in the light most favorable to the State. We've
4 proven each element of the offense in that I think we've
5 proven by two eyewitnesses that Mr. Hilliard is the
6 individual who shot Troy Cason. We proved that he died
7 of the gunshot wound. And as to malice I think there is
8 definitely an inference. But in addition to that I think
9 the separation of the fence topped with barbed wire
10 between the two individuals that alone would make self
11 defense a jury question. But as to disproving the
12 elements of self defense I think there is mutual combat
13 issue.

14 As to the original altercation I think mutual combat
15 is a direct bar to self defense and can preclude them
16 from even getting a self defense charge. I think that
17 he's not without fault in bringing on the difficulty as
18 evidenced by an argument ensuing over a spilled beer.
19 That he armed himself and confronted an unarmed
20 individual from across the property line and he shot him
21 through a fence as he was trying to leave. I think that
22 is evidence as malice, wickedness and ill intent. I feel
23 like we have an abundance of evidence as to each element
24 of the crime and would ask that it go to the jury.

25 MS. ERHLICH: I don't have any response.

State v Vaughn Hilliard
Motion for Directed Verdict-Ruling by the Court
June 9, 2015

1 THE COURT: All right. As you are aware pursuant
2 to Rule 19 in the Rules of Criminal Procedure in ruling
3 on a Motion for Directed Verdict I'm concerned only with
4 the existence or non existence of the evidence.

5 I do agree with your analysis, Ms. Ehrlich. I think
6 this analysis would have been more difficult prior to Ms.
7 Steed testifying. But I think based upon her testimony
8 that there is all of the elements -- the State has
9 presented evidence as to all of the elements and there is
10 sufficient testimony and evidence to present the case to
11 the jury. I'll note your exception to my ruling. Any
12 other motions or matters?

13 MS. ERHLICH: No, Your Honor.
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State v Vaughn Hilliard
Fifth Amendment Rights
June 9, 2015

1 FIFTH AMENDMENT RIGHTS

2 THE COURT: I'm going to go ahead and advise your
3 client of your rights. Please swear the defendant.

4 [Whereupon, the witness is duly sworn by the Clerk
5 of Court]

6 CLERK OF COURT: Could you state your first and last
7 name please?

8 MR. HILLIARD: Vaughn Hilliard.

9 THE COURT: Mr. Hilliard at this time I'm going to
10 explain to you certain of your rights. If you do not
11 understand anything that I say please let me know and if
12 you need for me to explain anything in further detail
13 please let me know. Do you understand?

14 MR. HILLIARD: Yes.

15 THE COURT: We've reached the stage of the trial
16 where you may present your defense. You have the right
17 to claim the protections given to you by the Fifth
18 Amendment to the Constitution of the United States.

19 This Amendment states in part that no person shall
20 be compelled in any criminal case to be a witness against
21 himself. This means that you cannot be required to
22 testify. You have the right to testify on your own
23 behalf; however no one can make you testify. This is a
24 personal right and no one can waive this right except for
25 you. If you decide to testify you will be subject to the

State v Vaughn Hilliard
Fifth Amendment Rights
June 9, 2015

1 same rules that govern other witnesses and you may be
2 examined and cross-examined on any relevant issue in this
3 case.

4 In addition if you have any convictions involving
5 dishonesty or false statements or for crimes punishable
6 by imprisonment for more than one year and I determine
7 that the probative value of admitting that evidence
8 outweighs its prejudicial effect to you the Solicitor
9 will be able to introduce your record to attack your
10 creditability. Are there prior convictions that you plan
11 to use Mr. Kidd?

12 MR. KIDD: Beg the court's indulgence. I
13 apologize. I should have had this...

14 [Whereupon, Mr. Kidd reviews documents]

15 THE COURT: I'm going to continue. Mr. Hilliard if
16 you decide to testify this decision on your part must be
17 freely, voluntarily, and intelligently made with the
18 knowledge and the protections given to you by the Fifth
19 Amendment and the consequences of your decision to
20 testify.

21 If you decide not to testify I will instruct the
22 jurors that they cannot give the fact that you did not
23 testify any consideration whatsoever and there is to be
24 absolutely no prejudice to you because you did not
25 testify. It is left entirely up to you whether or not

State v Vaughn Hilliard
Fifth Amendment Rights
June 9, 2015

1 you testify. You may talk to your friends, your family
2 members or anyone else and your attorneys either together
3 or separately but the final decision is left entirely up
4 to you. Do you understand what I've explained to you?

5 MR. HILLIARD: Yes, ma'am.

6 THE COURT: Do you have any questions about what
7 I've explained to you?

8 MR. HILLIARD: No, ma'am.

9 THE COURT: Have you discussed with your lawyer
10 whether you should or should not testify?

11 MR. HILLIARD: Yes, I have.

12 THE COURT: Do you need to talk to your attorney
13 any more at this time?

14 MR. HILLIARD: Yes.

15 THE COURT: All right. So we'll be back at 9:30
16 all right. We'll do a charge conference. At this point
17 any additional ---

18 MR. KIDD: --- I don't believe there are any
19 impeachable convictions.

20 THE COURT: All right.
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State v Vaughn Hilliard
Proceedings
June 9, 2015

1 THE COURT: Any special requests? Any lesser
2 included at this point? I know you've now heard all the
3 testimony but I'm anticipating that we could argue and
4 charge tomorrow.

5 MR. KIDD: That's correct, Judge. I think a
6 voluntary charge would be appropriate but other than
7 that.

8 THE COURT: All right. Ms. Ehrlich, will you be
9 requesting a voluntary or are you waiting to see how
10 tomorrow goes?

11 MS. ERHLICH: I'm pondering that, Your Honor. I am
12 going to request self defense obviously.

13 THE COURT: All right.

14 MS. ERHLICH: I have some proposed language that I
15 can email to everybody this evening.

16 THE COURT: All right. Please do.

17 MS. ERHLICH: But nothing out of the ordinary I
18 don't think.

19 THE COURT: All right. Thank you.

20 MR. KIDD: And I guess the only other thing if
21 we're talking charges -- are we talking charges?

22 THE COURT: Yes.

23 MR. KIDD: And I might need to look at it a little
24 bit more but I do think there is at least some
25 justification for a mutual combat charge. And I haven't

State v Vaughn Hilliard
Proceedings
June 9, 2015

1 heard her request anything in the nature of the stand
2 your ground charge or anything like that but I don't
3 think it would be appropriate if it were requested.

4 THE COURT: Well as of now Ms. Ehrlich you're not
5 -- you're waiting to see what tomorrow will bring is that
6 correct?

7 MS. ERHLICH: Yes, Your Honor.

8 THE COURT: Mr. Kidd mutual combat is on the list.
9 Of course I will need to hear what the testimony will be
10 but it is on the list of proposed charges.

11 MR. KIDD: Thank you, Your Honor.

12 THE COURT: Anything further?

13 MR. KIDD: Nothing from the State.

14 MS. ERHLICH: No, Your Honor.

15 THE COURT: 9:30. If anything changes Ms. Ehrlich
16 and you do not anticipate calling any witnesses I need
17 you to let me know as soon as possible.

18 MS. ERHLICH: I will, Your Honor.

19 THE COURT: All right. Thank you. 9:30.

20 THE COURT: Thank you, Judge.

21 [Whereupon, court adjourns at 3:45 p.m.]
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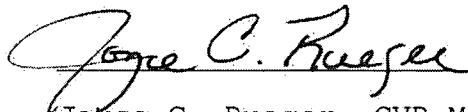
State v Vaughn Hilliard
Certificate of the Court Reporter
June 9, 2015

C E R T I F I C A T E

I, the undersigned, Joyce C. Rueger, Official
Circuit Court Reporter for the Ninth Judicial Circuit of
the State of South Carolina, do hereby certify that the
foregoing is a true, accurate, and complete Transcript of
Record of the proceedings had and evidence introduced in
the trial of the captioned case, relative to appeal, in
the Court of General Sessions for Charleston County,
South Carolina on the 9th day of June, 2015.

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

August 13, 2015


Joyce C. Rueger, CVR-M
Court Reporter

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

COURT OF GENERAL SESSIONS
DOCKET NO. 2014-GS-10-1341

STATE OF SOUTH CAROLINA

vs.

VAUGHN HILLIARD

Defendant

TRANSCRIPT OF RECORD

June 10, 2015
Charleston, South Carolina

VOLUME 3 (OF 3)

B E F O R E:

THE HONORABLE KRISTI L. HARRINGTON, JUDGE

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

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MICHAEL LOIGNON, ESQ.
Attorneys for the Defendant

JOYCE C. RUEGER, CVR-M
Circuit Court Reporter

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3	Photo	353 (I.D. only)
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5	Photo	353 (I.D. only)
6	Photo	353 (I.D. only)
7	Photo	353 (I.D. only)
8	Photo	353 / 363

STATE

<u>No.</u>	<u>Description</u>	<u>Marked / Admitted</u>
35	Photo	378 / 379

COURT

<u>No.</u>	<u>Description</u>	<u>Marked / Admitted</u>
1	Psychiatric evaluation	495
2	Special Needs I.D.	495

State v Vaughn Hilliard
Proceedings
June 10, 2015

PROCEEDINGS

[Whereupon, defendant's exhibit numbers 1 through 8
are marked by the court reporter]

THE COURT: We now have all our jurors. Anything
before we bring in the jury from the State?

MR. KIDD: No, ma'am.

THE COURT: From the defendant?

MS. ERHLICH: No, Your Honor. Do you want us to go
ahead and get our witness in the courtroom because he's a
little bit slow.

THE COURT: Yes. And who will that witness be?

MS. ERHLICH: Paul Bradley.

THE COURT: We need the jury.

MS. ERHLICH: Your Honor, Mr. Hilliard will be
testifying after Mr. Bradley. I don't know if you wanted
to put his decision on the record before the jury comes
out?

THE COURT: I think the fact that he's going to
testify he indicated yesterday he knew -- Mr. Hilliard,
you're going to testify?

MR. HILLIARD: Yes, ma'am.

[Whereupon, the jury enters at 9:34 a.m.]

THE COURT: Good morning ladies and gentlemen, if
you complied with my instructions over the evening hour
please raise your right hand.

State v Vaughn Hilliard
Proceedings
June 10, 2015

1 [Whereupon, all jurors raise their right hand]
2 THE COURT: Thank you. All fourteen jurors have
3 complied with the court's instructions. Ladies and
4 gentlemen please give your strict attention. Ms.
5 Ehrlich, call your first witness.

6 MS. ERHLICH: Thank you, Your Honor.
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State v Vaughn Hilliard
Paul Bradley-Direct Examination by Ms. Ehrlich
June 10, 2015

1 MS. ERHLICH: We'd call Paul Bradley.
2 [Whereupon, Mr. Bradley comes forward]
3 THE COURT: Mr. Bradley, if you can please place
4 your left hand on the Bible and raise your right hand.
5 [Whereupon, the witness is duly sworn by the Court]
6 THE COURT: Please have a seat. Sir, if you could
7 state your full name for the record and spell your last
8 name.
9 THE WITNESS: Huh?
10 THE COURT: I need you to state your full name for
11 the record. What's your name?
12 THE WITNESS: Paul Bradley.
13 THE COURT: And please spell your last name.
14 THE WITNESS: B-R-A-D-L-E-Y.
15 THE COURT: All right. Ms. Ehrlich?
16 MS. ERHLICH: Thank you, Your Honor. And
17 permission to approach the witness?
18 THE COURT: You may. You have continued
19 permission.
20 - - - - -
21 PAUL BRADLEY,
22 Having been first duly sworn,
23 Was examined and testified as follows:
24 DIRECT EXAMINATION
25 BY MS. ERHLICH:

State v Vaughn Hilliard
Paul Bradley-Direct Examination by Ms. Ehrlich
June 10, 2015

- 1 Q. Mr. Bradley, how old are you?
- 2 A. Huh?
- 3 Q. How old are you?
- 4 A. Seventy-one.
- 5 Q. Okay. And where do you live?
- 6 A. -- Grayson.
- 7 Q. Could you repeat that? Is that [REDACTED] Grayson Street?
- 8 A. Yes.
- 9 Q. Is that the apartment complex?
- 10 A. Apartments.
- 11 Q. Apartments?
- 12 A. Apartments.
- 13 Q. Okay. Do you live in an upper level or a lower
- 14 level apartment?
- 15 A. Up.
- 16 Q. Were you out there the day that there was a
- 17 shooting?
- 18 A. Yeah.
- 19 Q. Was that a yes?
- 20 A. Huh?
- 21 Q. Were you out there when there was a shooting?
- 22 A. Yes.
- 23 Q. Where were you sitting that day?
- 24 A. Outside.
- 25 Q. Outside?

State v Vaughn Hilliard
Paul Bradley-Direct Examination by Ms. Ehrlich
June 10, 2015

- 1 A. Outside.
- 2 Q. Outside?
- 3 A. Uh Huh.
- 4 Q. Okay. Did you ever see Kenneth get hit?
- 5 A. Yes.
- 6 Q. What happened?
- 7 A. Kenneth on this side of the fence.
- 8 Q. Kenneth was on one side of the fence?
- 9 A. Yeah.
- 10 Q. Okay.
- 11 A. He was standing by the fence by the gate. Charles
- 12 was on the other side punched him --
- 13 Q. He punched him through the gate?
- 14 A. No, the gate was wide open.
- 15 Q. The gate was open?
- 16 A. Charles --
- 17 Q. Charles punched him?
- 18 A. Yeah.
- 19 Q. What did Kenneth do after he was punched?
- 20 A. Fall.
- 21 Q. He fell down?
- 22 A. Fall on the head, yes, fell back.
- 23 Q. And what did you do?
- 24 MR. KIDD: Objection, Judge. May we approach?
- 25 THE COURT: You may.

State v Vaughn Hilliard
Paul Bradley-Direct Examination by Ms. Ehrlich
June 10, 2015

1 [Whereupon, an off the record bench conference is
2 held]

3 Q. [Ms. Ehrlich] Mr. Bradley, I'm going to push you a
4 little bit closer to the microphone so they can hear you.

5 THE COURT: Thank you Ms. Ehrlich.

6 Q. [Ms. Ehrlich] What did you see Charles do to
7 Kenneth?

8 A. What did I see?

9 Q. Yes?

10 A. I seen Charles hit him.

11 Q. Charles hit him?

12 A. Yeah.

13 Q. Okay. What did Kenneth do when he was hit?

14 A. Fall.

15 Q. He fall?

16 A. Yeah.

17 Q. What did you do?

18 A. Well, I stayed but after a minute I went in the
19 house and I called his momma to try and help him.

20 Q. You went in the house?

21 A. Called him momma's -- Kenneth's momma.

22 Q. Called Kenneth's momma?

23 A. But she didn't answer the phone.

24 Q. To try to help him?

25 A. She won't answer.

State v Vaughn Hilliard
Paul Bradley-Direct Examination by Ms. Ehrlich
June 10, 2015

1 Q. Why did you want to call his momma?

2 A. To try to help Kenneth off the ground.

3 Q. To help Kenneth off the ground?

4 A. I didn't --

5 Q. I don't have any other questions Mr. Bradley. Thank
6 you.

7 THE COURT: Mr. Kidd?

8 MR. KIDD: I have no questions for this witness.

9 THE COURT: Mr. Bradley, you may step down. Thank
10 you.

11 THE WITNESS: Huh?

12 THE COURT: You're free to go.

13 MS. ERHLICH: May I approach the witness, Your
14 Honor?

15 [Whereupon, the witness is excused and exits the
16 witness stand]

17 THE COURT: Call your next witness.

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State v Vaughn Hilliard
Vaughn Hilliard-Direct Examination by Ms. Ehrlich
June 10, 2015

1 MS. ERHLICH: Your Honor, we call Vaughn Hilliard.
2 [Whereupon, Mr. Hilliard comes forward]
3 [Whereupon, the witness is duly sworn by the Clerk
4 of Court]

5 CLERK OF COURT: Sir, if you could please state your
6 first and last name and then spell your last loudly and
7 as clearly as you can into the microphone.

8 THE WITNESS: Vaughn Hilliard, H-I-L-L-I-A-R-D.

9 THE COURT: Ms. Ehrlich?

10 MS. ERHLICH: Thank you, Your Honor.

11 - - - - -

12 VAUGHN HILLIARD,

13 Having been first duly sworn,

14 Was examined and testified as follows:

15 DIRECT EXAMINATION

16 BY MS. EHRLICH:

17 Q. Mr. Hilliard how old are you?

18 A. Fifty-seven.

19 Q. And how old were you when you were actually
20 arrested?

21 A. Fifty-five.

22 Q. Where are you from originally?

23 A. I'm from Orangeburg County.

24 Q. Okay. When did you move to the Charleston area
25 last?

State v Vaughn Hilliard
Vaughn Hilliard-Direct Examination by Ms. Ehrlich
June 10, 2015

- 1 A. When I moved the last?
- 2 Q. Yes?
- 3 A. When I moved from Orangeburg County to Charleston?
- 4 Q. Sure.
- 5 A. Oh, that was years ago when I was little.
- 6 Q. Okay. Where did you go to school?
- 7 A. Right here in Charleston.
- 8 Q. Did you graduate?
- 9 A. No, I went to the -- no.
- 10 Q. How far did you go?
- 11 A. Eleventh.
- 12 Q. Did you ever get a G-E-D or anything?
- 13 A. No.
- 14 Q. Do you have any family in the Charleston area?
- 15 A. Yes.
- 16 Q. Who lives in Charleston?
- 17 A. I have some cousins.
- 18 Q. And during the trial we heard some testimony from
- 19 Earl about your mother?
- 20 A. Right.
- 21 Q. Is she still in the area?
- 22 A. No, she is deceased.
- 23 Q. When did she pass away?
- 24 A. She passed away February not last year the year
- 25 before.

State v Vaughn Hilliard
Vaughn Hilliard-Direct Examination by Ms. Ehrlich
June 10, 2015

1 Q. Okay. And have you been married before?
2 A. Yes.
3 Q. Who were you married to?
4 A. Charlotte Hilliard.
5 Q. Are y'all still married?
6 A. No.
7 Q. Have you always -- after you lived in Orangeburg
8 have you always lived in the Charleston area?
9 A. Yes.
10 Q. Did you ever live out of state?
11 A. I lived in Florida before.
12 Q. When did you come back from Florida to Charleston?
13 A. I think it was about five or six years ago.
14 Q. Okay. And why did you move back here?
15 A. I moved back here to take care of my mother because
16 she was sick and couldn't take care of herself.
17 Q. Okay. And where did you live?
18 A. At first I lived in the house with her.
19 Q. In her trailer?
20 A. In her trailer.
21 MS. ERHLICH: Your Honor, may I approach the
22 witness?
23 THE COURT: You may. You have continued permission.
24 Q. [Ms. Ehrlich] Mr. Hilliard, I want to show you what
25 has been marked as defendant's exhibit 8.

State v Vaughn Hilliard
Vaughn Hilliard-Direct Examination by Ms. Ehrlich
June 10, 2015

1 [Whereupon, the witness is shown photograph]

2 Q. Could you look at that and tell me if you recognize
3 that?

4 A. Yes.

5 Q. What do you see?

6 A. Yes, I recognize it.

7 Q. Is that a fair and accurate depiction of the
8 property?

9 A. Yes.

10 MS. ERHLICH: Your Honor, we move to admit
11 defendant's exhibit 8.

12 MR. KIDD: No objection.

13 THE COURT: Defendant's 8 into evidence without
14 objection.

15 [Whereupon, defendant's exhibit number 8 is entered
16 into evidence by the court]

17 Q. [Ms. Ehrlich] Mr. Hilliard what is that a picture
18 of?

19 [Whereupon, the photograph is shown]

20 A. That is the picture of the two trailers in the yard.

21 Q. And you know you saw during the trial how people can
22 touch the screen?

23 A. Yes.

24 Q. Which trailer were you living in at the time of the
25 shooting?

State v Vaughn Hilliard
Vaughn Hilliard-Direct Examination by Ms. Ehrlich
June 10, 2015

- 1 A. This one [indicates].
- 2 Q. Okay. And which one was your momma living in?
- 3 A. This one [indicates].
- 4 Q. Kind of describe to the jury -- we've heard a lot
- 5 about the property -- how was the property set up?
- 6 A. It had my mother's trailer was in the front and
- 7 there was a second trailer behind hers right beside hers.
- 8 It was side by side trailers.
- 9 Q. Okay. And what was around that area? Were there
- 10 other buildings or homes?
- 11 A. Yes. There was an apartment building on the side of
- 12 the trailer that was in the back.
- 13 Q. And was there a fence around the property?
- 14 A. Yes, there was a fence.
- 15 Q. Okay. Did you put the fence up?
- 16 A. No, the fence was there with the property.
- 17 Q. Did you put like barbed wire around it?
- 18 A. No, that was there with the property.
- 19 Q. That was there when you moved in?
- 20 A. That was there; correct.
- 21 Q. And how would you describe that neighborhood in
- 22 general?
- 23 A. That neighborhood is a dangerous neighborhood to
- 24 live in.
- 25 Q. Dangerous how?

State v Vaughn Hilliard
Vaughn Hilliard-Direct Examination by Ms. Ehrlich
June 10, 2015

1 A. Well it would be like robbing, drugs, or people
2 shooting at each other, ride by shootings.

3 Q. Okay. And that apartment building that is next to
4 the trailer what kind of stuff goes on out there?

5 A. It's a place where people come back and drink.

6 Q. Okay. Let's talk a little bit about your work
7 history. Have you ever -- were you working at the time
8 that you were arrested?

9 A. No, I was not working.

10 Q. Okay. Have you worked in the past?

11 A. Yes, I have.

12 Q. What type of work did you last do?

13 A. My last work that I did I worked on the shipyard and
14 it was loading like steel on the ship. I got hurt;
15 that's what caused my injury.

16 Q. Okay. What did you hurt?

17 A. I hurt my knees. I hurt my back. I hurt my wrist
18 and I busted cracked three of my teeth.

19 Q. Okay. Do you still get treatment for any of those
20 injuries?

21 A. Yes.

22 Q. What kind of treatment?

23 A. I get treatment for my back. I take pain
24 medication.

25 Q. Okay. Do you have any other medical conditions?

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- 1 A. Yes, I'm a diabetic and I have high blood pressure.
- 2 Q. Okay. What -- how -- I mean we know you're in a
- 3 wheelchair. How do you normally get around?
- 4 A. In this wheelchair.
- 5 Q. Okay. Prior to your arrest how did you get around?
- 6 A. A walking cane.
- 7 Q. Okay.
- 8 A. I have a walking cane.
- 9 Q. And why did you have a walking cane?
- 10 A. Because of the injury.
- 11 Q. Which injury?
- 12 A. Because of my knee and back when I would walk I
- 13 would fall down because my knee give out because my
- 14 cartilage is gone.
- 15 Q. Okay. How -- were you taking any sort of pain
- 16 medicine?
- 17 A. Yes, I was taking pain medicine.
- 18 Q. And how would you describe the pain that you feel
- 19 pretty much on a daily basis?
- 20 A. It was a never ending pain. When I go to bed I'm in
- 21 pain. I toss and turn all night long; I'm in pain. And
- 22 when I get up I'll still in pain. There is continuous
- 23 pain going.
- 24 Q. Do you -- how does that kind of impact your daily
- 25 life?

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1 A. A whole lot. I felt like I couldn't do nothing for
2 myself.

3 Q. Besides the medication and the pain did doctors ever
4 give you any sort of other assistance as far as back or
5 wrist?

6 MR. KIDD: Objection, Judge, just to relevance.

7 THE COURT: I'm going to give her a little more
8 leeway.

9 THE WITNESS: Could you repeat the question please?

10 Q. [Ms. Ehrlich] Besides having you use a cane and
11 giving you medication did the doctors give you anything
12 else to assist you with your injuries?

13 A. Yes, they give me -- I used to go to a therapist.

14 Q. Did they give you any sort of braces or anything
15 like that?

16 A. They give me exercises to do is what you mean?

17 Q. Did they give you any sort of brace ---

18 A. --- oh brace ---

19 Q. --- like I see on your wrist you have a brace ---

20 A. --- yes, they gave me a back brace, wrist brace, and
21 a knee brace.

22 Q. Around the time when this happened and I'm not
23 talking specifically about that day but during those
24 months and days leading up to the day of the shooting
25 what was like your daily routine?

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1 A. My daily routine I would get up in the morning, take
2 my medication and then I would go check on my mom.

3 Q. Okay. What else did you do during the day?

4 A. When I leave her?

5 Q. Uh Huh?

6 A. I would go back to my house where I live, watch a
7 little T.V. and then I would go back to check on my mom
8 after she took her medication because she have a pill
9 that she has to take 30 minutes before she eats.

10 And I would go back within that 30 minutes and make
11 sure that she get her food and once she gets her
12 breakfast then I would go back to my house again and I
13 would watch a little more T.V.

14 Q. Did you ever -- did you leave the property much?

15 A. No, I stayed in the yard, no.

16 Q. What did you do the morning of the shooting do you
17 remember?

18 A. Yes.

19 Q. What did you do that day?

20 A. When I got up I took my medication.

21 Q. Okay.

22 A. I went next door to my mom's house to check on her
23 and give her her medication and I came back. And I had
24 to wait 30 minutes before she eats so I went back and
25 made sure she ate. Then I came back over at the house

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1 and I sat down and watched a little T.V.

2 Q. Do you remember what you watched on T.V.

3 A. I watched Steve Wilkos.

4 Q. Did you watch anything else on T.V. that day?

5 A. Yes, I watched Maury and Jerry Springer; those are
6 my favorites.

7 Q. Besides watching T.V. and checking on your mom did
8 you do anything else that day?

9 A. Yes, I walked around for exercise like I usually do.

10 Q. Explain that -- you and I have talked about that but
11 the jury doesn't know what you're talking about. What do
12 you mean?

13 A. I would get up and walk around the house to exercise
14 my legs. And I used to carry my cane. Sometimes I would
15 have to take my walker. It's a walker with four wheels;
16 it's just like a wheelchair the one that has the seat. I
17 walk so far then I would have to sit down, you know take
18 a break.

19 And if I use my cane I would walk a certain distance
20 and my legs would give out. My legs just would collapse
21 and I would just fall. And I have called my wife on her
22 job to come and pick me up many a times I would fall in
23 the yard.

24 Q. Mr. Hilliard when you're talking about walking
25 around your house do you mean inside your trailer or in

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1 the yard?

2 A. In the yard. I walk around the yard.

3 Q. The day of the shooting do you remember speaking to
4 Mr. Cason?

5 A. Yes.

6 Q. Okay. Before that day had you ever met him before?

7 A. No, I had never seen him before.

8 Q. Do you know if any of your family members knew him
9 or were friendly with him?

10 A. I did not know that.

11 Q. And had you ever had any issues or problems with him
12 before then?

13 A. No, I haven't.

14 Q. Tell me what happened when you walked outside and
15 had your first interaction with Mr. Cason.

16 A. When I first walked outside I just had left from my
17 mom's house. And when I walked around the trailer I was
18 going to do my little daily exercise I walked from my mom
19 house around to the back.

20 It was on the corner where I sit so I have a crate
21 out there so when I walked out there I saw a beer can was
22 thrown over the fence because I pay somebody to clean the
23 yard because I'm not capable of doing it; you know raking
24 the yard and stuff like that.

25 Q. Did you see the beer can get thrown or did you just

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1 see it on the property?

2 A. No, I just seen it on the property.

3 Q. What happened next?

4 A. And I said -- this is what I said. I said I wonder
5 who in the hell threw that can over in my yard. And he
6 was across the fence sitting on the sidewalk by the
7 building by the apartments.

8 Q. Were you talking to anybody?

9 A. No, I was not talking to nobody. I was just talking
10 out loud. Like if I walked up and you're standing right
11 there and there is something like that gun case there
12 [indicates] I would say I wonder who in the hell put that
13 there like that. I was just talking out loud, speaking
14 out loud.

15 Q. What happened next?

16 A. Then he said I didn't throw the can in your yard. I
17 said sir, I didn't accuse you of throwing the can in the
18 yard. Then he said you don't know who I am. And I said
19 no, I do not know who you are. Then he said I'll come
20 over there and kick your ass.

21 Q. Okay.

22 A. And he said where is the gate. And I pointed the
23 gate is this way. And I said the gate is over there down
24 there. So he got up and I walked -- we walked -- he was
25 on this side [indicates] of the fence and I'm on this

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1 side [indicates] of the fence. So we're walking and
2 talking back and forth to each other. And when I went to
3 the gate I got the key because it is a chain lock.

4 Q. Okay. Let me pause you right there. Why -- what
5 were you saying back to him. Were you arguing with him?

6 A. It was kind of like a mutual argument. But what I
7 was going to do down there I figured we could talk it
8 out. I didn't go -- I figured we could reasonable --
9 reason it out.

10 Q. Okay. Were you going to the gate to fight him?

11 A. No, I wasn't going to the gate to fight.

12 Q. What happened when you got to the gate? By the way,
13 when you were going to the gate were you scared at that
14 point?

15 A. No, I was not afraid of him.

16 Q. What happened when you got to the gate?

17 A. When I got to the gate I went to open the gate.
18 It's a lock and a chain that goes through the fence and
19 the gate. And I grabbed the lock in my left hand and
20 took the key with the right to unlock the lock.

21 Q. Okay.

22 A. And when I was doing that I put my hand on the fence
23 on the gate and when I put my hand on the gate there was
24 a gap about like this [indicates] between the gate and
25 the fence and that's when he punched me right here

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- 1 [indicates]. He punched me right here [indicates].
- 2 Q. What happened after you got punched?
- 3 A. When he punched me I fell backwards.
- 4 Q. Okay. At this time did you -- were you wearing
- 5 that back brace?
- 6 A. Yes, I was wearing the back brace, I had my knee
- 7 brace on, and I had this brace on right here [indicates].
- 8 And I had my walking cane.
- 9 Q. Okay. When -- you said that before you got to the
- 10 gate he said something about kicking your ass.
- 11 A. Yes.
- 12 Q. Did you take that seriously at that point?
- 13 A. No, no I didn't.
- 14 Q. What happened to you when you got hit here
- 15 [indicates]?
- 16 A. I fell backwards on the ground.
- 17 Q. And what was going on in your head then?
- 18 A. He hit me and I didn't know what he was going to do
- 19 next but he hit me.
- 20 Q. Okay. What about your pain level?
- 21 A. My pain level had exceeded -- it went up higher.
- 22 Q. Were you scared at that point?
- 23 A. After he hit me.
- 24 Q. Why at that point were you scared?
- 25 A. I was scared because he hit -- he punched me.

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1 Q. Okay. What did you do after you got punched?

2 A. After I got punched I got off the ground and went
3 and got my rifle. And I came out of the house ---

4 Q. --- how did you get up?

5 A. I took my cane and braced myself up and then I went
6 in the house and got my rifle. And I came back outside
7 on the same side of the fence and the apartment.

8 And I was in the yard and I walked back right where
9 the crates is at. I sat down and I had my gun right here
10 [indicates] next to me leaning on the trailer.

11 Q. How did you get from the trailer to the crates?

12 A. How did I get from the trailer to the crates?

13 Q. Yes?

14 A. I had my cane with my right hand and I carried my
15 gun in my left hand.

16 Q. All right. Were you threatening him at that point?

17 A. No, I was not threatening him.

18 Q. Why did you even get the gun?

19 A. I got the gun because he had -- he left, he went to
20 the car. When he went to the car him and -- I can't
21 remember her name but they went to the car.

22 Q. Okay.

23 A. And another guy was out there, Earl, was telling him
24 that I had a gun.

25 Q. Okay.

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- 1 A. And she was trying to hold him back.
- 2 Q. Okay.
- 3 A. He snatched away from her and then he pushed Earl
- 4 out of the way and he said he was coming after me.
- 5 Q. Okay. What did you do?
- 6 A. That's when I grabbed my gun because I was afraid.
- 7 I didn't know what he was capable of doing. That's when
- 8 I feared for my life.
- 9 Q. What made you fear for your life?
- 10 A. When -- he knew I had a gun when he snatched away
- 11 from his girlfriend and he pushed Earl out the way and he
- 12 said he was coming after me.
- 13 Q. Did you see him with a weapon or anything?
- 14 A. I didn't see it. I didn't see a weapon. No, I did
- 15 not see a weapon.
- 16 Q. Did you know if he had a weapon at that time?
- 17 A. No, I did not know.
- 18 Q. Were you concerned about whether or not he could ---
- 19 A. --- yes.
- 20 Q. Had you noticed Mr. Cason drinking at any point
- 21 during that day?
- 22 A. Yes, he was drinking that day.
- 23 Q. Were you intoxicated?
- 24 A. No, I was not.
- 25 Q. Had you had anything to drink that day?

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1 A. That morning I had one shot of vodka that morning.

2 Q. What was he doing when he came back from the car
3 that made you fearful? Was he saying anything in
4 particular?

5 A. He was talking, he was cursing at -- we still was
6 kind of like in an argument. The things he was saying I
7 knew he was talking to me. He was arguing.

8 Q. Were you saying anything back?

9 A. I was sitting down.

10 Q. Okay.

11 A. And what he was saying he was throwing his hand like
12 he was in a rage or something.

13 Q. Okay.

14 A. I might have said a few words but I really couldn't
15 understand what he was saying but I knew he was coming
16 towards me.

17 Q. Okay. How many times did you shoot the rifle?

18 A. Once.

19 Q. And why did you shoot it?

20 A. Because I was afraid of him.

21 Q. Afraid of what?

22 A. I was afraid that he was going to hurt me or kill
23 me.

24 Q. And why?

25 A. Because of the rage, because he hit me first. I

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1. wasn't afraid of him before I got hit.
- 2 Q. Okay.
- 3 A. And after he hit me that's when I was afraid of him.
- 4 Q. Okay. What did you think would happen if you
- 5 didn't fire the gun?
- 6 A. I think he would have hurt me.
- 7 Q. Were you angry when you fired the gun?
- 8 A. No, I wasn't angry. I was scared.
- 9 Q. Explain to the jury like what is going on in your
- 10 head that makes you scared? Like what is it about you or
- 11 him that makes you scared?
- 12 A. Well first I was incapable of fighting my battle
- 13 myself because I didn't have no strength. I was weak, I
- 14 could not defend myself and I know this.
- 15 Q. Why did you decide to come outside of the trailer?
- 16 A. I came out to protect.
- 17 Q. Protect who?
- 18 A. To protect me and my mother; the yard.
- 19 Q. What happened to Mr. Cason? What did you see Mr.
- 20 Cason do after you shot him?
- 21 A. After I shot him?
- 22 Q. Uh Huh?
- 23 A. He turned and he ran.
- 24 Q. Are you able to run?
- 25 A. No, I'm not able to run.

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1 Q. After the shooting did you call 911?

2 A. No, I did not.

3 Q. Why not?

4 A. Because I figured someone else would have called
5 them.

6 Q. What did you do after the shooting?

7 A. I took the gun back in the house and came back and
8 sat on the milk crate.

9 Q. Okay. What did you do after that?

10 A. I sat there. I waited.

11 Q. What were you waiting for?

12 A. I waited for the cops to come.

13 Q. When the police came and asked you to step out of
14 the yard did you do that?

15 A. Yes.

16 MS. ERHLICH: Beg the court's indulgence.

17 [Whereupon, Ms. Ehrlich and Mr. Loignon confer]

18 Q. Mr. Hilliard please answer any questions Mr. Kidd
19 has for you.

20 THE COURT: Mr. Kidd?

21 MR. KIDD: May it please the court? May I
22 approach the reporter?

23 [Whereupon, State's exhibit number 35 is marked by
24 the court reporter]

25

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1 CROSS-EXAMINATION

2 BY MR. KIDD:

3 Q. Mr. Hilliard I'm going to show you what has been
4 marked as State's exhibit 35.

5 [Whereupon, the witness is shown photograph]

6 Q. Do you recognize that photograph?

7 A. That's a picture of me.

8 Q. Do you know when it was taken?

9 A. That's the day of the shooting.

10 Q. The day of the shooting right.

11 MR. KIDD: Your Honor, at this time the State offer
12 State's exhibit 35 into evidence.

13 THE COURT: Any objection?

14 MS. ERHLICH: No, Your Honor.

15 THE COURT: State's 35 into evidence.

16 [Whereupon, State's exhibit number 35 is entered
17 into evidence by the court]

18 Q. [Mr. Kidd] Do you see any swelling on your face
19 where you got hit there Mr. Hilliard?

20 A. It looks like it.

21 Q. Looks like it? Where?

22 A. Between the eyes, right above my nose right here
23 [indicates].

24 Q. Do you want the jury to believe you had one shot of
25 vodka that day in the morning?

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1 A. Yes.

2 Q. Is that how you get most of your days started with
3 one shot of vodka?

4 A. Sometimes.

5 Q. And just one? You just stop after one?

6 A. Sometimes I do, sometimes I don't. Occasionally I
7 may drink a little more.

8 Q. But not that day?

9 A. That day I was not.

10 Q. Just one to lubricate the joints a little?

11 A. There you go.

12 Q. Okay. What's that pain medication you're taking
13 say about drinking alcohol?

14 A. Oxycontin.

15 Q. Oxycontin?

16 A. Yep.

17 Q. That's pretty serious stuff.

18 A. Yes, it is.

19 Q. What's it say about drinking alcohol on it?

20 A. It says no alcohol.

21 Q. It says no alcohol but you were drinking on it
22 anyway right?

23 A. I didn't take it that day.

24 Q. On your direct testimony you said you took your
25 medication that morning when you woke up?

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- 1 A. My mother.
- 2 Q. You also said you took yours.
- 3 A. Okay.
- 4 Q. You did not?
- 5 A. Maybe I did -- I took it; my mistake.
- 6 Q. All right. We just want the truth ---
- 7 A. --- I'm telling -- I'm giving you the truth.
- 8 Q. I'm not trying to be ---
- 9 A. --- I understand.
- 10 Q. And dealing with pain on a constant basis is tough
- 11 right?
- 12 A. Yes, it is.
- 13 Q. And mentally it can be exhausting right?
- 14 A. Yes.
- 15 Q. And it can sort of make you feel desperate right?
- 16 A. It could.
- 17 Q. Has it don't that to you?
- 18 A. Sometimes.
- 19 Q. Desperate people often do things a little bit out of
- 20 character right?
- 21 A. Correct.
- 22 Q. Now how long have you known Earl?
- 23 A. I never -- oh Earl?
- 24 Q. Uh Huh?
- 25 A. I've known him since I was coming back and forth to

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1 see my mother. But maybe about five years, four years;
2 something like that.

3 Q. Four or five years ---

4 A. --- I met him when I came back to take care of my
5 mother.

6 Q. When you moved back from Florida what were things
7 like when you moved back from Florida around that
8 property?

9 A. What was it like?

10 Q. Yes?

11 A. Well it was a lot of people hanging in the yard.

12 Q. How did you feel about that?

13 A. How did I feel about it? I don't think it was fair
14 for her.

15 Q. You don't think it was fair for your mother?

16 A. Right.

17 Q. So you tried to change that right?

18 A. What's that?

19 Q. So you tried to change that right?

20 MS. ERHLICH: Objection, Your Honor. Relevance.

21 THE COURT: Overruled. You may answer.

22 Q. [Mr. Kidd] You didn't like the people hanging out in
23 that yard so you tried to change that.

24 A. Well, I knew they were taking advantage of her. She
25 didn't like all that foolishness of people in the yard

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1 drinking and stuff.

2 Q. So you put that lock on the gate and tried to keep
3 everybody ---

4 A. --- no, no, no sir. The lock was there when I came
5 back.

6 Q. The lock was there ---

7 A. --- the lock was there all the time.

8 Q. You had a key to it right?

9 A. When I came back I had a key, yes.

10 Q. Yes, that's what I mean. And you made sure it
11 stayed locked and kept people out?

12 A. Yes.

13 Q. But everyone over there loved your momma right?

14 A. That's what was told.

15 Q. That's what was told? You were living there for a
16 number of years.

17 A. I could see a lot of things that wasn't -- I
18 wouldn't think that they loved her. I would think that
19 they used her because she was old and getting senile.

20 Q. Now I know you're in a wheelchair right now but
21 could you get up and walk if you had a cane right now?

22 A. A certain distance.

23 Q. A certain distance?

24 A. A certain distance.

25 Q. So you don't have to be in a wheelchair right this

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- 1 minute. Like if you needed to you could walk over here?
- 2 A. I go to the bathroom with my cane sometimes.
- 3 Q. If you had a cane could you walk to me right now?
- 4 A. If I had a cane?
- 5 Q. Uh Huh?
- 6 A. Possible yes; and I would be taking a chance on
- 7 falling down because of my legs and back.
- 8 Q. Now I want you to -- on the day of the shooting I
- 9 just want you to tell me what Earl was doing? Where was
- 10 Earl at when you first came around the corner to where
- 11 the beer -- when you said wonder where the hell that beer
- 12 can came from where was Earl at?
- 13 A. Sitting on the corner of the apartments.
- 14 Q. On the front ---
- 15 A. --- on the other side of the fence.
- 16 Q. I'm going to show you State's exhibit 1.
- 17 [Whereupon, the photograph is shown]
- 18 Q. So Earl is sitting right here [indicates] is that
- 19 what you're saying?
- 20 A. Yes.
- 21 Q. Where was Charles at -- Troy ---
- 22 A. --- Charles was sitting there not Earl; my mistake.
- 23 Yes, Charles was sitting there.
- 24 Q. Where was Earl at?
- 25 A. I didn't see Earl at that time because I was inside

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1 here [indicates] and I only seen Charles sitting here
2 [indicates].

3 Q. Okay. So Charles is sitting here [indicates].

4 A. Right.

5 Q. A "C" for Charles. Where was the female that he was
6 with?

7 A. She was sitting right here [indicates].

8 Q. So she was -- Angela Steed was sitting right there
9 [indicates]?

10 A. Right.

11 Q. All right. Who else was around? Anybody else out
12 there?

13 A. Not that I can recall at that time.

14 Q. At that time. And you don't ---

15 A. --- because I just came out of the house.

16 Q. You had just come out the house so you're walking
17 around this way [indicates] right?

18 A. Right. I walked and the can was right about there
19 [indicates] on the ground on the inside the fence.

20 Q. So the can ---

21 A. --- was inside the fence ---

22 Q. --- was right there [indicates] on the ground ---

23 A. --- inside the fence.

24 Q. Inside your fence; I got you. So we've got a can on
25 the ground right there [indicates] right?

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- 1 A. Inside the fence, yes.
- 2 Q. And you said something like I believe you said I
3 wonder where the hell that can came from right?
- 4 A. I said I wonder who the hell threw that can over in
5 the yard.
- 6 Q. Wonder who the hell threw that can over the yard.
- 7 A. Yes.
- 8 Q. But the only guy out there was Charles?
- 9 A. Right. The guy; yes.
- 10 Q. So the fact that you're saying that out loud it's
11 not farfetched for him to think you're talking to him
12 right?
- 13 A. But I didn't say it talking like I was talking to
14 him. I just walked out the house and I looked at the can
15 and I said dog, I wonder who the hell threw that can over
16 here. I didn't look at him or nothing. I was just
17 walking in the yard and saw the can just speaking out
18 loud.
- 19 Q. And he was the only guy out there though right?
- 20 A. Right. That I can recall.
- 21 Q. That you can recall?
- 22 A. Right.
- 23 Q. And he doesn't take kindly to that comment right
24 because he felt like you were accusing him right?
- 25 A. Right.

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1 Q. So y'all started arguing?

2 A. I told him when he said sir, I didn't throw the can
3 over in your yard. I said I didn't accuse you -- he
4 didn't say sir, I said it. He said I didn't throw no can
5 over in your yard.

6 And I said sir; I didn't accuse you of throwing the
7 can in this yard. So he said you don't know who I am.
8 And I said no, I don't know who you are. And he said
9 open that gate and I'll kick your ass. That's what he
10 said.

11 Q. He said open that gate and I'll kick your ass ---

12 A. --- he's going to kick my ass.

13 Q. So what did you do? You went to go open the gate.

14 A. I went on down to the gate.

15 Q. Because you knew that y'all were about to fight.

16 A. I wasn't afraid of him then.

17 Q. You weren't afraid of him ---

18 A. --- no, I wasn't afraid of him. I went down to try
19 to talk it out to see if we could reason it out.

20 Q. Why would you need to open the gate to talk it out?

21 A. I was not afraid of him.

22 Q. You weren't afraid ---

23 A. --- at that time I was not afraid of him.

24 Q. But he was saying I'll kick your ass.

25 A. Right.

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- 1 Q. Open that gate and I'll kick your ass.
2 A. Right.
3 Q. And you thought to yourself well I'm going to go
4 open the gate?
5 A. I didn't take him serious.
6 Q. You didn't take it serious?
7 A. Yes.
8 Q. So when a guy who you've never met before says you
9 open that gate and I'm going to whoop your ass and you
10 didn't take it serious?
11 A. I didn't take him serious.
12 Q. You just said well I'm going to go open the gate and
13 see what happens?
14 A. There you go.
15 Q. So y'all walked side-by-side to that fence right?
16 A. Yes, yes.
17 Q. Talking back and forth?
18 A. Yes, while we was walking.
19 Q. Talking a little trash?
20 A. Kind of passing words.
21 Q. Passing words?
22 A. Yes.
23 Q. Still not taking him seriously?
24 A. Still not taking him serious.
25 Q. Just a joke?

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1 A. I didn't take him serious like he was going to be no
2 harm there that day.

3 Q. Well what kind of things were y'all saying to each
4 other?

5 A. We was just talking from the can and walking back.
6 I was trying to -- I figure we was going to compromise
7 once we get back.

8 Q. What were y'all going to compromise over?

9 A. When I opened the gate I was not afraid of him. You
10 understand? I didn't think he was going to do nothing to
11 me.

12 Q. Right.

13 A. That's the point.

14 Q. You weren't afraid of him.

15 A. Right.

16 Q. Because you thought you could take him.

17 A. No, I didn't think that.

18 Q. And y'all got to the gate right?

19 A. Correct.

20 Q. And you started unlocking the gate.

21 A. Right.

22 Q. And while you were trying to unlock the gate you've
23 got what a key in one hand and your cane in your other?

24 A. No. I had the cane hanging on the fence. I had the
25 key in my right hand and the lock in the left hand.

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- 1 Q. So the cane was like one of those hook canes?
2 A. Yes. The cane was just hanging ---
3 Q. --- hanging on the fence.
4 A. Right.
5 Q. All right. So you got a key in one hand and the
6 lock in the other?
7 A. Yes.
8 Q. Standing on the other side of the fence?
9 A. Right, on my side of the fence and he's on the other
10 side.
11 Q. And you're saying you got punched.
12 A. I got punched between the gate and the fence.
13 Q. So in that crack right there [indicates]?
14 A. In this crack right here [indicates].
15 Q. Before this day had you ever been punched before in
16 your life? Have you ever been a fist fight?
17 A. Yes I've been in fist fights before, yes.
18 Q. So you've been hit in the face before?
19 A. Yes, I've been hit before.
20 Q. Would you call this a really hard punch?
21 A. Yes, sir.
22 Q. It was right here [indicates]?
23 A. Yes sir, because it knocked me down.
24 Q. Because it knocked you down ---
25 A. --- and I felt it.

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1 Q. I'm asking because I've been hit in the face before
2 too and there is different kinds. Did you fall down
3 because you got hit really hard or did you fall down
4 because of your back and your knees?

5 A. I fell down because he punched me and made me fall.

6 Q. But you would agree with me though it's not exactly
7 like you've got a big shiner or anything like that. No
8 big goose egg on your head.

9 A. The officer that took me in he said that it was
10 prints up here [indicates]. He saw that I was hit.

11 Q. What was that officer's name?

12 A. He didn't take a picture. I can't recall but all
13 you got to do is ask the department the one who
14 transported me they should have that on file.

15 Q. Okay. Now when you fell down there were a lot of
16 people in that courtyard right?

17 A. Yes.

18 Q. And they were laughing at you weren't they? They
19 were all laughing and joking ---

20 A. --- I didn't pick up on what they were doing I was
21 concentrating on myself.

22 Q. Earl was laughing.

23 A. I don't know who was laughing or what. I was
24 concentrating on myself ---

25 Q. --- Charles was ---

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1 A. --- because I was knocked down.

2 Q. They were laughing at you because the grumpy old man
3 got knocked down and they started laughing at you and it
4 hurt your feelings didn't it?

5 A. No, I wasn't paying them no attention.

6 Q. It hurt your pride.

7 A. No, it did not hurt my pride.

8 Q. You got knocked down in your own yard.

9 A. Hey, ain't nothing wrong with that sometime.

10 Q. Well if there ain't nothing wrong with that sometime
11 why did you go get a gun?

12 A. Because he knocked me down.

13 Q. So there is something wrong with that?

14 A. He knocked me down. I said sometimes.

15 Q. Right. So this time there was something wrong with
16 that?

17 A. He knocked me down. I was weak, I couldn't fight,
18 couldn't protect myself.

19 Q. So you went and got a gun?

20 A. Oh, yes I did.

21 Q. And there is nothing wrong with having a gun is
22 there?

23 A. If the gun is for protection.

24 Q. Right. Then there's nothing wrong with having a
25 gun.

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- 1 A. No, it's nothing wrong with having a gun.
- 2 Q. But there is something wrong with pointing and
3 presenting a gun at somebody?
- 4 A. I did not point. There is something wrong with ---
- 5 Q. --- well, you shot somebody so you pointed it right?
- 6 A. Yes, I did.
- 7 Q. Okay. And when you came out there with the gun
8 Charles was trying to leave right?
- 9 A. Yes.
- 10 Q. And then Earl said -- what did Earl say?
- 11 A. He got a gun.
- 12 Q. Said he got a gun. Said you were coming out there
13 with a gun.
- 14 A. Right.
- 15 Q. So that was threatening right?
- 16 A. No, I wasn't threatening him.
- 17 Q. Coming out with a gun right after you've been
18 knocked down that is not threatening?
- 19 A. When I came out I came out to protect myself.
- 20 Q. Why would you need to come out to protect yourself?
- 21 A. I'm protecting the yard and me.
- 22 Q. Protecting the yard from what?
- 23 A. Anything. I didn't know what he was going to do.
- 24 Q. He was going to hurt your yard wasn't he?
- 25 A. He was going to hurt me, not the yard. He can't

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- 1 hurt the yard. And my mother was in there also. I had
2 never seen this man before. I never met him before.
- 3 Q. But you know he loved your mother?
- 4 A. I don't know that. I never seen him before.
- 5 Q. And so he comes back after you come out with the
6 gun.
- 7 A. Right.
- 8 Q. And you're sitting there on the back of the...
- 9 A. Trailer.
- 10 Q. Back of the trailer.
- 11 A. Correct.
- 12 Q. Are you sitting down or standing up?
- 13 A. I'm sitting right here [indicates].
- 14 Q. Sitting on the crate.
- 15 A. Right.
- 16 Q. And Troy -- Charles; I keep switching up his name.
17 But he turns around and he starts walking back.
- 18 A. He was at the car. They was getting ready to leave.
- 19 Q. So he's at the car getting ready to leave.
- 20 A. Yes.
- 21 Q. Where was that car parked at?
- 22 A. Right here [indicates].
- 23 Q. Right here [indicates] between the sidewalk and the
24 building?
- 25 A. Yes, right there [indicates].

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1 Q. Okay. So they were up at the car getting ready to
2 leave and Earl says he's got a gun and Charles turns
3 around and heads back.

4 A. No, he says -- he went to the car. The lady that he
5 was with him and her went together first. And Earl came
6 and said he got a gun. Earl came from around here
7 [indicates].

8 Q. When Earl said he got a gun he's talking about you
9 right?

10 A. Right. Earl was coming from that way [indicates]
11 and they was over here [indicates] by the car. And the
12 lady she was trying to pull him back and he snatched away
13 from her and then Earl came between him and I and he
14 pushed Earl and was coming towards me.

15 Q. How close was he to the fence when you shot him?

16 A. He was about I would say six feet.

17 Q. About six feet away from the fence?

18 A. Yes.

19 Q. Let me clear this for you and I want you to mark on
20 the screen where he was standing when you shot him.
21 Where was that?

22 A. Where was he standing?

23 Q. Yes, when you shot him?

24 A. Right up in here [indicates]. And I was here
25 [indicates].

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- 1 Q. Looks like a little more than six feet doesn't it.
2 How wide is that gap between the apartment building and
3 the fence ---
4 A. --- that gap is only about this [indicates] that's
5 the sidewalk and the dirt not even a little lawnmower
6 could cut and the fence is right here. Maybe -- I would
7 say between six and -- I wouldn't say ten feet.
8 Q. Okay. And he was walking. What was he saying when
9 he was coming back towards you?
10 A. He was coming towards me.
11 Q. What was he saying?
12 A. He was saying crazy stuff.
13 Q. Crazy stuff ---
14 A. --- I couldn't even figure out what he was saying
15 but he was coming towards me. I was afraid.
16 Q. What were you saying?
17 A. I wasn't saying nothing; I was just looking.
18 Q. Just looking?
19 A. Just looking at him coming towards me.
20 Q. Not saying a word?
21 A. What could I say? I couldn't say nothing.
22 Q. Y'all weren't jawing back and forth arguing still?
23 A. He was arguing coming at me.
24 Q. He was a one-sided argument and you weren't saying
25 nothing back ---

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1 A. --- he was coming after me. And I didn't want -- I
2 said -- might have said I don't want to fight or
3 something like that.

4 Q. So you just said -- you weren't angry ---

5 A. --- I wasn't angry but I could see -- I thought -- I
6 figured -- this is what I figured when I left the gate.
7 When I got the gun and came back and sat down and he was
8 leaving I was thinking that I figure he was going to
9 leave you understand? But I had the gun for protection
10 because I couldn't fight for myself.

11 Q. And if you had just stayed in your home he would
12 have left wouldn't he?

13 A. I don't know; I couldn't say that.

14 Q. But he was leaving when you came out?

15 A. Well I couldn't see whether he was going to stay or
16 not. I can't answer that.

17 Q. So he turned and y'all -- he was arguing and you
18 weren't saying anything. He pushed Earl out of ---

19 A. --- he pushed Earl out of the way.

20 Q. And you shot him.

21 A. And was coming towards -- steady coming towards me.

22 Q. How was he going to get over that fence?

23 A. I didn't know whether he had a weapon or not. I
24 don't know what he had because he went to the car.

25 Q. But you didn't see a weapon?

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- 1 A. I didn't see a weapon at that time.
- 2 Q. He wasn't like reaching into his pocket and acting
- 3 like he had a weapon ---
- 4 A. --- I don't know what he had because Earl was
- 5 between them. Earl was between and he was on that side.
- 6 I couldn't see around to see whether he had something in
- 7 his pocket. The only thing I knew is he pushed Earl and
- 8 he was coming towards me and that's when I got the gun
- 9 and shot him.
- 10 Q. So you shot ---
- 11 A. --- it happened so fast ---
- 12 Q. --- without knowing whether he had anything or not
- 13 and you had a six foot fence with barbed wire between
- 14 y'all.
- 15 A. Well, yes. I don't know what he had.
- 16 Q. But you didn't ---
- 17 A. --- I didn't see -- I didn't know what he had. I
- 18 was afraid.
- 19 Q. He didn't act like he had a weapon did he?
- 20 A. He acted like he had something.
- 21 Q. Now he acted like he had something?
- 22 A. Let me ask -- may I ask you a question?
- 23 Q. No.
- 24 A. Okay.
- 25 Q. And you shot him. You didn't call the police.

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1 A. No.

2 Q. Because you were hoping nobody would and you were
3 hoping he would just be all right and it was over right?

4 A. No. I didn't call the police because I knew someone
5 else did.

6 Q. Well nobody did.

7 A. Nobody did?

8 Q. Nobody did. Did you get any medical treatment at
9 the jail for that punch you took in the face?

10 A. No, they just checked it out. They looked at it.

11 Q. They just looked at it?

12 A. There wasn't no cuts or nothing. Just like a
13 bruise mark.

14 MR. KIDD: Beg the court's indulgence.

15 THE COURT: Take your time.

16 [Whereupon, Mr. Kidd and Mr. Waring confer]

17 MR. KIDD: No further questions, Judge.

18 THE COURT: Ms. Ehrlich?

19 MS. ERHLICH: No further questions, Your Honor.

20 THE COURT: Thank you.

21 [Whereupon, the witness is excused and exits the
22 witness stand]

23 THE COURT: Call your next witness.

24 MS. ERHLICH: Your Honor, we rest.

25 THE COURT: Preserving all motions or matters any

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1 rebuttal?

2 MR. KIDD: No, Your Honor.

3 THE COURT: Ladies and gentlemen you have now heard
4 all the testimony that you will hear in this case and
5 received into evidence all the exhibits that will be made
6 part of the record in this case. All of the exhibits
7 that have been entered into evidence will go back with
8 you in the jury room when you retire to consider -- and
9 deliberate for the verdict.

10 There is a matter of law that I must now take up
11 outside of your presence. Please do not begin your
12 deliberations. You have not heard closing arguments on
13 behalf of counsel and I have not instructed you on the
14 law applicable to this case.

15 Ladies and gentlemen, we will receive you back into
16 the courtroom in just a few moments. At that point you
17 will hear closing arguments on behalf of counsel and I
18 will instruct you on the law applicable to this case.
19 You may take your notepads with you or leave them in the
20 chairs. Thank you.

21 [Whereupon, the jury exits at 10:29 a.m.]

22 THE COURT: Any motions or matters?

23 MS. ERHLICH: Your Honor, we would just renew our
24 motion for a directed verdict. I don't have any further
25 argument.

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1 THE COURT: Any additional arguments? I don't know
2 that I've heard anything that would make me change my
3 ruling at this point.

4 MR. KIDD: No, ma'am.

5 THE COURT: And any other motions or matters?

6 MS. ERHLICH: Not at this time, Your Honor.

7 THE COURT: Why don't we -- this is an appropriate
8 time for a comfort break. Let's go ahead and do our
9 charge conference in chambers so that everybody else can
10 take their comfort break. So we'll be at ease. Thank
11 you.

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State v Vaughn Hilliard
In Chambers Charge Conference
June 10, 2015

1 IN CHAMBERS CHARGE CONFERENCE

2 [Whereupon, an in chambers charge conference is held
3 as follows:]

4 THE COURT: All right. Are you requesting any
5 lesser included?

6 MS. ERHLICH: I don't know.

7 THE COURT: I need to know. It's not like I've
8 been riding y'all hard. So you've had plenty of breaks
9 and...

10 MS. ERHLICH: I mean I think it's probably
11 appropriate but I don't know that anybody really
12 testified about my guy being enraged.

13 MR. KIDD: I think if you want it you get it; it's
14 just up to whether you want it or not.

15 MS. ERHLICH: No.

16 THE COURT: You want to step out for just a moment
17 and let me know? You want to talk to Mr. Loignon?

18 MS. ERHLICH: Yes. Thanks; sorry.

19 THE COURT: You can go in Ramsey's office and shut
20 the door.

21 [Whereupon, Ms. Ehrlich and Mr. Loignon confer]

22 [Off the record momentarily]

23 MS. ERHLICH: Were you giving an instruction on
24 mutual combat?

25 THE COURT: No.

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1 MS. ERHLICH: Then I don't want it ---

2 THE COURT: --- I'm sorry?

3 MS. ERHLICH: Then I do not want the manslaughter.

4 THE COURT: Well, I had both ready so this will be
5 it.

6 MS. ERHLICH: You are going to instruct on self-
7 defense?

8 THE COURT: Correct. Mutual combat I can't
9 instruct on mutual combat and I'll be happy to hear the
10 argument. I can't instruct on mutual combat because they
11 did not agree to fight armed. That was the ---

12 MS. ERHLICH: --- that's my understanding as well.

13 THE COURT: That's how I have read the cases.

14 MR. KIDD: I think you're right. I'm not sure that
15 mutual combat is the appropriate -- I mean it's close ---

16 THE COURT: --- I think it would be...

17 MS. ERHLICH: I think if you were ---

18 MR. KIDD: --- then you don't get self-defense;
19 that's the thing ---

20 THE COURT: --- correct ---

21 MS. ERHLICH: --- well I think if ---

22 THE COURT: --- right. And you definitely wouldn't
23 get voluntary.

24 MS. ERHLICH: Right.

25 THE COURT: If I charge mutual combat. I think it

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1 becomes under that issue since they weren't armed. I
2 don't think that based upon his testimony -- before he
3 testified I might have. But I don't think that's what
4 they mutually agreed to for the combat. So I'm not going
5 to charge that.

6 MR. KIDD: Okay. Just for the record my
7 understanding of when one is armed versus the other when
8 it's relevant is when the situation is vice versa I
9 guess.

10 THE COURT: Well the way I have read the cases and
11 if I'm wrong I'm wrong but the way I've read the cases is
12 that the arming yourself is part of the combat. Mutual
13 combat was never designed to be just for fist fighting.

14 MR. KIDD: Right.

15 THE COURT: Just for punching in the face. It's
16 when it has escalated either through a knife or something
17 of that nature and you both have agreed that there -- not
18 that agreed -- okay I have a gun ---

19 MS. ERHLICH: --- it's like they both know each
20 other is armed ---

21 THE COURT: --- you both know, right. So this is
22 not what I think has happened here.

23 MR. KIDD: I agree.

24 THE COURT: I'm going to charge voluntary
25 intoxication I think based upon his statement and the

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1 fact that he was on Oxycontin.

2 MS. ERHLICH: Okay.

3 MR. KIDD: So on her charge are you charging her
4 intoxication charge?

5 MS. ERHLICH: I think my intoxication charge should
6 be charged too about the victim's intoxication.

7 THE COURT: That's in there. It's always -- they
8 are your request to charge jury number one is the
9 circumstantial evidence I do charge that one. The
10 intoxication of the victim under jury charge number two
11 will be included. Right to act on appearances is
12 included.

13 MR. KIDD: I'm sorry. On number one the
14 circumstantial evidence charge are you charging this
15 language or Cherry [phonetic]?

16 THE COURT: I'm charging the one that I always give
17 that we have crafted under Logan that we have crafted.

18 MR. KIDD: Does it have this language that she has
19 which says however to the extent the State relies on
20 circumstantial evidence all of the circumstances must be
21 consistent with each other?

22 THE COURT: Yes.

23 MR. KIDD: And when taken together point
24 conclusively?

25 THE COURT: Yes. That is the language from Logan.

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1 MR. KIDD: Okay. As to defense request number two
2 I would just ---

3 THE COURT: --- it goes in the -- it's actually
4 placed in my self-defense charge in that area.

5 MR. KIDD: I would just ask that it say the
6 intoxication of the victim and the defendant because I
7 think there is evidence of both.

8 MS. ERHLICH: She's already charging voluntary
9 intoxication that that is not a defense for my client.
10 This has to do with whether or not his fear of the victim
11 is reasonable.

12 MR. KIDD: Exactly.

13 THE COURT: The intoxication of the victim may be
14 considered in deciding whether the defendant's fear of
15 death or bodily harm is reasonable. That's what I
16 charge. That's the language that I charge.

17 MR. KIDD: Right. I think though under our
18 specific factual scenario when the defendant is
19 intoxicated when the standard of self-defense is not only
20 did he actually believe he was in fear but also that a
21 reasonably prudent person would have the same belief.
22 With his intoxication I think that goes to whether or not
23 a reasonably prudent person would hold that same belief.
24 So I think it goes to the victim and the defendant as to
25 intoxication.

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1 MS. ERHLICH: This section this is just as part of
2 the self-defense charge and whether or not the victim's
3 intoxication should be taken into account. If she is
4 going to say that my client's intoxication isn't a
5 defense ---

6 THE COURT: --- this is my voluntary intoxication
7 charge.

8 [Whereupon, Mr. Kidd and Ms. Ehrlich review
9 document]

10 THE COURT: Which I will read before I read the
11 self-defense is where it is going in the charge.

12 MR. KIDD: Right. I don't have a problem with
13 this. My issue is specifically as to self-defense and
14 that I believe that the intoxication charge that she is
15 requesting is equally as applicable to the defendant as
16 it is the victim.

17 THE COURT: Do you have a case that indicates that?

18 MR. KIDD: I do not have a case in front of me that
19 indicates that. I just think when the element of self-
20 defense is what a reasonable person under those
21 circumstances would believe.

22 THE COURT: But what I -- and I think it is -- I
23 hear what you're saying. But this is the charge that I
24 have used even when the defendant has been intoxicated
25 before. What the voluntary intoxication does is it

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1 negates the entire -- it tells the jury that it's not a
2 defense. Him being intoxicated does not give him the
3 ability to say -- to use intoxication ---

4 MR. KIDD: --- as a defense ---

5 THE COURT: --- that his was reasonable.

6 MR. KIDD: And I agree with that prong that
7 voluntary intoxication doesn't negate mens rea but that's
8 what we're talking about ---

9 THE COURT: --- let me think about that one. I
10 know your position so I'll let you know before. Right to
11 act on appearances; number three Mr. Kidd?

12 MR. KIDD: I think that's an accurate statement of
13 the law.

14 THE COURT: All right. And number four?

15 MR. KIDD: Yes, I have a problem with that. Words
16 coming by hostile act they don't establish self-defense.
17 That's a very conclusory statement.

18 THE COURT: I think what I will charge threats made
19 by the victim may be considered and determined whether
20 the defendant actually was or believed he was in imminent
21 danger; that's how I charge that.

22 MS. ERHLICH: That's fine.

23 THE COURT: Size and age.

24 MR. KIDD: No problem with that.

25 THE COURT: Number six; threats. That's the one so

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1 we use that. And I think you have a typo on seven?

2 MS. ERHLICH: I do.

3 THE COURT: I didn't know if that's what you want
4 me to include on your charges.

5 MS. ERHLICH: No. I meant had no duty.

6 MR. KIDD: Judge, I think I have conclusive case
7 law that ---

8 THE COURT: --- which one is this?

9 MR. KIDD: It's Bryant [phonetic] but specifically
10 citing to Rochester [phonetic] I think is the most on
11 point.

12 THE COURT: Okay.

13 MR. KIDD: Which states that when a defendant is on
14 his own property and the victim is on other property or a
15 place where he has a right to be the defendant even
16 though he is on his own premises still has a duty to
17 retreat.

18 MS. ERHLICH: I don't -- I pulled up a case on
19 Lexis that I don't have with me that I think this is a
20 little bit different because he ---

21 THE COURT: --- he doesn't get -- you can't use
22 that. That's an absurd result that somebody can just sit
23 on their premises entice somebody to come and then shoot
24 them as they are approaching. Is that what you're
25 saying?

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1 MS. ERHLICH: I don't think that there is -- I
2 don't think he is enticing him to come. I think he is
3 reacting to somebody coming towards him who has already
4 intruded on the property maybe not with his foot but with
5 his fist earlier. I mean there is the possibility of an
6 intrusion. It's not a privacy fence. This is a chain
7 link fence and if the guy was armed he could have
8 intruded on the property maybe not foot and leg. I think
9 that this is a little bit different.

10 MR. KIDD: I think it is spot on. If the defendant
11 was attacked while on his own premises by the deceased
12 who was at the time on the public highway or where he had
13 a right to be the defendant was bound to retreat before
14 taking the life of his adversary. If there was a
15 probability of his being able to escape without losing
16 his life or suffering grievous bodily injury the reason
17 being that under circumstances he would not have had the
18 right to eject his adversary from the place where he had
19 a right to be.

20 MS. ERHLICH: If you are going to charge that there
21 is a duty to retreat I would want that language from
22 State v Rash [phonetic] where it talks about you don't
23 have to wait for somebody to get the drop on you before
24 you act ---

25 THE COURT: --- you're not asking me to charge it

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1 at all are you?

2 MR. KIDD: I'm asking you to charge the duty to
3 retreat. It's specifically the language in Rochester
4 [phonetic] and also in State v Boyd [phonetic] on that
5 his own ---

6 THE COURT: --- do you have that ready? You want
7 me to write this myself?

8 MR. KIDD: I'm sorry.

9 THE COURT: Is this my copy?

10 MR. KIDD: You can keep it.

11 THE COURT: We don't have a copy machine.

12 MR. KIDD: I can run and type it up for me.

13 [Whereupon, the court confers with law clerk]

14 THE COURT: Let me hear from you?

15 MS. ERHLICH: I should have brought my laptop back
16 here because I pulled up a case ---

17 THE COURT: --- do you want to get it -- Mr.
18 Loignon would you go get her laptop? Thank you.

19 [Off the record momentarily]

20 THE COURT: I am going to charge I think it just
21 makes it clear the intoxication of the defendant -- the
22 victim and the defendant in the intoxication part, self-
23 defense and note your objection. My concern is that the
24 law is if the defendant was on his own premises the
25 defendant had no duty to retreat before acting in self-

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1 defense. But you want me to use -- to leave that in and
2 then add additional language as well?

3 MR. KIDD: No. I think that under ---

4 THE COURT: --- because clearly he was on --
5 everybody agrees he was on his own premises.

6 MR. KIDD: Absolutely. But the law that you are
7 citing there is when both ---

8 THE COURT: --- when both are on ---

9 MR. KIDD: --- when both are on. It is
10 uncontroverted that the victim is not on his property at
11 the time he is shot. Even under the defendant's version.

12 THE COURT: Do we even have to do -- that's my
13 question. Do I even need to include anything about a
14 duty to retreat?

15 MR. KIDD: Yes, because I think that it would be
16 confusing to the jury to be silent as to that because
17 there are all sorts of misconceptions about that prong of
18 self-defense that are just common amongst the general
19 public. I think it needs to be especially in this case
20 when we have a clear law that is exactly on point, that
21 exactly fits our facts uncontroverted from the defense's
22 theory of the case that it needs to be articulated to the
23 jury that he has a duty to retreat if he can avoid being
24 hurt.

25 MS. ERHLICH: What is your case? .

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1 MR. KIDD: There's Rochester [phonetic], Bryant
2 [phonetic] and ---

3 MS. ERHLICH: -- there is also State v Bradley.

4 MR. KIDD: And Boyd [phonetic].

5 THE COURT: What does that say? Here's what I
6 would like because I think it is very tricky because they
7 were so close -- that he is on his property where he
8 lawfully has the right to be not that he lawfully has the
9 right to -- but the victim is -- so the defendant truly
10 does have no duty to retreat but since the victim -- has
11 no duty to retreat if the victim were on the property.

12 MR. KIDD: Correct.

13 THE COURT: Because all that separates them is a
14 chain link fence I think you want me to keep this
15 language, right, that he has no duty to retreat?

16 MS. ERHLICH: Right.

17 THE COURT: But your analysis is that because the
18 victim is separated by the chain link fence and the
19 defendant was lawfully where he had the right to be, well
20 both were.

21 MR. KIDD: Right.

22 THE COURT: That he had a duty -- that the
23 defendant does have a duty to retreat.

24 MR. KIDD: Correct.

25 THE COURT: So perhaps -- well no, I don't even

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1 need to give the jury the option to find because they --
2 the evidence is clearly the victim was one place, the
3 defendant was another. So I don't know that I need to
4 tell the jury -- have the jury if you find that because
5 it's not in question.

6 If there was one witness who said the victim was on
7 the property and if another one said -- then I would
8 probably craft the instruction to say if you find that
9 the victim was on the defendant's property the law says
10 the defendant has no duty to retreat. But I don't have
11 that here so I'm trying to figure out ---

12 MS. ERHLICH: --- if there is a right to act on
13 appearances and he testified that he thought this person
14 could potentially be armed and the person is coming -- I
15 don't think he has to wait until the person ---

16 THE COURT: --- gets on his property ---

17 MS. ERHLICH: --- fires a gun or gets on the
18 property.

19 MR. KIDD: I agree with that to the extent he
20 doesn't have to wait for the victim to get the drop on
21 him. That's a separate charge.

22 THE COURT: Correct.

23 MS. ERHLICH: That's why I'm saying if you are
24 going to charge that he had a duty to retreat, which I
25 don't think he does then I think we would have to have

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1 the language, the State v Rash [phonetic] language about
2 he doesn't have to wait for ---

3 MR. KIDD: --- the fatal blow ---

4 MS. ERHLICH: --- the fatal blow before acting.

5 MR. KIDD: And I don't have a problem with that
6 charge but he also has the duty to retreat if he can
7 safely do so.

8 MS. ERHLICH: This case has language about if the
9 defendant was where he had a right to be and deceased
10 advanced on him in a threatening manner and with a deadly
11 weapon and if the accused didn't provoke the attack and
12 had reasonable time to believe and in good faith believe
13 the deceased could take his life or do him harm he was
14 not obligated to retreat nor to consider whether he could
15 safely retreat but was entitled to stand his ground.

16 MR. KIDD: What's the case?

17 MS. ERHLICH: It's from State v Bradley.

18 MR. KIDD: What year it is? That's stand your
19 ground law ---

20 THE COURT: --- that's different ---

21 MR. KIDD: --- which under Curry [phonetic] is not
22 an appropriate charge.

23 THE COURT: I'm going to give you 30 minutes
24 because if I let them go now...

25 MR. KIDD: It's just hard for me because I have an

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1 entire defendant's worth of testimony that I would like
2 to incorporate into my closing argument and it's hard to
3 craft that.

4 THE COURT: So how long are you asking?

5 MR. KIDD: Just lunch. I mean if we could take a
6 lunch break now and just give me an hour to get my
7 closing together because there is a lot of new
8 information to digest ---

9 THE COURT: --- well I need to craft this charge
10 and so I want it crafted hopefully to where both of you
11 -- because we're both saying -- we're all saying the same
12 thing. And so I want it -- what I would like you to do
13 can you craft me a charge in 15 minutes?

14 MS. ERHLICH: On retreat?

15 THE COURT: Correct.

16 MS. ERHLICH: Yes.

17 THE COURT: Okay. So go do that.

18 MR. KIDD: I'm assuming from me you would like to
19 craft the charge on...

20 THE COURT: So here's what we can do. We'll break
21 for lunch now. I'll bring the jury back in and break for
22 lunch and then come back at 12:15. While I'm bringing
23 the jury back in y'all need to craft your charge.

24 MS. ERHLICH: Together, right? Or you're asking
25 for separate charges from us?

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1 THE COURT: Either one. It would be easier if you
2 could come to some agreement to not necessarily
3 compromise. The law is the law so it should be clear as
4 to what it is. I think that this is particularly tricky
5 because they were right there. And so to me the law is
6 fairly clear your guy had the duty to retreat. So --
7 that's what I would charge and I do have the right to act
8 on appearances in the charge.

9 MS. ERHLICH: If you charge a duty to retreat you
10 don't have a problem with the State v Rash [phonetic]
11 language about that he doesn't have to wait for the fatal
12 blow right?

13 MR. KIDD: I agree with that.

14 MS. ERHLICH: I think we can come up with a
15 compromise.

16 THE COURT: Okay. So do that. All right. Let's
17 go bring the jury back in.

18 [Whereupon, the in chambers charge conference
19 concludes]
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1 [Whereupon, the jury enters at 11:01 a.m.]

2 THE COURT: Ladies and gentlemen just as I
3 indicated to you most of you get your idea of what
4 happens in a trial from watching movies and television
5 shows and all of that. And often times those are very
6 well -- the commercial breaks come at the appropriate
7 time and all of that.

8 It is an appropriate time -- what is going to happen
9 next in the trial is the closing arguments on behalf of
10 counsel and the instruction on the law by the court and
11 so that will take more -- that will take us past your
12 lunch hour. So I've determined it is appropriate for us
13 to take a little early lunch and then be back at 12:15
14 and you will hear the closing arguments and the
15 instruction on the law and then you will retire to
16 consider your verdict.

17 Please remember all of my admonitions. Do not begin
18 discussing this case. Do not read, watch, listen to any
19 news accounts should there be any and do not do any
20 independent investigation. Please again be back at 12:15
21 and we will begin with closing arguments at that time.
22 Thank you.

23 [Whereupon, the jury exits at 11:02 a.m.]
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1 THE COURT: Counsel, I'm going to stay on the bench
2 to finish the charge conference to wait on y'all. So
3 we're at ease. Thank you.

4 [Off the record momentarily]

5 MR. KIDD: Judge, I would like the language if the
6 defendant was attacked while on his own premises by the
7 deceased who at the time was on public property or where
8 he had a right to be that the defendant was bound to
9 retreat before taking the life of his adversary. Then I
10 would suggest putting however, and then charging a
11 version of it.

12 THE COURT: Hold on one second.

13 [Whereupon, the court reviews documents]

14 THE COURT: All right.

15 MS. ERHLICH: The language that I think we're in
16 agreement on as far as ---

17 THE COURT: --- I'm sorry, can you speak up?

18 MS. ERHLICH: I have the language from State v Rash
19 [phonetic] what he is suggesting to say after the duty to
20 retreat however he doesn't have to wait until the
21 assailant gets the drop on him.

22 THE COURT: We're talking about two separate things
23 right?

24 MR. KIDD: Right.

25 THE COURT: I thought you just said we were talking

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1 about the duty to retreat. Here is my solution. So if
2 the defendant and the victim were on the defendant's own
3 premises the defendant had no duty to retreat before
4 acting in self-defense. If the defendant was attacked
5 while on his own premises by the victim who was at that
6 time where he had the right to be then the defendant was
7 bound to retreat before taking the life of his victim.

8 MR. KIDD: The only thing I would ask is to strike
9 the very first portion of that because I don't think
10 there is any evidence or testimony in the record that
11 would indicate that both the defendant and the victim
12 were on the defendant's property.

13 THE COURT: Do you agree Ms. Ehrlich?

14 MS. ERHLICH: I agree that he wasn't on the
15 property at the time of the shooting but I think there is
16 that language about self preservation that you're already
17 including I think that the language that he doesn't have
18 to wait for the assailant to get the drop on him before
19 taking steps to protect himself. That's the concern.
20 It's just like he has to retreat well he can't retreat if
21 somebody potentially is going to kill him in the moment.

22 THE COURT: Under the right to act on appearance
23 section of self-defense: the defendant does not have to
24 show that he was actually in danger. It is enough if the
25 defendant believed he was in imminent danger and a

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1 reasonably prudent person of ordinary firmness and
2 courage would have had the same belief. The defendant
3 has the right to act on appearances even though the
4 defendant's beliefs may have been mistaken. The law does
5 not hold him to a refined assessment of the danger
6 provided of course he acted as a person of ordinary
7 coolness and courage would have acted or should have
8 acted in meeting the appearance of danger.

9 He doesn't have to wait until the assailant gets the
10 drop on him. He has the right to act under the law of
11 self preservation to prevent his assailant from getting
12 the drop on him. If it is apparent or reasonably
13 apparent his assailant is taking steps to get the drop on
14 him he must first take steps -- he must take steps first
15 to prevent such assailant from getting the drop on him.

16 MS. ERHLICH: I'm good with that.

17 THE COURT: Which is the language in Rash. So
18 based upon that you still wish for me to take the first
19 sentence out of the retreat?

20 MR. KIDD: Correct.

21 THE COURT: Would you be comfortable if I take all
22 the retreat language out if I include this language?

23 MR. KIDD: No.

24 MS. ERHLICH: I think the compromise would be to
25 include both.

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1 MR. KIDD: Right. On what you just charged ---

2 THE COURT: --- do you have an objection with me
3 removing because there is no testimony that the victim
4 was and I know -- so if I include the language that I
5 just read on right to act on appearances I'm going to not
6 include your duty to retreat charge.

7 MS. ERHLICH: I think you should charge everything
8 but if that's the compromise that we have to reach ---

9 THE COURT: --- I don't want to reach a compromise.
10 I want to charge the law according to the facts. So I
11 can't -- there has been no testimony presented that the
12 victim was on the defendant's property.

13 MS. ERHLICH: I think that's appropriate to take
14 that sentence out as long as you charge the entire right
15 to act on appearances that you just read ---

16 THE COURT: --- that I just read ---

17 MS. ERHLICH: --- I think that gives the jury a
18 good understanding of everything.

19 THE COURT: And then I'm also going to include the
20 law that says if the defendant was attacked on his own,
21 which is the language that Mr. Kidd is requesting.

22 MS. ERHLICH: Okay.

23 THE COURT: And they will be really in two separate
24 places; I don't read them together. Are you comfortable
25 with that?

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1 MS. ERHLICH: I am.

2 THE COURT: All right. Are you comfortable with
3 that?

4 MR. KIDD: Yes, ma'am.

5 THE COURT: All right. You have an hour. You're
6 welcome.

7 MR. KIDD: I appreciate it. I know that it just
8 sometimes can be a lot.

9 THE COURT: Are you doing both close?

10 MR. KIDD: Yes, ma'am.

11 THE COURT: You're not going to let Mr. Waring do
12 one?

13 MR. KIDD: [No response]

14 THE COURT: Ms. Ehrlich, please make sure you speak
15 loudly. Practice that over the lunch hour. Thank you.

16 MS. ERHLICH: Thank you, Judge.

17 MR. KIDD: So 12:15 right?

18 THE COURT: Thank you. 12:15 promptly.

19 [Whereupon, court is in recess from 11:15 a.m. until
20 12:04 p.m.]

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1 THE COURT: Ms. Ehrlich, do you need to place
2 something on the record?

3 MS. ERHLICH: Yes, Your Honor. I don't have first-
4 hand knowledge of this. This is what I was -- Michael
5 Cooper who used to work in our office now works in a
6 different office. Apparently one of the paralegals there
7 has a sister who is on our jury. And she made some
8 comment to her sister they are ready to convict and get
9 it over with. That's the only information that I have.
10 I don't know ---

11 THE COURT: --- do you know which juror it is?

12 MS. ERHLICH: It's Ashley Cannon.

13 THE COURT: So what would you like for me to do?

14 MS. ERHLICH: I think that we have to have some
15 sort of inquiry into whether or not -- I didn't discuss
16 this with Mr. Cooper. He contacted another lawyer in our
17 office. I just feel like the court should make some sort
18 of look -- should look into it and see if there is
19 anything to it or not.

20 THE COURT: What's your solution Mr. Kidd?

21 MR. KIDD: Judge, I would request that outside of
22 our presence you just simply ask them whether or not they
23 have had -- your typical question of whether or not they
24 have begun their deliberations or discussed the case
25 before it has been presented to them. Assuming that they

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1 answer in the negative that they haven't maybe go forward
2 or at worse seat an alternate in place of Ms. Cannon if
3 you wanted to question her directly by herself.

4 THE COURT: You do not wish to be present Mr. Kidd?

5 MR. KIDD: I think it should be done outside our
6 presence.

7 THE COURT: I was going to go into chambers. Do
8 you want to be present?

9 MR. KIDD: No ma'am, I don't need to be present.

10 MS. ERHLICH: I don't need to be present.

11 THE COURT: All right. Thank you. Ashley Cannon
12 is juror 16 -- I'm sorry; juror 57. All right Madame
13 Court Reporter, getting your exercise today. We'll be at
14 ease.

15 [Whereupon, court is in recess]
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In Chambers Discussion with Jurors
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1 [Whereupon, an in chambers discussion is held with
2 jurors as follows:]

3 THE COURT: We have received information that some
4 members of your jury may have violated my instructions.
5 Do you know anything about that?

6 MS. WEAVER: No.

7 THE COURT: No one has begun making any statements
8 about the fact that they have already begun their
9 deliberations or already made a determination?

10 MS. WEAVER: Not that I'm aware of.

11 THE COURT: All right. That's all I'm asking. So
12 if you will go back. I'm going to have to bring each
13 juror in separately so if you'll go back and just explain
14 that I just have a series of questions to ask them.

15 MS. WEAVER: Okay. Just that simple?

16 THE COURT: Yes. And if they look like what did
17 she ask? You say she is going to ask each of us
18 different questions, which I am, but not to be upset;
19 nobody is in any trouble.

20 MS. WEAVER: No, that's fine.

21 THE COURT: Everything going well?

22 MS. WEAVER: Yes.

23 [Whereupon, Ms. Weaver exits chambers]

24 THE COURT: Let's start with Ms. Cannon. No ---

25 CLERK OF COURT: Ashley Cannon?

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1 THE COURT: Let's do Mr. Ruff. Oh, there are two
2 Cannons?

3 CLERK OF COURT: The alternate is Cortney Cannon.

4 THE COURT: Okay. Let's do Mr. Ruff so that we
5 kind of mix them up a bit and then we'll do the two
6 Cannons.

7 [Whereupon, Mr. Ruff enters chambers]

8 THE COURT: Hi Mr. Ruff, how are you?

9 MR. RUFF: Doing well. How are you?

10 THE COURT: Have a seat. It's been brought to my
11 attention that we may have a juror or jurors that have
12 violated the court's instructions. Have you violated the
13 court's instructions?

14 MR. RUFF: No.

15 THE COURT: Do you know of anyone on your panel
16 that may have?

17 MR. RUFF: No, ma'am.

18 THE COURT: Has there been any discussion about a
19 verdict or already thinking about issues in the case
20 making some decisions ---

21 MR. RUFF: --- no, no, no.

22 THE COURT: So is there anything about me bringing
23 you in here that causes you any concern?

24 MR. RUFF: No. I didn't know what you were
25 bringing me in here for.

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1 THE COURT: Anything else?

2 MR. RUFF: No, ma'am.

3 THE COURT: Thank you Mr. Ruff.

4 [Whereupon, Mr. Ruff exits chambers]

5 CLERK OF COURT: Ms. Ashley Cannon?

6 THE COURT: Just bring them -- I didn't realize we
7 had two. Thank you.

8 CLERK OF COURT: Either one?

9 THE COURT: Either one -- so bring 57 first. Let's
10 do 57.

11 CLERK OF COURT: Is that Ashley?

12 THE COURT: Yes.

13 CLERK OF COURT: Thank you.

14 [Whereupon, Ms. Ashley Cannon enters chambers]

15 THE COURT: Hi, how are you? Come on in and have a
16 seat. I've just got a few questions for you Ms. Cannon.

17 MS. ASHLEY CANNON: Yes.

18 THE COURT: It's been brought to my attention that
19 we may have a juror or jurors who have violated my
20 instructions. Do you know of any juror that has violated
21 my instructions?

22 MS. ASHLEY CANNON: No.

23 THE COURT: No one has watched, read, or talked
24 about this case with anyone?

25 MS. ASHLEY CANNON: No.

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1 THE COURT: No one has indicated that -- or
2 yourself has indicated that they have already come to a
3 decision about this case?

4 MS. ASHLEY CANNON: No.

5 THE COURT: Anything about me bringing you in here
6 that causes you any concern?

7 MS. ASHLEY CANNON: No, I'm a teacher so I'm afraid
8 I'm in the principal's office.

9 THE COURT: I feel bad that I have to do it but
10 this is the only way on the record that I need to deal
11 with that has been brought to my attention. So I'm just
12 going to bring everybody in and ask them all the same
13 thing so don't feel like you're in the principal's
14 office. What do you teach?

15 MS. ASHLEY CANNON: Special Education.

16 THE COURT: All right. Thank you.

17 MS. ASHLEY CANNON: Thank you.

18 [Whereupon, Ms. Ashley Cannon exits chambers]

19 THE COURT: 38 I think; is that right?

20 CLERK OF COURT: 58.

21 THE COURT: 58, okay.

22 CLERK OF COURT: That's Cortney Cannon correct?

23 THE COURT: Correct.

24 [Whereupon, Ms. Cortney Cannon enters chambers]

25 THE COURT: How are you Ms. Cannon?

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1 MS. CORTNEY CANNON: Good. How are you?

2 THE COURT: Good. I just have a few questions for
3 you. It's been brought to my attention that a juror or
4 jurors may have violated the court's instructions. Do
5 you know of any violations that may have occurred?

6 MS. CORTNEY CANNON: No.

7 THE COURT: Is there any juror or yourself who has
8 indicated that they have been discussing this case with
9 anyone?

10 MS. CORTNEY CANNON: No.

11 THE COURT: And is there anyone that has indicated
12 or yourself that has indicated that they have already
13 made a decision as to the outcome of this case?

14 MS. CORTNEY CANNON: No.

15 THE COURT: Do you have a sister that is a
16 paralegal?

17 MS. CORTNEY CANNON: Uh Uh. I do not. Now my
18 roommate she works for Milton Stratos Law.

19 THE COURT: All right. And have you talked to her
20 about this case?

21 MS. CORTNEY CANNON: No.

22 THE COURT: When is the last time you spoke to her?

23 MS. CORTNEY CANNON: Yesterday.

24 THE COURT: Yesterday. Did you indicate that you
25 were on a jury and which jury?

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1 MS. CORTNEY CANNON: I just said I had jury duty for
2 a criminal trial. And she said oh, I think my boss went
3 down to the courthouse to watch something. He just got
4 his license or sworn in in Columbia so he's got to like
5 do two...

6 THE COURT: Okay. Was that Mr. Cooper? Does that
7 sound right? Michael?

8 MS. CORTNEY CANNON: No. I think his name is
9 Milton.

10 THE COURT: Milton Stratos ---

11 MS. CORTNEY CANNON: --- Milton Stratos, Jr.

12 THE COURT: Oh, so Milton Stratos' son?

13 MS. CORTNEY CANNON: Yes.

14 THE COURT: Do you know who else is in that firm?

15 MS. CORTNEY CANNON: Uh Uh. Just her and the two of
16 them; the dad and the son.

17 THE COURT: And what do you -- what does she do
18 there? Is she a paralegal?

19 MS. CORTNEY CANNON: She's an assistant.

20 THE COURT: Like a legal assistant?

21 MS. CORTNEY CANNON: Yes.

22 THE COURT: If she had indicated to somebody that
23 you had already made up your mind would that be an
24 untruth that she said?

25 MS. CORTNEY CANNON: Uh Uh.

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1 THE COURT: Have you already made up your mind?
2 MS. CORTNEY CANNON: Well, I kind of have thought
3 about ---
4 THE COURT: --- so have you indicated to somebody?
5 MS. CORTNEY CANNON: No, ma'am. I've not spoken ---
6 THE COURT: --- that you were ready to convict?
7 MS. CORTNEY CANNON: No, ma'am.
8 THE COURT: That would be an untrue statement?
9 MS. CORTNEY CANNON: Yes, ma'am.
10 THE COURT: All right. Is there anything about
11 these questions that cause you any concern about me
12 bringing you in here?
13 MS. CORTNEY CANNON: No, ma'am.
14 THE COURT: I ask these -- well, you know why I'm
15 asking these questions?
16 MS. CORTNEY CANNON: Yes, ma'am.
17 THE COURT: All right. If you'll just wait out in
18 the hallway for just a moment?
19 MS. CORTNEY CANNON: Okay.
20 [Whereupon, Ms. Cortney Cannon exits chambers]
21 THE COURT: Don't put her back in the pool. That's
22 bizarre. Go get Ms. Ehrlich and Mr. Kidd.
23 [Whereupon, Ms. Ehrlich and Mr. Kidd enter chambers]
24 THE COURT: Okay. Who was it? Do you know the
25 name? Just Cannon; because I have two. I didn't realize

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1 I had two Cannons. I have a Cortney Cannon and an Ashley
2 Cannon.

3 MS. ERHLICH: I was given the name Ashley Cannon
4 who has a sister named Brooke who works at Mullins
5 McLeod.

6 THE COURT: Cortney Cannon has a roommate. Her
7 roommate works with Milton Stratos and she talked to her
8 yesterday. Bring me back Ms. Ashley Cannon then.

9 MR. KIDD: Can I ask did she say anything
10 inappropriate to her roommate that would ---

11 THE COURT: --- just that she's on jury service.
12 That's what she said.

13 CLERK OF COURT: For a criminal trial. So Ms.
14 Ashley?

15 THE COURT: Yes.

16 MS. ERHLICH: Is that who you've already talked to?

17 THE COURT: I've already talked to Ashley. She did
18 not indicate. What's Mr. Cooper's number? Let me call
19 Mr. Cooper so I have the full...

20 [Whereupon, Ms. Ashley Cannon enters chambers]

21 THE COURT: I hate to bring you back in.

22 MS. ASHLEY CANNON: No, you're okay.

23 THE COURT: I was trying to just kind of ferret it
24 out because sometimes I hear things and people just don't
25 remember. Do you have a sister named Brooke?

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1 MS. ASHLEY CANNON: Yes.

2 THE COURT: And where does she work?

3 MS. ASHLEY CANNON: McLeod Law group.

4 THE COURT: All right. And do you know -- when is
5 the last time you talked to her?

6 MS. ASHLEY CANNON: Just after lunch.

7 THE COURT: Just after lunch. Do you remember what
8 you said to her?

9 MS. ASHLEY CANNON: That we have to listen to
10 closing statements and then deliberate and then if she
11 doesn't hear from me to please pick up my son.

12 THE COURT: Okay. Did you make any comment about
13 how you were going to -- did you indicate to her what you
14 thought your verdict would be?

15 MS. ASHLEY CANNON: No.

16 THE COURT: And if she indicated such that would be
17 incorrect?

18 MS. ASHLEY CANNON: If she?

19 THE COURT: If she said that you had indicated that
20 you'd already come to a decision or the jury had already
21 come to a decision, had already begun their deliberations
22 would that be an incorrect statement? Have you begun
23 your deliberations?

24 MS. ASHLEY CANNON: No.

25 THE COURT: Have you made any comments to anyone

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1 about what your verdict would be?

2 MS. ASHLEY CANNON: No.

3 THE COURT: Have you made any comments about what
4 you think the jury's verdict will be?

5 MS. ASHLEY CANNON: No.

6 THE COURT: And so the nature of your conversation
7 with your sister was just to the extent of picking up
8 your son -- your child?

9 MS. ASHLEY CANNON: My concern is my one son is in
10 a daycare and I was just concerned that if we went past 5
11 o'clock -- I think I talked to her about this this
12 morning if she didn't hear from me to please pick him up
13 when she left work if she didn't hear from me between 5
14 and 5:30 to please just go get him.

15 THE COURT: Did you talk to her yesterday? Do you
16 talk to your sister all the time?

17 MS. ASHLEY CANNON: Yes, we share childcare.

18 THE COURT: If you will just wait outside for just a
19 moment?

20 MS. ASHLEY CANNON: Okay, sure.

21 [Whereupon, Ms. Ashley Cannon exits chambers]

22 MR. KIDD: I believe her. I don't have any problems
23 with...

24 MS. ERHLICH: I don't know if we should call Michael
25 Cooper or not. I mean it sounds like maybe she made a

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1 comment about being concerned that they wouldn't end at a
2 certain time but that's not the same thing as ---

3 THE COURT: --- what's his number?

4 MR. KIDD: I've got it right here. Its 729-6663.

5 [Whereupon, the court and Mr. Cooper have a
6 telephone conversation]

7 THE COURT: They were just talking they are ready to
8 get it over with is the gist. They are wondering why
9 it's taking so long.

10 MR. KIDD: Well, it's Wednesday on a murder case.

11 THE COURT: We're having a lot of breaks and then
12 they're late. They probably don't understand why we
13 didn't just roll into closings. Tell me what you want me
14 to do?

15 MS. ERHLICH: I think just when they come in ask
16 them again if there have been any premature discussions
17 and then have them raise their hands and then let's just
18 go on. I mean just saying they're ready to get it over
19 with I don't think that is ---

20 THE COURT: --- bring Ms. Weaver ---

21 MS. ERHLICH: --- premature deliberations.

22 THE COURT: Bring Ms. Weaver in one more time and
23 let the other one go back in. Bring Cortney Cannon to me
24 now. And then I need Ms. Weaver.

25 CLERK OF COURT: Ashley is out in the hall. Bring

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1 her in?

2 THE COURT: No, Ashley can go back. Bring Cortney
3 to me first because I want to make sure she's okay
4 because I put her in a separate room. And then I'll meet
5 Ms. Weaver.

6 CLERK OF COURT: Yes, ma'am.

7 THE COURT: So he doesn't want to plea?

8 MS. ERHLICH: He didn't even want a voluntary
9 instruction.

10 THE COURT: Have you talked to him after he
11 testified?

12 MS. ERHLICH: He hasn't changed much in the past two
13 years.

14 THE COURT: Okay. You know, just asking.

15 [Whereupon, Ms. Cortney Cannon enters chambers]

16 THE COURT: I just wanted to touch base with you
17 personally and make sure you're okay. I just have to ask
18 these questions to make sure that all the jurors have
19 complied with my instructions.

20 MS. CORTNEY CANNON: Yes.

21 THE COURT: So I just wanted to make sure -- you
22 were sitting by yourself I just wanted to make sure you
23 were okay.

24 MS. CORTNEY CANNON: Yes, ma'am.

25 THE COURT: I just needed to do some follow up

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1 questions.

2 MS. CORTNEY CANNON: Okay.

3 THE COURT: Any concerns or anything? You're ready
4 to go and continue with the progress of this trial?

5 MS. CORTNEY CANNON: Yes, ma'am.

6 THE COURT: Thank you Ms. Cannon. We're going to
7 get started in just a few moments.

8 [Whereupon, Ms. Cortney Cannon exits chambers]

9 [Whereupon, Ms. Weaver enters chambers]

10 THE COURT: So Ms. Weaver as the foreperson as
11 opposed to bringing everybody in if you would just
12 inquire as to whether anyone has begun premature -- begun
13 their deliberations and then just let me know when I
14 bring you back up in the court. Can you do that for me?

15 MS. WEAVER: Sure.

16 THE COURT: Do you want any other questions asked by
17 the foreperson?

18 MR. KIDD: No, ma'am.

19 MS. ERHLICH: No. I mean just that they haven't
20 made their mind up.

21 THE COURT: Which is deliberations. So if you'll
22 just do that one question and just say Judge knows it's
23 been a long morning so we're ready to begin closing
24 arguments so I'm just going to ask the one question; I'm
25 going to ask you the question instead of bringing all 14

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1 of you in front of the Judge.

2 MS. WEAVER: Okay.

3 THE COURT: Thank you.

4 MS. WEAVER: No problem.

5 [Whereupon, Ms. Weaver exits chambers]

6 THE COURT: All right. One more time; no
7 objection to leaving either of those women on the panel?

8 MR. KIDD: No, ma'am.

9 MS. ERHLICH: No.

10 THE COURT: Just for you to know I spoke to Ms.
11 Weaver first and then I just went down the list. I
12 brought Mr. Ruff in. He indicated that he had had no
13 deliberations, no conversations. Then I brought Ms.
14 Ashley Weaver [sic] which I thought was who you said it
15 was.

16 MR. KIDD: Ashley Cannon.

17 THE COURT: Cannon; I'm sorry. Then she indicated
18 -- she was clueless and looked very stunned. That's when
19 I assumed it must be Cortney Cannon who then has a
20 roommate friend that is a legal assistant. So then
21 that's where we ended up and why I separated them because
22 I didn't want Ashley -- excuse me, Cortney Cannon to go
23 back in the pool. But you are comfortable with both?

24 MR. KIDD: Yes, ma'am.

25 MS. ERHLICH: Yes.

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1 THE COURT: All right.

2 MR. KIDD: Thank you, Judge.

3 [Whereupon, the in chambers discussion with jurors
4 concludes]

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1 THE COURT: Mr. Kidd, do you need to place anything
2 on the record concerning what happened -- it was on the
3 record; anything additional?

4 MR. KIDD: No, ma'am.

5 MS. ERHLICH: No, Your Honor.

6 THE COURT: Did you explain to your client what
7 happened?

8 MS. ERHLICH: They're bringing him out as we speak.

9 THE COURT: And again, we're not removing either
10 juror correct?

11 MR. KIDD: That's correct.

12 MS. ERHLICH: Correct.

13 THE COURT: Let's bring in the jury.

14 [Whereupon, the jury enters at 12:49 p.m.]

15 THE COURT: Ladies and gentlemen, did all members
16 of the jury comply with my instructions over the lunch
17 hour? If you did not please stand.

18 [Whereupon, no one stands]

19 THE COURT: Thank you. Please let the record
20 reflect that all 14 jurors have indicated that they have
21 complied with the court's instruction. Madame
22 Foreperson, you also inquired of the jury whether or not
23 any deliberations, premature deliberations or anyone had
24 violated the court's instructions is that correct?

25 MADAME FOREPERSON: Correct.

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1 THE COURT: And were your answers the same as what
2 was given just now by your panel?

3 MADAME FOREPERSON: Yes.

4 THE COURT: All right. Thank you. Anything
5 further required of the jury from the State regarding
6 that matter?

7 MR. KIDD: No, ma'am.

8 MS. ERHLICH: No, Your Honor.

9 THE COURT: Thank you. Ladies and gentlemen
10 before we broke for lunch I indicated to you that you
11 would be hearing closing arguments on behalf of counsel.
12 Just as I instructed you what was contained in opening
13 statements is not to be considered evidence; neither is
14 what is contained in their closing arguments. Ladies and
15 gentlemen, after you have heard closing arguments on
16 behalf of counsel I will instruct you on the law
17 applicable to this case. Please give your strict
18 attention. Mr. Kidd?

19 MR. KIDD: Thank you, Your Honor. May it please
20 the court, Ms. Ehrlich?

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Closing Argument-Remarks by Mr. Kidd
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1 CLOSING ARGUMENT

2 BY MR. KIDD:

3 Ladies and gentlemen this is my opportunity to talk
4 to you a little bit about the law in the case first.
5 When I'm done up here you will hear Ms. Ehrlich's closing
6 summation and I'll have a chance to address you one more
7 time just to kind of wrap everything up before you begin
8 your deliberations.

9 From the outset I do want to say that if I say
10 anything in the next few minutes in talking about the law
11 in this case that is ever inconsistent with the law that
12 the Judge gives you then defer to her; she is the
13 authority on the law in this case. I try to put things
14 in kind of easy practical terms and explain things in a
15 certain way. But if there is ever an inconsistency with
16 the law that she charges you she is the authority on the
17 law; not me.

18 But that being said in a case like there are a few
19 concepts that I want to review with you because I think
20 they are guiding concepts that will apply throughout this
21 case. As you know we are here for murder. So the first
22 thing and the most important thing is what is murder.
23 What does someone have to do to commit the offense of
24 murder? It's a relatively simple definition. Murder is
25 the killing of any person with malice aforethought either

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1 expressed or implied. So it's my burden of proof to you
2 is to prove to you beyond a reasonable doubt that what
3 the defendant did constituted murder. So the killing of
4 any person is pretty self explanatory but malice
5 aforethought either expressed or implied can be requires
6 a little bit of explaining.

7 So what is malice aforethought? Malice is a mental
8 state. It is something going on in your mind at the time
9 of the killing and it's the requisite mental state for
10 murder. And you can specific or general intent when
11 talking about describing malice. So specific intent
12 would be if there is evidence of a specific intent to
13 kill I'm going to kill you, statements like that or
14 actions which depict specific intent; lying in wait and
15 things like that.

16 But it doesn't have to be that specific. Just the
17 intent to inflict grievous bodily injury is enough to
18 satisfy malice. And even furthermore just through
19 recklessness can even be malice. It's a disregard for
20 human life is enough to constitute malice. That reckless
21 indifference is indicative of a depraved and malignant
22 heart; that is what malice is. Intent to commit a felony
23 doesn't really apply here. That would be like if someone
24 were robbing a store and killed someone in the process
25 that could constitute malice as well but that's really

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1 not applicable in this case. So the thing about malice
2 and malice aforethought; aforethought just means prior to
3 the killing, okay. But it doesn't require any specific
4 amount of time. It could be instantaneous. In the
5 second the trigger is pulled that can be aforethought.
6 So as long as malice is present at the time that trigger
7 is pulled you have malice aforethought.

8 So once again at the time the trigger is pulled if
9 you have an intent to cause harm or an intent to kill or
10 if you are acting with reckless indifference to someone's
11 life that is malice aforethought. And as I said that
12 intent, that malice, may be formed in an instant. It
13 doesn't have to be lying in wait; it doesn't have to be
14 the day before or five minutes before. It can be formed
15 in the instant someone acts; the instant someone pulls a
16 trigger or strikes a fatal blow.

17 As you've noticed in this case it's a self-defense
18 case. It's not who done it; its self-defense. So we're
19 going to walk through the law on self-defense. Now I'll
20 explain it a little bit more in a minute but there is
21 four specific elements of self-defense and when self-
22 defense is raised once again that whole burden thing; the
23 burden being on me, I have to disprove self-defense
24 beyond a reasonable doubt just like I have to prove
25 murder beyond a reasonable doubt I also have to disprove

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1 self-defense beyond a reasonable doubt. Now for me to
2 disprove self-defense beyond a reasonable doubt I don't
3 have to disprove every one of those elements. I only
4 have to disprove one. And if I disprove any single
5 element of self-defense then that defense does not apply
6 and he does not get that shield of self-defense.

7 Then we're going to talk through a little bit the
8 elements of self-defense the first being that the
9 defendant was without fault in bringing on the
10 difficulty. The law in South Carolina is if I am the
11 reason this problem occurred then I don't get to claim
12 self-defense. So that's the first thing; the first
13 element of self-defense. The second one, this one is a
14 little bit more complex, the defendant actually believed
15 he was in danger of losing his life or sustaining serious
16 bodily injury or he actually was in such imminent danger
17 okay.

18 So it's sort of a two-prong element. Either he had
19 to have actually been in imminent danger of losing his
20 life or suffering great bodily injury or he if he wasn't
21 actually in that danger that he truly in his own heart
22 believed that he was. Now if you're basing that element
23 on the second prong, on okay he wasn't in actual danger
24 but he truly believed that he was if you're basing it on
25 the second prong of that then not only must he have that

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1 belief but that belief must have been capable of being
2 held by a reasonable person in his shoes. So if you had
3 a reasonably prudent man in his shoes he would have held
4 that same belief; that same belief that he was in danger
5 of losing his life or suffering great bodily injury. So
6 if you took just an average person of ordinary firmness
7 and courage and you put him in those defendant's shoes
8 would he have held that same belief? And that's what is
9 required for the second-prong.

10 And the final prong of self-defense is that the
11 defendant had no other means of avoiding the danger.
12 This is a prong that we often refer to as a duty to
13 retreat. Before striking a fatal blow and taking another
14 man's life if you have an opportunity to safely avoid
15 that deadly encounter you have the obligation to do so.
16 And that's what we call a duty to retreat.

17 Specifically on to the duty to retreat the duty to
18 retreat can change in different circumstances. But
19 specifically if the defendant was attacked while on his
20 own premises on his own property by the deceased who at
21 the time of the attack was on public property or where he
22 had a right to be then the defendant was bound to retreat
23 before the taking of a life of his adversary; that means
24 he had to retreat if he could safely do so before taking
25 the life of a adversary, meaning if you are own property

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1 and someone is across the property line if you can safely
2 retreat you have to. And if you don't you don't get
3 self-defense. As I have touched on moment's ago all four
4 of those elements must be present for self-defense to
5 apply; for them to prevail on self-defense.

6 It's my burden to disprove it. I'm not saying it's
7 not but for them to successfully assert self-defense all
8 four of those elements must apply. If any single one of
9 them does not apply self-defense isn't applicable. So
10 therefore if you believe when I'm done with summing up
11 the case shortly that I have disproven any one of those
12 four elements then self-defense will not exist.

13 A couple of last little points; as the Judge told
14 you moments ago anything that I say, anything the
15 defendant attorney tells you is not evidence, okay. It's
16 argument but it's not evidence. Evidence is testimony
17 you heard from the stand, and the exhibits that you'll
18 have when you deliberate.

19 And finally just a brief explanation about what is
20 reasonable doubt is something that we always talk about;
21 what is beyond a reasonable doubt? Well there are very
22 few things in life in this world that are absolute
23 certainties. And absolute certainty is not what is
24 required. That's not the burden that is on me. I don't
25 have to prove to you to absolute certainty of the

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1 defendant's guilt. I have to prove to you beyond a
2 reasonable doubt. So what is beyond a reasonable doubt?
3 It's that which leaves you firmly convinced. If when we
4 are done you are firmly convinced that I have proven to
5 you the elements of murder and disproven to you at least
6 one of the elements of self-defense if you are firmly
7 convinced of that you must find the defendant guilty.

8 So as I said that was sort of my run through on the
9 law. You're going to now hear from Ms. Ehrlich and
10 you'll have an opportunity to hear from me one more time
11 so I can argue some of those facts and how they apply to
12 the law. Thank you so much for your time.

13 THE COURT: Ms. Ehrlich?
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Closing Argument-Remarks by Ms. Ehrlich
June 10, 2015

CLOSING ARGUMENT

BY MS. EHRLICH:

"F" that; I don't walk. Those were Troy Cason's words. And Mr. Hilliard was scared, vulnerable, and feeble and acted in self-defense. And lucky for you all I'm not going to give you a lecture on the law. I'm just going to talk about what happened in the courtroom over the last couple of days and why this isn't a murder.

Mr. Hilliard did not start this altercation. It starts with Troy also known as Charles mouthing off to him because he thinks he's been disrespected or accused of something that he hasn't been and there is some back and forth that goes on. And none of the State's witnesses could tell us exactly what those words were.

In fact they really weren't paying much attention because as Angela said it was like man stuff going on. I think Earl finally was able to say I guess Kenneth say something -- or I guess Charles say something to Kenneth but he wasn't sure what he said.

The two guys walked towards the gate and Mr. Hilliard told you he wasn't taking this guy too seriously. I mean at the time he's 55 years old; he's 57 now, he's walking with a back brace and a cane. He's not going over there to fight. He can't fight. He thinks they are going to talk this through like normal people

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1 might be able to do. They might be able to just talk it
2 through and then that would be the end of that and squash
3 the conversation and squash the problem. But everything
4 changes when Troy Cason decided to punch Mr. Hilliard.

5 And it's not a push. There was some back and forth
6 between different witnesses whether or not it was a push
7 or a punch. Angela went back and forth on that. Earl
8 admitted that Troy or Charles boxed Kenneth in the face.
9 Mr. Hilliard says it's a punch. And there don't have to
10 be bruises when somebody is punched. But it's a violent
11 thing to punch somebody, to sucker punch them and it's
12 unprovoked.

13 And if you're in Mr. Hilliard's shoes this is a
14 scary moment. He gets himself up and that's when he
15 starts to think that maybe these threats are real. And
16 he's on his own property and he thinks I'm going to get
17 my rifle and that will be the end of it. He doesn't have
18 to sit in his house hiding for days fearing this guy
19 might come back.

20 And when he does come back he comes outside and he
21 tells you he sits on the crates, rifle at his side not
22 pointing it at anyone. And at this point Charles Troy is
23 leaving and he goes to the car. But he reemerges from
24 around that corner pushing through his girlfriend,
25 pushing through his friend saying things like I don't

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1 walk and bitch you gonna shoot me. He's raging and
2 intoxicated and coming towards the fence. And by the way
3 is the fence really going to stop him because it didn't
4 stop him earlier and it wouldn't stop him if he was
5 armed. And it would be reasonable to think that somebody
6 who goes to their car and then reemerges raging towards
7 the person with a rifle by their side that they could be
8 armed.

9 This case is about a stranger who comes up and
10 attacks an older in poor condition gentleman while he is
11 making terrible threats and visible threats. Let's talk
12 about some of the factors. You've got Troy Cason who had
13 a blood alcohol level of over twice the legal limit;
14 close to three times the legal limit. We know he's
15 drinking on the scene from all the witnesses. And you
16 all as jurors can draw from personal experiences to know
17 that alcohol can make people more aggressive.

18 Mr. Hilliard -- there is no testimony from any of
19 the witnesses that he was intoxicated. If he had been
20 intoxicated somebody would have said it. He told you he
21 had a shot of vodka and he had potentially taken
22 medication but nobody comes into court saying that he is
23 intoxicated. Then you compare the two guys physically.
24 You've got Troy 46 years old, able to ride a bike, able
25 to run, 6-1, 243 pounds. I think they thought the

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1 medical examiner was going to say he wasn't in good shape
2 but the medical examiner said no, he was in reasonably
3 good shape.

4 Then you've got Mr. Hilliard at the time 55 years
5 old, knee injury, wrist injury, back injury, wears a
6 brace here [indicates], here [indicates], here
7 [indicates], walks with a cane or a walker. We've got
8 testimony from police officers that he was very feeble,
9 that he was having a hard time walking, that he needed a
10 chair to sit in while they were trying to do the
11 identification procedure.

12 Let's talk about their moves before the argument.
13 There is no testimony that Mr. Hilliard was amped up or
14 riled up before meeting Mr. Cason. But Mr. Cason we know
15 had had some sort of disagreement with his girlfriend
16 earlier about perfume. He disappears for awhile and
17 she's questioning him about it. He wants her to go out
18 there and she doesn't want to go. She told us he was
19 determined to take her out there, that he insisted.

20 This is a guy who wouldn't take no for an answer.
21 And even his home boy Earl says when he got there he was
22 already amped up. Let's talk about how people were
23 acting during the incident. Earl told you that he did
24 tell law enforcement that his home boy snapped that
25 night. And we know his home boy isn't Mr. Hilliard. We

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1 know his homeboy he eventually admitted he has known him
2 over 20 years was Troy Cason. And even though Earl
3 wasn't as articulate as the Solicitor asked him to be he
4 was clear about several things; that Charles wouldn't let
5 it go. That Earl told him to let it go. He told him to
6 leave and when he started to leave he couldn't let it go
7 and he turned around and came back and said "F" that; I
8 don't walk.

9 Let's talk about behavior after the shooting. Mr.
10 Hilliard doesn't leave the location. He stays right
11 there. He sits and he waits for the police to come. He
12 doesn't hide or conceal the rifle; it's right there in
13 the bedroom. They don't have to look under a bed. They
14 don't have to look under a trailer. It is right there
15 for everybody to see; right next to multiple bottles of
16 medicine and the two canes by his bed.

17 And the sergeant who was out there says he called
18 Mr. Hilliard over, that he complied and came out and
19 there weren't any problems with him except for the fact
20 that he was having difficulty walking and seemed very
21 weak. The fence is a big deal in this case. There is
22 no question from anybody this property is surrounded by a
23 chain link fence. And there is no question from anybody
24 and you'll be able to look at the pictures that there is
25 that barbed wire around the top. But there's also no

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1 question that Troy Cason was able to attack Mr. Hilliard
2 through the gate through the fence earlier. He was able
3 to punch him straight in the face and knock him to the
4 ground. And just because his foot didn't go onto the
5 property doesn't mean he didn't attack him on his own
6 property and he did it with violence and he did it
7 because he wanted to and he did it because he could.

8 And if he could attack somebody through a fence one
9 time why couldn't you do it a second time. It was
10 reasonable for Mr. Hilliard to be scared of this guy
11 especially when Mr. Cason wasn't backing down. This guy
12 had the nerve to attack him earlier, goes off to a car,
13 comes raging back around the corner pushing through
14 people if the fence didn't stop him earlier why would it
15 stop him now.

16 There has also been some testimony about like how
17 far away was he. And I don't think anybody really knows
18 how far people were from this person or that person or
19 how far away they were during the shooting because
20 everybody says it happened really fast.

21 So all this stuff about soot and stippling I don't
22 know why anybody would think there would be soot or
23 stippling given the detailed medical intervention that
24 this guy had to go through at MUSC we wouldn't expect to
25 see that. All we have to go on from the testimony of the

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1 witnesses five to six feet, ten to fifteen feet; nobody
2 really knows. There is also this talk about turning.
3 Was Mr. Cason turning and leaving when this stuff goes
4 on. That was like this big dramatic end to the State's
5 case. Angela Steed saying he was finally leaving, he was
6 finally turning to go away. That's not so clear from the
7 physical evidence.

8 They have this dummy thing over here with the skewer
9 going through it making a big deal about the path of the
10 bullet but that was really just to show the path of the
11 bullet once it entered the body. It had nothing to do
12 with the path of the bullet going in. And Doctor Schandl
13 told us she couldn't rule out Mr. Cason coming towards
14 Mr. Hilliard at the time of the shooting.

15 And by the way Earl doesn't say that Troy was
16 leaving. And Mr. Hilliard doesn't say he was leaving.
17 And let's think about it. If this thing is going down as
18 quickly as everybody says it is the same time Mr.
19 Hilliard may be pulling that trigger may be the same time
20 that Troy is potentially started to turn. That could
21 happen at the same time or within a millisecond of each
22 other.

23 So we don't really know where everybody was standing
24 but we do know it happened quickly and we do know that
25 nothing was going to stop Troy Cason that day. Earl told

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1 you he told police that Troy said something to Kenneth
2 and Earl may not have been that clear in a lot of his
3 testimony but there was no hesitation on his part when he
4 said he told Charles to let it go, to let it ride and his
5 response was "F" that; he doesn't walk.

6 I think the State's theory is that my client was
7 humiliated, enraged and disrespected by the pouring of
8 beer and the punch. He goes to some desperation to try
9 to get him to say, get the witnesses to say that they
10 were all agreeing to fight. And that's obviously not
11 what was going on. You didn't hear any quotes from any
12 witnesses that Vaughn Hilliard was making threats. No
13 threats from Vaughn Hilliard. No words of rage, no words
14 of anger; those only came from Troy Cason.

15 It was really easy to look back and reflect and
16 judge how this situation turned out. And all of us have
17 had two years to think about it. We had two years, the
18 State had two years to analyze every single decision that
19 every single person made in this case.

20 And when you deliberate you as a jury will have as
21 much time as you need to discuss and analyze the choices
22 and decisions people made that day. But Mr. Hilliard did
23 not have that time. He had to make decisions quickly.
24 There are no do over's if you're dead. And he doesn't
25 get to take a time-out, freeze everybody, take a good

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1 look at everything that is going on around him and try to
2 make a decision. He has to act in the moment and when he
3 acted he acted in fear that he was going to be seriously
4 hurt or killed by the drunken man approaching him in a
5 rage.

6 This isn't like a movie or a play where we get to
7 like rewrite how things happen. It is what it is and he
8 had to make the best decisions he could in the time that
9 he had. He doesn't have to make the best decision under
10 the law. He doesn't even have to wait for Mr. Cason to
11 get the drop or get the advantage over him before he
12 acts. He had to make a human decision because he is a
13 human being who had a real life situation and he couldn't
14 take the time to sit back and analyze everything going on
15 then.

16 Troy Cason wouldn't walk away that day. Angela
17 couldn't stop him, Earl couldn't stop him. The only
18 person who stopped him was the vulnerable feeble guy
19 scared for his life who shot one time in self-defense.

20 THE COURT: Mr. Kidd?

21 MR. KIDD: Thank you, Your Honor. May it please
22 the court?

23

24

25

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1 CLOSING ARGUMENT REPLY

2 BY MR. KIDD:

3 I want to comment on a few things she said before I
4 get kind of going. The reason she doesn't want to
5 lecture you on the law is because it doesn't apply in her
6 favor. It just doesn't work for her. That's why she
7 didn't want to talk to you about the law in this case.
8 But that's why we're here, that's why we're in this
9 courtroom; to apply the facts to the law. And it's what
10 this is about but she didn't want to talk to you about
11 the law because it doesn't fit; it doesn't fit her
12 defense.

13 Another thing she said was why didn't he leave or
14 why didn't he run after the shooting. Because you know
15 what; in that neighborhood people don't call the police.
16 And nobody did you know. But for Angela Steed nothing
17 would have ever happened. Think about that. But for
18 Angela Steed he would have gotten away with murder.

19 And another thing she said if the fence didn't stop
20 him the first time how is it going to stop him a second
21 time. Well, because he wasn't standing right up next to
22 it. One step back and the fence does stop him, you know.
23 It just doesn't make sense. And the fence is a huge deal
24 because you know what ultimately; ultimately if you don't
25 believe any of the evidence or any of the argument or

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1 anything that comes out of my mouth and you believe every
2 word that Vaughn Hilliard told you from that stand, if
3 you believe every word he said he's still guilty of
4 murder. So you can disregard my argument. You can
5 disregard my witnesses. If you believe everything he
6 said he's still guilty of murder. But you know what?
7 He's not telling you the truth. I do this too much
8 probably and I always go back to quotes. But Benjamin
9 Franklin once said half of a truth is often a great lie.
10 And that's what y'all got from Vaughn Hilliard; you got
11 half truths.

12 It doesn't matter whether he had been drinking all
13 day or not but he's not going to admit that to you. He's
14 not going to tell you the truth. One shot of vodka in
15 the morning like you believe that. Vaughn Hilliard was a
16 coward that day, an absolute coward. He shot a man
17 through a fence with barbed wire on the top of it when he
18 was leaving. And they are going to put on a show for you
19 so you feel sorry for him. And sympathy is a ---

20 MS. ERHLICH: --- objection, Your Honor. He's
21 commenting on our right to present a defense --

22 THE COURT: Ladies and gentlemen please remember
23 what is contained in closing arguments is merely their
24 contention of what the evidence has shown you. Mr. Kidd,
25 you may continue.

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1 MR. KIDD: I agree. They have a right to show you
2 whatever they want but they are trying to make you feel
3 sympathetic. And sympathy is a strong emotion. And you
4 probably feel sorry for him. But you know what? So do I
5 and so does everyone in this courtroom.

6 They feel sorry for Mr. Hilliard because as I told
7 you before it is a senseless tragedy. There are no
8 winners here. It's not about winning or losing; there
9 are only losers here. And it's easy to feel sorry for
10 Mr. Hilliard. You've heard his voice and you've seen his
11 pain. You've seen his face. It's easy to feel sorry for
12 him.

13 But what about Troy Cason; the faceless man you've
14 only heard about these past few days. You don't get to
15 hear his voice or hear his side. He's got a family; a
16 wife, daughters, cousins. You don't get to hear his
17 side. My last quote I'll give you; one from Voltaire
18 says we respect the living but to the dead we owe only
19 the truth.

20 That's what this process is about. It's about the
21 truth. It's about finding that truth for Troy Cason.
22 You know if you came into this process of jury duty
23 especially in a case like this, in a murder case, and you
24 thought you were going to be able to walk out of here
25 with a warm fuzzy feeling about doing justice you are

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1 sorely mistaken. Decisions like these you're not going
2 to feel good about it one way or the other. They are
3 horrible. They have real life impact. It's not about
4 what feels good. It's about what is right. It's about
5 what is wrong. It's about what has happened and it's
6 about the law.

7 And I want to talk to you a little bit about the
8 testimony we heard over the past couple of days. You
9 probably got annoyed with me as I was putting up evidence
10 to show that Mr. Hilliard shot Mr. Cason when they
11 admitted it in their opening statement. But like I said
12 it's my burden; I have to at least prove it to you. So I
13 apologize for that to some degree.

14 But that being said I don't really get to pick my
15 witnesses you know. If I did I'd put the Judge on the
16 stand if she were out there because she would be a great
17 witness. But you know where this crime occurred everyone
18 is not exactly articulate and able to tell you exactly
19 what you want to hear. And I try to get as much
20 information from them as I can but it can be difficult.

21 But a lot of times it's not always what someone says
22 that's important but it's also important what they don't
23 say you know. I think you could probably sense my
24 frustration with Mr. Gregg but think about what he didn't
25 say. He didn't say that Troy was charging the fence or

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1 trying to attack or get at Vaughn Hilliard. He didn't
2 say that. And he seemed to be definitely trying to
3 distance himself from the whole thing. He was always
4 around the corner or just peeking around. Everyone else
5 puts him right in the middle of it. He's probably
6 instigating the whole thing.

7 But what you can't deny is the truth, the honesty,
8 and the sincerity of Angela Steed. Why do we believe
9 Angela Steed? Why? No motive to lie. She doesn't know
10 him, she doesn't know Earl or anyone out there other than
11 Troy who she had known for two months; a month of which
12 she was gone.

13 Why else can we believe her? Because all the
14 physical evidence corroborates everything she said. If
15 you want to make a big deal about this [indicates], I
16 don't know where my skewer went, but you know what the
17 pathologist said a 45 degree angle, shot on the side,
18 left upper quadrant at a 45 degree angle.

19 So if straight forward is zero degrees, straight
20 left is 90 degrees, a 45 degree angle in the side
21 [indicates]; completely consistent with what Angela Steed
22 told you that he was turning when he got shot. You'd
23 expect 90 degree angle charging; turning you get the 45.
24 It matches, it makes sense. Why do I want you to know
25 that even two years later we sent North Charleston out to

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1 find that shell casing right there [indicates]? Because
2 it's right where Angela Steed told us to look. The
3 gunshot residue I mean you've got a rifle with a scope
4 here. It doesn't make much difference I guess because he
5 admits the shooting so sure he's got gunshot residue.

6 But you've got a rifle and you've got gunshot
7 residue and the most conclusive particle on the back of
8 his right hand right where it would be if he is shooting
9 that rifle; the back of your right hand; a right hand
10 person shooting a right hand rifle.

11 She wants to talk to you about stippling. Stippling
12 is the burning of the skin from a close gunshot wound. I
13 don't care how much medical treatment when they're taking
14 your organs and things like that out but stippling is not
15 going to go away. Although once again it doesn't really
16 matter his testimony said he was ten feet away. But all
17 those things, the trajectory, the shell casing, the
18 location; it all matches up when you hear Angela when you
19 hear her testify. She has no reason to lie.

20 You know and then the defense gives you a case.
21 They put up Mr. Bradley. God bless him. I'm not sure if
22 he could see his hand in front of his face. No offense
23 to him; he's in a tough physical condition but to say he
24 had some insight into what happened out there is a little
25 farfetched and I wasn't about to beat him up over it.

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1 But what is important are the things that Mr. Hilliard
2 tells you. One shot. But not according to Earl. Earl
3 said he was out drinking whiskey all day on Oxycontin.
4 And once again does it really matter? No, but it shows a
5 willingness to lie, a willingness to change the story to
6 support his defense.

7 He wants you to think he was punched in the face.
8 Where is the evidence to corroborate that? Like Ms.
9 Steed the evidence supports it but when Mr. Hilliard
10 tells you he was punched in the face there is nothing
11 there. And you'll have all this back to look at. I'm
12 not saying he wasn't pushed or punched. It doesn't
13 matter.

14 You know in the end two separate times Troy Cason
15 tried to leave. I'm not saying he's an angel. He's not
16 the best person in the world but he deserves to be here.
17 He didn't deserve to die. He was trying to leave. The
18 defendant came out with a gun. He probably should have
19 kept going but he didn't.

20 And once again after you heard Ms. Steed after they
21 were jawing back and forth he said enough, he turned to
22 leave and 10 to 12 feet away from him when he got shot.
23 Remember the law without fault in bringing on the
24 difficulty? Can you imagine -- I've never seen someone
25 lose their life over a spilled beer; bringing on the

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1 difficulty, arguing and picking his fight, and an
2 invitation to fight at that gate. Use your common sense.
3 Why else did they go there? Why else is he opening the
4 gate? So they can have a conversation? No, they were
5 going to fight; at fault in bringing on the difficulty.

6 He clearly wasn't in actual fear of death or great
7 bodily injury so they have to rely on was that belief
8 reasonable. Did he actually believe that he was in fear
9 and was that belief reasonable. Is it reasonable to
10 believe you are in fear of death or great bodily injury
11 behind the fence with barbed wire on top of it while
12 you're armed with a gun when you have a drunk unarmed man
13 on the other side.

14 Was that reasonable? Reasonable to the point where
15 you can take another person's life? Even if he did
16 actually believe that it's not reasonable. But you heard
17 his testimony. He wasn't scared, he was angry. He was
18 insulted and he lashed out. He made a bad choice.

19 And finally a duty to retreat. All he had to do was
20 walk away. I don't even care how slowly it would have
21 been. All he had to do is turn and walk away and that is
22 an obligation that the law in South Carolina puts on him.
23 Before you can shoot somebody you have a duty to retreat;
24 you have to walk away. There is not a single element of
25 self-defense that cuts in their favor. Not a single one.

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1 So what I ask you is to look at the testimony, look at
2 the evidence for what it is. Apply it to the law as I've
3 explained to you and as the Judge will charge you and
4 you've got to come back with the only verdict that makes
5 sense that holds him accountable for some poor choices.
6 He's not an evil man, he made poor choices.

7 My mom once told me we sit at our own tables and we
8 make our own beds; you've got to live with the
9 consequences. Just like Mr. Cason's family is going to
10 have to live with those consequences. So I ask you to
11 review the evidence, look at it and return a verdict that
12 holds Mr. Hilliard responsible and finds him guilty of
13 murder. Thank you.

14 THE COURT: Mr. Kidd could you pull the podium back
15 just a little bit.

16 MR. KIDD: Yes, ma'am.

17 [Whereupon, Mr. Kidd complies]

18 THE COURT: Thank you.

19

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JURY CHARGE

THE COURT: All right ladies and gentlemen I remind you that during this trial you and I had certain duties to perform. As the trial Judge it is my responsibility to preside over the trial of this case and I have the duty to rule on the admissibility of the evidence offered during this trial. You are to consider only the evidence before you. If there was any testimony ordered stricken from the record you must disregard that testimony. You are to consider only the testimony that you heard from the witness stand, the exhibits that have been made part of the record in this case as well as stipulations of counsel.

I have the additional duty to charge you the law applicable to this case. Ladies and gentlemen I ordinarily do not give a copy of the charge back to you. So if at any time you need for me to recharge you on the law as I'm giving it to you now I will bring you back into the courtroom to recharge you on the law that you request.

As the presiding Judge I am the sole judge of the law in this case. It is your duty to accept the law and apply the law exactly as I state it to you now. If you have any idea as to what the law is or what the law ought to be and it does not agree with what I'm about to tell

1 you, you must abandon your own ideas because you are
2 sworn to accept the law and apply the law exactly as I
3 state it to you now. In every case tried in this court
4 before a jury the jury becomes the sole and exclusive
5 judges of the facts. A trial Judge may not make any
6 comment regarding the facts in this case.

7 You are not to infer from anything that I have said
8 or done throughout the progress of this case that I have
9 any opinion about the facts in this case. The law does
10 not allow me to have an opinion about the facts in this
11 case. This is solely a matter for you to determine.

12 The indictment in this case charges Mr. Hilliard
13 with one count of murder. I remind you the fact that Mr.
14 Hilliard was arrested, charged and indicted is not
15 evidence and cannot be considered by you as evidence of
16 guilt nor does it create any presumption or inference of
17 guilt.

18 An indictment is simply the formal written
19 instrument which contains the charge made against the
20 defendant. It is the formal document by which this case
21 is brought into court. Just as the indictment in this
22 case is not evidence any terminology or labels used to
23 refer to the individuals in this case cannot be
24 considered as evidence. For example the use of the words
25 defendant and victim are merely labels and may not be

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1 considered by you as evidence. Mr. Hilliard has pled not
2 guilty to this indictment. A person charged with
3 committing a criminal offense in South Carolina is never
4 required to prove himself innocent. I charge you it is
5 an important rule of law that the defendant in a criminal
6 trial no matter what the seriousness of the charge may be
7 will always be presumed to be innocent of the crime for
8 which the defendant was indicted unless guilt has been
9 proven by evidence satisfying you of that guilt beyond a
10 reasonable doubt.

11 The presumption does not end when you begin your
12 deliberations but it accompanies the defendant throughout
13 the trial until you reach a verdict of guilt based upon
14 evidence satisfying you of that guilt beyond a reasonable
15 doubt. The presumption of innocence is not mere legal
16 theory. It is not just a legal phrase. It is a
17 substantial right to which every defendant is entitled
18 until you, the jury, are satisfied from the evidence of
19 the defendant's guilt beyond a reasonable doubt.

20 The State has the burden of proving Mr. Hilliard
21 guilty beyond a reasonable doubt. Some of you may have
22 served as jurors in civil cases before where you were
23 told that it was only necessary to find that a fact is
24 more likely true than not true such as by a greater
25 weight or preponderance of the evidence. Proof beyond a

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1 reasonable doubt is proof that leaves you firmly
2 convinced of the defendant's guilt. There are very few
3 things in this world that we do know with absolute
4 certainty. And in criminal cases the law does not
5 require the burden of proof that overcomes every possible
6 doubt. If based upon your consideration of the evidence
7 you are firmly convinced that Mr. Hilliard is guilty of
8 the crime charged you must find Mr. Hilliard guilty.

9 If on the other hand if you think there is a real
10 possibility that Mr. Hilliard is not guilty you must give
11 him the benefit of the doubt and find him not guilty.
12 There are two types of evidence that are generally
13 presented throughout a trial; direct evidence and
14 circumstantial evidence. Direct evidence directly proves
15 the existence of a fact and does not require any
16 deduction.

17 Circumstantial evidence is proof of a chain of facts
18 and circumstances indicating the existence of a fact.
19 Crimes may be proven by circumstantial evidence. The
20 law makes no distinction between the weight or value to
21 be given either direct or circumstantial evidence,
22 however to the extent the State relies on circumstantial
23 evidence all of the circumstances must be consistent with
24 each other and when taken together point conclusively to
25 the guilt of the defendant beyond a reasonable doubt. If

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1 these circumstances merely portray the defendant's
2 behavior as suspicious the proof has failed. The State
3 has the burden of proving Mr. Hilliard guilty beyond a
4 reasonable doubt.

5 This burden rests with the State regardless of
6 whether the State relies on direct evidence,
7 circumstantial evidence, or a combination of the two.
8 Necessarily you must determine the creditability of the
9 witnesses who have testified in this case. Creditability
10 simply means believability. It becomes your duty as
11 jurors to analyze the facts and determine which evidence
12 convinces you of its truth.

13 In determining the believability of the witnesses
14 who have testified in this case you may believe one
15 witness over several witnesses or several witnesses over
16 one witness. You may believe a part of the testimony of
17 one witness and reject the remaining part of the
18 testimony of that same witness. You may believe the
19 testimony of a witness in its entirety or reject the
20 testimony of a witness in its entirety.

21 You may consider whether the witness has exhibited
22 to you any motive, interest, bias, or prejudice in this
23 case and you may also consider the manner and the
24 appearance of the witness while he or she was on the
25 witness stand. There has been evidence presented that

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1 witnesses have made prior statements that are not
2 consistent with the witness's present testimony. You may
3 use this evidence to decide whether to believe the
4 witness.

5 You may also use evidence of their early
6 contradictory statements to determine the truth of those
7 statements. It is up to you to decide whether to believe
8 the earlier statements or to believe the testimony given
9 at trial. If a witness has shown to have knowingly
10 testified untruthfully concerning any material matter you
11 may consider this in determining whether to trust the
12 witnesses testimony as to other matters. You may reject
13 all testimony of that witness or give all or part of the
14 testimony the weight you think it deserves.

15 The rules of evidence ordinarily do not permit
16 witnesses to testify to opinions or to conclusions. An
17 exception to this rule exists for the witnesses we call
18 expert witnesses; a witness who by some education and
19 experience has become an expert in some art, science,
20 profession or calling may state an opinion as to relevant
21 and material matter in which the witness claims to be an
22 expert and may also state the reasons for that opinion.
23 You should consider any expert opinion received into
24 evidence in this case like any other evidence; give it
25 the weight you think it deserves. If you decide that the

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1 opinion of an expert witness is not based on sufficient
2 education and experience or if you conclude that the
3 reasons given in support of the opinion are not sound, or
4 that the opinion is outweighed by other evidence you may
5 disregard the opinion entirely. An expert witness's
6 testimony is to be given no greater weight than that of
7 other witnesses simply because the witness is an expert.
8 Further you are not required to accept an expert's
9 opinion even though it was not contradicted.

10 In order to establish criminal liability criminal
11 intent is required. For example, the mental state
12 required to be proven by the State for a particular crime
13 might be purpose, intent, knowledge, recklessness, or
14 criminal negligence. Criminal intent must be proven by
15 the State beyond a reasonable doubt. Criminal intent is
16 always a matter that must be determined by the jury from
17 the circumstances surrounding the situation.

18 There is no way to prove intent to a mathematical
19 certainty because there is no way to tell with exact
20 certainty what a person intended to do. The law says
21 that criminal intent may be inferred from the
22 circumstances shown to have existed. This is how you
23 make a determination of whether or not the element
24 requiring intent was present. It is not necessary to
25 establish intent by direct and positive evidence but

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1 intent may be established by inference in the same way as
2 any other act by taking into consideration the acts of
3 the parties and all the facts and circumstances of this
4 case.

5 Criminal intent is a mental state. It is a
6 conscious wrongdoing. It is up to you to determine what
7 the defendant intended to do based upon the circumstances
8 shown to have existed. Where a person inflicts a fatal
9 injury on another person and that person dies at a later
10 time you must be convinced beyond a reasonable doubt that
11 the infliction of the first injury was the proximate
12 cause of the victim's death.

13 Proximate cause is a direct cause. It is the
14 immediate cause. It is the efficient cause. It is that
15 cause without which the death of the victim would not
16 have resulted. There must be a chain of causation from
17 the time of the injury inflicted by the defendant until
18 the time of the defendant's -- excuse me; until the time
19 of the victim's death.

20 Proximate cause does not necessarily mean that it
21 occurred immediately prior to death. There may be more
22 than one proximate cause. The acts of two or more
23 persons may combine together as the proximate cause of
24 the death of a person. The defendant's act may be
25 regarded as the proximate cause if it is a contributing

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1 cause of the death of the victim. The fact that other
2 causes also may contribute to the death of the victim
3 does not relieve the defendant from responsibility. The
4 defendant's act need not be the sole cause of the death,
5 but must be a proximate cause contributing to the death
6 of the victim.

7 It is not a defense to show that the victim might
8 have recovered had he been treated according to the most
9 approved surgical or medical standards or as a reasonably
10 prudent doctor would have treated in this case or even
11 showing that the treatment was negligent. If however the
12 death was caused not by the wound or the injury that the
13 victim had but was caused by the gross erroneous willful
14 deliberate treatment the defendant would not be
15 responsible. In other words negligence on the part of
16 someone else would not relieve the defendant from
17 liability of the injury if the injury was the proximate
18 cause of the victim's death.

19 Mr. Hilliard is charged with murder. The State must
20 prove beyond a reasonable doubt that Mr. Hilliard killed
21 another person with malice aforethought. Malice is
22 hatred, ill will, or hostility towards another person.
23 It is the intentional doing of a wrongful act without
24 just cause or excuse and with an intent to inflict an
25 injury or under circumstances that the law will infer an

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1 evil intent. Malice aforethought does not require that
2 malice exists for any particular time before the act is
3 committed. But malice must exist in the mind of the
4 defendant just before and at the time the act is
5 committed. Therefore there must a combination of the
6 previous evil intent and the act.

7 Malice aforethought may be express or inferred.
8 These terms express or inferred do not mean different
9 kinds of malice but merely the manner in which malice may
10 be shown to exist. That is either by direct evidence or
11 by inference from the facts and circumstances that are
12 proved. Malice may be inferred from conduct showing a
13 total disregard for human life.

14 Insanity caused by the use of drugs or alcohol may
15 be a defense if the insanity is permanent and destroys
16 the defendant's ability to know right from wrong.
17 However, when voluntary intoxication has not produced
18 permanent insanity it is not a defense to a crime. A
19 person who voluntarily becomes intoxicated is just as
20 responsible for the acts committed while intoxicated as
21 when the person is not intoxicated.

22 Mr. Hilliard has raised the defense of self-defense.
23 Self-defense is a complete defense. And if it is
24 established you must find Mr. Hilliard not guilty. The
25 State has the burden of disproving self-defense by proof

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1 beyond a reasonable doubt. If you have a reasonable
2 doubt of the defendant's guilt after considering all the
3 evidence including the evidence of self-defense then you
4 must find the defendant not guilty. On the other hand if
5 you have no reasonable doubt of the defendant's guilt
6 after considering all the evidence including the evidence
7 of self-defense then you must find the defendant guilty.

8 The following elements are required to establish
9 self-defense: The defendant must be without fault in
10 bringing on the difficulty. If the defendant's conduct
11 was the type which was reasonably calculated to and did
12 provoke a deadly assault the defendant would be at fault
13 in bringing on the difficulty and would not be entitled
14 to an acquittal based on self-defense.

15 The next element of self-defense is that the
16 defendant was actually in imminent danger of death or
17 serious bodily injury or that the defendant actually
18 believed he was in imminent danger of death or serious
19 bodily injury.

20 If the defendant was actually in imminent danger it
21 must be shown that the circumstances would have warranted
22 a person of ordinary firmness and courage to strike the
23 fatal blow to prevent death or serious bodily injury. If
24 the defendant believed he was in imminent danger of death
25 or serious bodily injury it must be shown that a

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1 reasonably prudent person of ordinary firmness and
2 courage would have had the same belief. In deciding
3 whether the defendant was actually or believed he was in
4 imminent danger of death or serious bodily injury you
5 should consider all the facts and circumstances
6 surrounding the crime including the physical condition
7 and characteristics of the defendant and the victim.

8 The defendant does not have to show he was actually
9 in danger. It is enough if the defendant believed he was
10 in imminent danger and a reasonably prudent person of
11 ordinary firmness and courage would have had the same
12 belief. The defendant has the right to act on
13 appearances even though the defendant's beliefs may have
14 been mistaken.

15 The law does not hold the defendant to refined
16 assessment of the danger provided of course he acted as
17 the person of ordinary coolness and courage would have
18 acted or should have acted in meeting the appearance of
19 danger. He doesn't have to wait until his assailant gets
20 the drop on him.

21 He has the right to act under the law of self
22 preservation and prevent his assailant from getting the
23 drop on him. If it is apparent or reasonably apparent
24 his assailant is taking steps to get the drop on him he
25 must take steps first to prevent the assailant from

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1 getting the drop on him. It is for you to decide whether
2 the defendant's fear of immediate danger of death or
3 serious bodily injury was reasonable and would have been
4 felt by an ordinary person in the same situation. Words
5 accompanied by hostile acts may depending upon the
6 circumstances establish self-defense. Threats made by
7 the victim may be considered in determining whether the
8 defendant actually was or believed he was in imminent
9 danger.

10 The relative size, ages and weights of the defendant
11 and the victim may be considered in deciding the apparent
12 or actual need for force in self-defense and the amount
13 of force needed. The intoxication of the victim and of
14 the defendant may be considered in deciding whether the
15 defendant's fear of death or bodily harm was reasonable.

16 The next element of self-defense is that the
17 defendant had no other probable way to avoid the danger
18 of death or serious bodily injury than to act as the
19 defendant did in this particular instance. If the
20 defendant was attacked while on his own premises by the
21 victim who was at the time where the victim had a right
22 to be the defendant was bound to retreat before taking
23 the life of the victim. A person cannot be required to
24 make an exact calculation as to the degree or amount of
25 force which may be needed to avoid death or serious

State v Vaughn Hilliard
Jury Charge
June 10, 2015

1 bodily harm. Therefore in self-defense the defendant has
2 the right to use the force needed to avoid death or
3 serious bodily harm. The force used in self-defense does
4 not have to be limited to the degree or amount of force
5 used by the victim.

6 The defendant has the right to use so much force as
7 appeared to be necessary for complete self protection in
8 which a person of ordinary reason and firmness would have
9 believed to be needed to prevent death or serious bodily
10 harm.

11 Ladies and gentlemen I'm now going to go over the
12 verdict form with you. Madame Foreperson, it is your
13 responsibility to complete the verdict form. It must be
14 a unanimous decision meaning all twelve of you must agree
15 on this decision. In the Court of General Sessions for
16 the Ninth Judicial Circuit case number 2014-GS-10-1341
17 State of South Carolina versus Vaughn Hilliard we, the
18 jury, find the defendant Vaughn Hilliard not guilty or
19 we, the jury, find the defendant Vaughn Hilliard guilty
20 of murder.

21 Once you have made a unanimous decision meaning all
22 twelve of you have agreed on this decision you will sign
23 the verdict form and date it. Once you have done that
24 please knock on the jury room door indicating to the
25 bailiffs that you have completed your deliberation and

State v Vaughn Hilliard
Jury Charge
June 10, 2015

1 reached a verdict. This is the last time that I will say
2 this to you do not begin your deliberations. Do not
3 discuss this case amongst yourselves. We will be
4 gathering the evidence and the verdict form to go back to
5 you. Once we have done that the bailiffs will indicate
6 that you may begin deliberations.

7 To my two alternates you have completed your service
8 to this case at this time. But we are going to keep you
9 to ensure that the first twelve have begun their
10 deliberations. Same admonishments and instructions to
11 you; do not begin your deliberations; do not discuss this
12 case with anyone. Please take all your belongings with
13 you. Thank you.

14 [Whereupon, the jury exits at 1:53 p.m.]

15 THE COURT: Thank you. Any objections,
16 corrections to the charge as read from the State?

17 MR. KIDD: No, ma'am.

18 MS. ERHLICH: No, Your Honor.

19 THE COURT: All right. There was no objection to
20 the verdict form and so we'll just make sure that the
21 evidence that goes back is ready to go back.

22 [Whereupon, counsel and the court reporter review
23 the evidence]

24 THE COURT: Anything else? Do you need to put
25 anything else on the record?

State v Vaughn Hilliard
Jury Charge
June 10, 2015

1 MS. ERHLICH: No, Your Honor.
2 THE COURT: Okay.
3 [Whereupon, evidence out to the jury at 2:00 p.m.]
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State v Vaughn Hilliard
Verdict
June 10, 2015

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VERDICT

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THE COURT: We have a verdict. Where is Mr. Kidd?

3

MR. WARING: Your Honor, he's on the way back right

4

now.

5

THE COURT: Anything from the defendant?

6

MS. ERHLICH: No, Your Honor.

7

[Off the record momentarily]

8

THE COURT: Anything before we bring in the jury?

9

MR. KIDD: No, ma'am.

10

MS. ERHLICH: No, ma'am.

11

[Whereupon, the jury enters at 3:04 p.m.]

12

THE COURT: Madame Foreperson, I understand that

13

you have reached a verdict. If you will fold the verdict

14

form and hand it to the bailiff.

15

[Whereupon, the Foreperson complies]

16

CLERK OF COURT: The State of South Carolina in the

17

County of Charleston in the Court of General Sessions for

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the Ninth Judicial Circuit, case number 2014-GS-10-01341

19

the State of South Carolina versus Vaughn Hilliard we,

20

the jury, find the defendant Vaughn Hilliard guilty of

21

murder; signed Madame Forelady June 10th, 2015. Ladies

22

and gentlemen of the jury if this is your verdict please

23

indicate so by raising your right hand.

24

[Whereupon, all jurors raise their right hand]

25

CLERK OF COURT: Please let the record reflect that

State v Vaughn Hilliard
Verdict
June 10, 2015

1 all jurors have raised their right hand.

2 THE COURT: Thank you. Anything further requested
3 of the jury from the defendant?

4 MS. ERHLICH: Your Honor, we would request that the
5 court poll the jury.

6 THE COURT: All right. Please poll the jury using
7 the jury numbers.

8 CLERK OF COURT: Yes, Your Honor.

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State v Vaughn Hilliard
Polling of the Jury
June 10, 2015

1 POLLING OF THE JURY

2 CLERK OF COURT: Ladies and gentlemen whenever your
3 juror number is called if you would please first raise
4 your hand to signify that that is you. I am then going
5 to ask you two questions. Please respond to each
6 question appropriately. Starting with Madame Forelady
7 juror number 325 is this your verdict?

8 JUROR NUMBER 325: Yes.

9 CLERK OF COURT: Is this your verdict?

10 JUROR NUMBER 325: Yes.

11 CLERK OF COURT: Thank you. Juror number 270. Is
12 this your verdict?

13 JUROR NUMBER 270: Yes.

14 CLERK OF COURT: Is this still your verdict?

15 JUROR NUMBER 270: Yes.

16 CLERK OF COURT: Thank you. Juror number 186 is
17 this your verdict?

18 JUROR NUMBER 186: Yes.

19 CLERK OF COURT: Is this still your verdict??

20 JUROR NUMBER 186: Yes.

21 CLERK OF COURT: Thank you. Juror 146 is this
22 your verdict?

23 JUROR NUMBER 146: It is.

24 CLERK OF COURT: Is this still your verdict?

25 JUROR NUMBER 146: It is.

State v Vaughn Hilliard
Polling of the Jury
June 10, 2015

1 CLERK OF COURT: Thank you. Juror 157 is this
2 your verdict?
3 JUROR NUMBER 157: Yes.
4 CLERK OF COURT: Is this still your verdict?
5 JUROR NUMBER 157: Yes, sir.
6 CLERK OF COURT: Thank you. Juror 341 is this
7 your verdict?
8 JUROR NUMBER 341: Yes.
9 CLERK OF COURT: Is this still your verdict?
10 JUROR NUMBER 341: Yes.
11 CLERK OF COURT: Thank you. Juror 177 is this
12 your verdict?
13 JUROR NUMBER 177: Yes
14 CLERK OF COURT: Is this still your verdict?
15 JUROR NUMBER 177: Yes.
16 CLERK OF COURT: Thank you. Juror 214 is this
17 your verdict?
18 JUROR NUMBER 214: Yes.
19 CLERK OF COURT: Is this still your verdict?
20 JUROR NUMBER 214: Yes.
21 CLERK OF COURT: Thank you. Juror 57 is this your
22 verdict?
23 JUROR NUMBER 57: Yes.
24 CLERK OF COURT: Is this still your verdict?
25 JUROR NUMBER 57: Yes.

State v Vaughn Hilliard
Polling of the Jury
June 10, 2015

1 CLERK OF COURT: Thank you. Juror number 87 is
2 this your verdict?

3 JUROR NUMBER 87: Yes.

4 CLERK OF COURT: Is this still your verdict?

5 JUROR NUMBER 87: Yes.

6 CLERK OF COURT: Thank you. Juror 103 is this
7 your verdict?

8 JUROR NUMBER 103: Yes.

9 CLERK OF COURT: Is this still your verdict?

10 JUROR NUMBER 103: Yes.

11 CLERK OF COURT: Thank you. Juror 225 is this
12 your verdict?

13 JUROR NUMBER 225: Yes.

14 CLERK OF COURT: Is this still your verdict?

15 JUROR NUMBER 225: Yes.

16 CLERK OF COURT: Thank you. Your Honor, the jury
17 has been polled and the verdict stands.

18 THE COURT: Anything further?

19 MS. ERHLICH: Not from the jury, Your Honor.

20 THE COURT: All right. Anything further required
21 of the jury from the State?

22 MR. KIDD: No, Your Honor.

23 THE COURT: Ladies and gentlemen, this completes
24 your service to this case. If you'll please go back to
25 your jury room I'll be there in just a few moments to

State v Vaughn Hilliard
Polling of the Jury
June 10, 2015

1 personally thank you for your service to Charleston
2 County.

3 [Whereupon, the jury exits and is excused at 3:07
4 p.m.]

5 THE COURT: Outside the presence of the jury any
6 motions or matters or anything further required of the
7 jury?

8 MS. ERHLICH: Nothing further from the jury.

9 THE COURT: All right. I'm going to go release
10 the jury. I'll be back to hear post trial motions and
11 you're ready for sentencing?

12 MR. KIDD: Yes, ma'am.

13 THE COURT: Okay. If you'll pass the sentencing
14 sheet up to my clerk so we can check that. Thank you.

15 MS. ERHLICH: Your Honor, I do have an evaluation
16 that was done on Mr. Hilliard.

17 THE COURT: All right. If you will pass that up
18 as well.

19 [Whereupon, Ms. Ehrlich provides documents to the
20 court]

21 [Off the record momentarily]
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23
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State v Vaughn Hilliard
Post Trial Motion
June 10, 2015

POST TRIAL MOTION

THE COURT: Thank you. All right Ms. Ehrlich, any post trial motions?

MS. ERHLICH: Your Honor, we would move for a new trial based on all our prior objections and motions made pretrial and throughout the trial.

THE COURT: Any response Mr. Kidd?

MR. KIDD: No, ma'am.

THE COURT: I haven't heard anything that would cause me to grant your motion for a new trial so motion for a new trial is denied. Anything further?

MS. ERHLICH: No further motions; just related to sentencing, Your Honor.

State v Vaughn Hilliard
Sentencing
June 10, 2015

SENTENCING

THE COURT: All right. Let me hear from the State regarding sentencing.

MR. KIDD: Thank you, Your Honor. He doesn't have a terrible record. In '75 temporary use of a vehicle without permission, '85 open container, '09 reckless driving. He's got a simple battery and resisting arrest out of Florida.

But quite frankly I think the facts speak for themselves. My default position if someone takes a murder to trial is life. I'm not sure if it makes much difference in Mr. Hilliard's case anyway but when you put a family through this process and the appeals process and P-C-R process I think it's an appropriate sentence.

THE COURT: All right. Does anybody wish to address to the court?

MR. KIDD: I don't believe the family wishes to address the court based on the result, Judge.

THE COURT: Thank you. Ms. Ehrlich I'll be happy to hear from you or whomever regarding sentencing.

MS. ERHLICH: Thank you, Your Honor. Obviously I don't think that Mr. Hilliard should be punished for going to trial. I do think that there is mitigating information that has been provided to court. In the packet we provided a report from Doctor Mulbry who was

State v Vaughn Hilliard
Sentencing
June 10, 2015

1 actually able to review a significant amount of records
2 and also we submitted some records from the jail just
3 documenting his medical condition. He testified and I
4 think there was plenty of testimony about the fact that
5 he was not in the best of conditions. He was arrested
6 when he was 55.

7 And I don't think his situation is likely to improve
8 much, Your Honor; he's 57 years old. We would ask the
9 court to impose the minimum sentence for him given the
10 mitigation that has been provided to the court, some of
11 the circumstances involved in this case as well as the
12 fact that he is 57 and he was 55 when he was arrested.

13 For Mr. Hilliard any conviction in this case is
14 likely a life sentence given his situation. Your Honor,
15 his wife is in the hallway but I don't believe she wishes
16 to address the court at this time.

17 THE COURT: Does your client wish to address the
18 court?

19 MS. ERHLICH: I don't believe so.

20 THE COURT: Did you advise your client of his right
21 to appeal?

22 MS. ERHLICH: I have discussed that with him as
23 well as his post conviction relief rights.

24 THE COURT: Mr. Hilliard, do you wish to address
25 the court? You do not have to. Often times at this

State v Vaughn Hilliard
Sentencing
June 10, 2015

1 stage in the trial defendant's are advised not to speak
2 to the court but I'll be happy to hear from you.

3 MR. HILLIARD: I don't have anything to say.

4 THE COURT: All right. Thank you. Did Ms.
5 Ehrlich advise you of your right to appeal this decision?

6 MR. HILLIARD: Yes.

7 THE COURT: Anything else Ms. Ehrlich before I
8 impose sentence?

9 MS. ERHLICH: No, Your Honor. I really think the
10 packet from Doctor Mulbry gives probably the best
11 overview about him. I don't want to belabor that.

12 THE COURT: Is there anything in particular you'd
13 like me to focus on?

14 MS. ERHLICH: Your Honor, I just -- I think it's
15 obvious from here that he has significant medical records
16 -- medical issues that have impacted him on a daily basis
17 and that he did seek treatment for those issues
18 throughout some different treatment providers Franklin C.
19 Fetter as well as an orthopedics and sports medicine
20 center.

21 He was in the process at one point of trying to get
22 approved for disability. He was pretty much confined to
23 that property day in and day out. He had no history of
24 violence and no significant psychiatric problems. I do
25 think those medical conditions have had a significant

State v Vaughn Hilliard
Sentencing
June 10, 2015

1 impact on him on a daily basis and likely on the day of
2 the shooting.

3 THE COURT: Anything further from the State?

4 MR. KIDD: Other than just disagreeing with the no
5 violence in the past. He does have a battery conviction.
6 He has a handful of arrests for -- children and domestic
7 battery and things like that. I know they are just
8 arrests but I would just disagree with the non-violent
9 past description.

10 THE COURT: I don't want to get...

11 MS. ERHLICH: Your Honor, I don't feel the need to
12 go back and forth on that issue.

13 THE COURT: Thank you. It's the order of the
14 court on 2014-GS-10-1341 that you be committed to the
15 State Department of Corrections for a term of 40 years.
16 Good luck to you, sir.

17 MR. KIDD: Thank you, Judge.

18 THE COURT: Thank you Mr. Kidd.

19 MR. KIDD: Thank you, Judge.

20 THE COURT: Ms. Ehrlich, thank you.

21 MS. ERHLICH: Thank you, Judge.

22 THE COURT: Ms. Ehrlich, do you want the mitigation
23 packet back. I'll keep it in my court file, my court
24 file but I was going to file it unless you -- you want to
25 mark it as a court's exhibit?

State v Vaughn Hilliard
Sentencing
June 10, 2015

1 MS. ERHLICH: Let's mark it.

2 THE COURT: We'll mark it separately.

3 [Whereupon, court's exhibit numbers 1 and 2 are
4 marked by the court reporter]

5 [Whereupon, the jury trial concludes at 3:26 p.m.]

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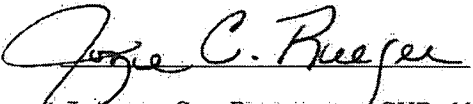
State v Vaughn Hilliard
Certificate of the Court Reporter
June 10, 2015

C E R T I F I C A T E

I, the undersigned, Joyce C. Rueger, Official
Circuit Court Reporter for the Ninth Judicial Circuit of
the State of South Carolina, do hereby certify that the
foregoing is a true, accurate, and complete Transcript of
Record of the proceedings had and evidence introduced in
the trial of the captioned case, relative to appeal, in
the Court of General Sessions for Charleston County,
South Carolina on the 10th day of June, 2015.

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

August 13, 2015


Joyce C. Rueger, CVR-M
Court Reporter

CDD20130906830

WITNESSES

North Charleston Police Department

AGENCY CASE NUMBER

2013031003

ARREST WARRANT NUMBER

2013A1010204947

DATE OF ARREST

September 9, 2013

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date:

MAR 11 2014

VERDICT

Guilty

Foreperson of Petit Jury

Date:

INDICT

DOCKET NO. 2014GS1001341

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

March Term 2014

THE STATE

vs.

VAUGHN HILLIARD

DOB: [REDACTED]

Indictment for

Murder

ATTEST: A TRUE COPY

JULIE J. ARMSTRONG (SEAL)

By [Signature] CLERK C.P. & S.C.

DEPUTY CLERK

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

INDICTMENT

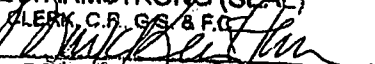
At a Court of General Sessions, convened on March 10, 2014 the Grand Jurors of Charleston County present upon their oath:

Murder

That in Charleston County on or about September 7, 2013, with malice aforethought, VAUGHN HILLIARD did kill and murder Troy Cason by means of gunshot, and that Troy Cason did die in Charleston County as a proximate result thereof on September 9, 2013; in violation of Section 16-3-10 of the South Carolina Code of Laws (1976) as amended.

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


CULVER KIDD
ASSISTANT SOLICITOR

ATTEST: A TRUE COPY
JULIE J. ARMSTRONG (SEAL)
CLERK, C.R. GS & F.C.
By 
DEPUTY CLERK

RECEIVED

CERTIFICATE OF COUNSEL FOR APPELLANT

NOV 13 2015

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 13, 2015



Robert M. Pachak
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
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ATTORNEY FOR APPELLANT