

STATE OF SOUTH CAROLINA

Volume II of II

IN THE SUPREME COURT

Appeal from Lancaster County

R. Knox McMahon, Circuit Court Judge

RECEIVED

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HEYWARD R. TRUESDALE,

SC SUPREME COURT

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2016-000064

APPENDIX

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TESTIMONY OF PRAYON TRUESDALE

1 A. Jerel.

2 Q. Do you normally carry an envelope with a lot of money
3 under your passenger seat?

4 A. Oh, no.

5 Q. Have you got any idea where it came from?

6 A. No, sir.

7 MR. FRICK: Thank you, ma'am. I believe that's all of
8 the questions I have.

9 MR. BARFIELD: Nothing further, I ask that she be
10 excused.

11 THE COURT: You are free to go.

12 MR. BARFIELD: Can I have my three minutes, Your Honor?

13 THE COURT: You can have more than that. Jurors, I
14 understand I don't want to misspeak, solicitor, you have one
15 more witness?

16 MR. BARFIELD: That's what I'm telling you unless I
17 realize I have forgotten something, but I think just one.

18 THE COURT: Anyway, the next witness is represented by
19 an attorney and he needs to meet with the solicitor before
20 he testifies so y'all don't talk about the case, just step
21 out.

22 (The jury left the courtroom and a recess was
23 taken.)

24 THE COURT: Okay.

25 MR. BARFIELD: Your Honor, before we bring the next

TESTIMONY OF JEREL DAVIS

1 witness up, Mr. Frick says -- he does not object to my
2 artwork becoming a part of the record in this case so I
3 would offer it as an exhibit.

4 (The sketch was received as State's 65.)

5 The witness, JEREL DAVIS, was first duly sworn
6 and testified as follows, on:

7 DIRECT EXAMINATION

8 BY MR. BARFIELD:

9 Q. Tell us your name, please, sir. And use that
10 microphone because everybody has got to hear what you've got
11 to say.

12 A. Jerel Davis.

13 Q. Is your full name Jerel Lamar Davis, Jr.?

14 A. Yes, sir.

15 Q. How old are you?

16 A. Twenty-two.

17 Q. Mr. Davis, I'm going to ask you some things about your
18 circumstances first. Are you in custody?

19 A. Yes, sir.

20 Q. Did you plead guilty in front of this judge in this
21 courtroom Monday morning to charges arising out of the
22 shooting death of Mr. Blakeney and the shooting injury of
23 Douglas Lewis?

24 A. Yes, sir.

25 Q. Now, let's go over that real quick or as long it takes.

TESTIMONY OF JEREL DAVIS

- 1 Were you charged with the murder of Mr. Blakeney's death?
- 2 Were you charged with murder?
- 3 A. Yes, sir.
- 4 Q. Did you plead guilty to voluntary manslaughter?
- 5 A. Yes, sir.
- 6 Q. Were you charged with armed robbery of Mr. Blakeney?
- 7 A. Yes, sir.
- 8 Q. Did you plead guilty to that charge?
- 9 A. Yes, sir.
- 10 Q. Were you also charged with possession of a firearm
- 11 during the commission of a violent crime concerning Mr.
- 12 Blakeney's part of it?
- 13 A. Yes, sir.
- 14 Q. Did you plead guilty to that?
- 15 A. Yes, sir.
- 16 Q. Were you also charged with attempted murder for the
- 17 shooting of Douglas Lewis?
- 18 A. Yes, sir.
- 19 Q. Did you plead guilty to that?
- 20 A. Yes, sir.
- 21 Q. And were you also charged with possession of a firearm
- 22 during the commission of a violent crime concerning the
- 23 shooting of Mr. Lewis?
- 24 A. Yes, sir.
- 25 Q. Did you plead guilty to that?

TESTIMONY OF JEREL DAVIS

1 A. Yes, sir.

2 Q. Do you have an understanding of -- have you been
3 sentenced yet?

4 A. No, sir.

5 Q. Do you have an understanding of what kind of sentence
6 you've been told you will get after this is over and you are
7 sentenced?

8 A. Yes, sir.

9 Q. And what is your sentence supposed to be?

10 A. 30 years.

11 Q. All right, sir. Now, have you also been in court
12 before, several years ago, for the offenses of burglary
13 second degree, possession of a stolen pistol I think
14 probably and grand larceny over \$5,000?

15 A. Yes, sir.

16 Q. Did you plead guilty to those charges?

17 A. Yes, sir.

18 Q. Did you shoot and kill Mr. Blakeney?

19 A. Yes, sir.

20 Q. Let's start at the beginning, I'm going to ask you some
21 specific questions. I'm going to ask if you know some
22 people first. I'm going to ask you who you knew back in
23 September of -- September 21 of 2011, specifically. I'll
24 give you some names and ask you if you knew some people at
25 that time. Did you know Prayon Truesdale?

TESTIMONY OF JEREL DAVIS

- 1 A. Yes, sir.
- 2 Q. What was your relationship with Prayon Truesdale?
- 3 A. My girlfriend.
- 4 Q. Did you -- were y'all intimate with each other from
- 5 time to time?
- 6 A. Yes, sir.
- 7 Q. Did you know Shaun McCrorey?
- 8 A. Yes, sir.
- 9 Q. How did you know him?
- 10 A. He was my homeboy, friend.
- 11 Q. What town did Prayon live in?
- 12 A. Lancaster.
- 13 Q. What town did Shaun McCrorey live in?
- 14 A. Lancaster.
- 15 Q. What town did you live in?
- 16 A. Lancaster.
- 17 Q. Did you know Heyward Truesdale before September 21 of
- 18 2011?
- 19 A. No, sir, I met him that day.
- 20 Q. Do you know Heyward Truesdale now?
- 21 A. Yes, sir.
- 22 Q. Do you see him in this courtroom?
- 23 A. Yes, sir.
- 24 Q. Where is he sitting and what is he wearing?
- 25 A. Sitting on the front row in the blue shirt.

TESTIMONY OF JEREL DAVIS

1 Q. Next to the fellow in the gray suit with the burgundy
2 tie?

3 A. Yes, sir.

4 Q. Behind the computer screen?

5 A. Yes, sir.

6 Q. Did you know Freedonia Truesdale?

7 A. No, sir.

8 Q. Do you know her today?

9 A. I know of her, I don't know her.

10 Q. How about Alexis Truesdale, did you know her?

11 A. Yes, sir.

12 Q. How did you know her?

13 A. Because she come to Lancaster, she would come to her
14 sister's house sometimes, I know her from Prayon.

15 Q. You knew her before this happened, is that what you're
16 telling us?

17 A. Yes, sir.

18 Q. Did you know Mr. Blakeney before September 21 of 2011?

19 A. No, sir.

20 Q. Did you know where Mr. Blakeney lived?

21 A. No, sir.

22 Q. Did you know anything about Mr. Blakeney before you
23 were in Kershaw on September 21st?

24 A. No, sir.

25 Q. How did you get to Kershaw?

TESTIMONY OF JEREL DAVIS

- 1 A. Prayon Truesdale.
- 2 Q. Who drove the car?
- 3 A. Yes, sir.
- 4 Q. Who drove?
- 5 A. Prayon.
- 6 Q. Where did you go -- do you know where Prayon's momma
7 lives in Kershaw?
- 8 A. Not until that day but I know now.
- 9 Q. Did you go to Prayon's momma's house?
- 10 A. Yes, sir.
- 11 Q. Did you leave Prayon's momma's house and go somewhere
12 else?
- 13 A. Yes, sir. We went to a second house down the street.
- 14 Q. All right. Now, do you know much about Kershaw?
- 15 A. No, sir.
- 16 Q. Do you know where there's a cemetery in Kershaw
17 anywhere near Prayon's momma's house?
- 18 A. No, sir.
- 19 Q. I'm going to put a little -- you've got a computer
20 screen over there next to you, I'm going to put something to
21 the reader and I'm going to ask you some questions in a
22 minute. Take a minute to look at that and then I'm going to
23 ask you a couple of questions about it. It might not mean
24 anything to you, that's fine if it doesn't. Tell me when
25 you're ready for me to ask you about it.

TESTIMONY OF JEREL DAVIS

1 A. I'm ready.

2 Q. If I tell you that that house that I'm pointing to is
3 Mr. Blakeney's house, does that make sense to you?

4 A. Yes, sir.

5 Q. Do you know the street names down there?

6 A. No, sir.

7 Q. If I tell you that that is Prayon Truesdale's momma's
8 house, does that make sense to you?

9 A. Yes, sir.

10 Q. Do you know whose house it was that y'all went down the
11 street to see -- to?

12 A. I think it was Prayon's cousin but I ain't sure, or
13 cousin's homeboy or something.

14 Q. And who went down -- I'm just going to call it the
15 other house meaning not Prayon's momma's house, who went
16 down to the other house?

17 A. Me, Shaun and Prayon.

18 Q. All right. Did you see Heyward Truesdale down at the
19 other house?

20 A. Yes, sir.

21 Q. Had you ever laid eyes on Heyward Truesdale before that
22 moment?

23 A. No, sir.

24 Q. What was going on down at the other house?

25 A. Just standing around smoking and drinking and sniffing

TESTIMONY OF JEREL DAVIS

- 1 cocaine.
- 2 Q. Don't talk about all of that.
- 3 A. Yes, sir.
- 4 Q. You answered my question, I shouldn't be have asked the
- 5 question, I'm sorry. Were there people hanging out?
- 6 A. Yes, sir.
- 7 Q. Was there a gun there at the other house?
- 8 A. Yes, sir.
- 9 Q. What kind of gun?
- 10 A. I think a .32 revolver.
- 11 Q. Was there another gun there at the other house? Did
- 12 some of y'all have a gun?
- 13 A. Yes, sir.
- 14 Q. Who had a gun?
- 15 A. I did.
- 16 Q. I'm going to show you a gun from over here. Do you
- 17 recognize that?
- 18 A. Yes, sir.
- 19 Q. Is that the gun you're talking about?
- 20 A. Yes, sir.
- 21 Q. Did you have a magazine or a clip there in the gun?
- 22 A. Yes, sir.
- 23 Q. Were there bullets in the gun?
- 24 A. Yes, sir.
- 25 Q. Do you know how many?

TESTIMONY OF JEREL DAVIS

1 A. I think seven in the clip and one in the chamber.

2 Q. Did Heyward Truesdale talk while y'all were at the
3 other house?

4 A. Yes, sir.

5 Q. What did he talk about?

6 A. At first we were just chilling but he was like -- after
7 awhile later the man with the first gun, the .32 revolver,
8 he had showed me the gun and I had took some bullets out of
9 my gun to see would it fit in the .32. But shortly after
10 that --

11 Q. Stop right there, let's talk a little bit more about
12 that. Somebody had a .32 revolver?

13 A. Yes, sir.

14 Q. Any of the four people, I'm talking about now, Prayon
15 or Jerel or Shaun McCrorey or Heyward Truesdale, any of the
16 four of y'all have the .32?

17 A. No, sir.

18 Q. Do you know the name of the guy that had the .32?

19 A. No, sir.

20 Q. What was going on with the .32? Why did it get brought
21 out?

22 A. He was passing it around and he said he had it for
23 sale.

24 Q. Did anybody buy it?

25 A. No, sir.

TESTIMONY OF JEREL DAVIS

1 Q. Do you know what happened to the gun that day?

2 A. No, sir.

3 Q. Did that gun have anything to do with Mr. Blakeney's
4 killing?

5 A. No, sir.

6 Q. All right. After that did Heyward Truesdale talk at
7 the other house down the street?

8 A. Yes, sir.

9 Q. What did he say?

10 A. Me, him and Shaun moved to the side shortly after we
11 gave the man his .32 back and Heyward told me he had a lick
12 for me.

13 Q. Stop. What is a lick?

14 A. A burglary, a robbery.

15 MR. FRICK: Your Honor, just for the record I want to
16 object to hearsay on that statement.

17 THE COURT: All right. He's sitting there listening to
18 it, he can testify.

19 Q. Heyward said he had a lick. What else did Heyward say?

20 A. That's all he said right then, that he had a lick for
21 me, him and Shaun, a lick that me, him and Shaun could pull.

22 Q. Now I'm going to jump way ahead, we'll get into some
23 detail about this later. But did Shaun McCrorey participate
24 in the robbery or shooting of Edward Blakeney?

25 A. No, sir.

TESTIMONY OF JEREL DAVIS

1 Q. Did Heyward talk more at anytime about the lick or who
2 was going to be the subject of the lick?

3 A. No, sir. He just said a man down the street.

4 Q. Well, did he say anything else about the man down the
5 street?

6 A. He said he had a lot of money but he didn't really go
7 into details about it, he just said he had money, he knew a
8 good lick for us down the street.

9 Q. What was your response to Heyward saying man down the
10 street had a lot of money, it's a good lick for us, how did
11 you respond to that?

12 A. I was broke. I didn't have no money in my pocket at
13 the time so I was cool with it, I was cool on the robbery.

14 Q. Answer only what I am asking. Okay?

15 A. Yes, sir.

16 Q. Had you been drinking any that day?

17 A. Yes, sir.

18 Q. What had you been drinking?

19 A. Vodka.

20 Q. What?

21 A. Vodka. I didn't -- that was my first time drinking it.

22 Q. Some kind of vodka?

23 A. Yes, sir.

24 Q. Mixing it or drinking it straight?

25 A. Drinking it straight, and I drank a 24-ounce Budweiser.

TESTIMONY OF JEREL DAVIS

1 Q. Where was that going on, the drinking part?

2 A. At the first house.

3 Q. Prayon's momma's house?

4 A. Yes, sir.

5 Q. When Heyward was talking about the man down the street
6 with the money, had you ever met that man before?

7 A. No, sir.

8 Q. Did you know how he got the money?

9 A. No, sir.

10 Q. Do you know anything about it other than what Heyward
11 had said?

12 A. No, sir.

13 Q. What happened next? Y'all are still up at this other
14 house down at the street, right?

15 A. Yes, sir.

16 Q. What happened next?

17 A. We started talking about the robbery and my homeboy,
18 Shaun wasn't really with it, we could tell he wasn't really
19 down for the robbery. So shortly after me and Heyward, we
20 walked on down the street to Prayon's momma's house and we
21 stopped there first and Heyward got the cigarette from his
22 sister, Lacy. And shortly after that that's when we went to
23 Mr. Blakeney's house.

24 Q. All right, stop right there. Do you know where Shaun
25 McCrorey was when you and Heyward left Prayon's momma's

TESTIMONY OF JEREL DAVIS

1 house headed to Blakeney's house? Where was Shaun McCrorey?

2 A. Still at the second house.

3 Q. Let's just go ahead and talk about McCrorey and get
4 that out of the way. Did you see Shaun McCrorey any time
5 after that?

6 A. Yes, sir.

7 Q. Where was Shaun McCrorey when you saw him? First of
8 all where was he and then I'll ask you when it was.

9 A. Are you saying -- can you repeat that?

10 Q. I will. You and Heyward left the house down the street
11 and went back to Prayon's momma's; is that right?

12 A. Yes, sir.

13 Q. McCrorey stayed at the house down the street after
14 y'all left, right?

15 A. Yes, sir.

16 Q. When did you next see McCrorey?

17 A. He was walking down the street with a girl from -- we
18 was in Mr. Blakeney's yard then.

19 Q. All right, that's fine. That's the next time you saw
20 McCrorey; is that right?

21 A. Yes, sir.

22 Q. What street? Do you remember what street? Is the
23 street that he was walking on when you next saw him shown on
24 here?

25 A. I'll probably say Church Street but I ain't 100 percent

TESTIMONY OF JEREL DAVIS

1 sure I say Church Street because it was right in front of
2 Mr. Blakeney's house.

3 Q. That answers my next question. Was it near
4 Mr. Blakeney's house?

5 A. Yes, sir.

6 Q. Do you know who the girl was?

7 A. Yes, sir.

8 Q. Did Shaun McCrorey back off from the girl to come to
9 where y'all were?

10 A. No, sir.

11 Q. Did he have anything to do with the robbery and
12 shooting?

13 A. No, sir.

14 Q. You and Heyward you said went down to Mr. Blakeney's
15 house?

16 A. Yes, sir.

17 Q. Did you know his name until you got arrested and you
18 saw paperwork with his name on it did you ever know the
19 man's name on it?

20 A. You are talking about Mr. Blakeney.

21 Q. Mr. Blakeney?

22 A. No, sir.

23 Q. Where did you and Heyward go to Mr. Blakeney's house
24 first? Where did y'all end up when you got to his house?

25 A. Like under the carport.

TESTIMONY OF JEREL DAVIS

1 Q. I'll put up another thing for you to look at. This is
2 State's Exhibit Number 4 which is somebody else's drawing
3 and it's better than mine. Does that -- take a look at that
4 picture for a little bit and tell me if that makes any sense
5 to you.

6 A. Yes, sir.

7 Q. All right. I'm going to make part of it a little bit
8 bigger. When you and Heyward were going to Mr. Blakeney's
9 house where in Mr. Blakeney house were y'all?

10 A. Under the carport.

11 Q. You can actually make marks by putting your finger on
12 that screen. Can you do that?

13 A. Yes, sir.

14 Q. Make a mark where you and Heyward were.

15 A. (Witness complies.)

16 Q. All right. Was anybody else there when you and Heyward
17 got there?

18 A. Yes, sir.

19 Q. Do you know who those people were?

20 A. I just know one of them. I didn't know them then but I
21 know them now because he was the one that got injured, too,
22 but I didn't know nobody there.

23 Q. When you walked up down there, did you know anybody
24 whose name you could call?

25 A. No, sir.

TESTIMONY OF JEREL DAVIS

- 1 Q. Do you know now know that one of them was Douglas
2 Lewis, the other guy that got shot?
- 3 A. Yes, sir.
- 4 Q. Was Mr. Blakeney there when y'all got there?
- 5 A. No, sir.
- 6 Q. Did you know what he drove, Mr. Blakeney?
- 7 A. No, sir.
- 8 Q. Did you some time after that see Mr. Blakeney?
- 9 A. Yes, sir.
- 10 Q. Where was he when you first saw him?
- 11 A. Pulling into his driveway.
- 12 Q. All right. Did his car stop?
- 13 A. Yes, sir.
- 14 Q. Is there anything on that picture in front of you on
15 the screen that shows where his car was?
- 16 A. Yes, sir.
- 17 Q. Circle that.
- 18 A. (Witness complies.)
- 19 Q. Is that where he stopped his car?
- 20 A. Yes, sir.
- 21 Q. What kind of car was it?
- 22 A. I think either like -- it was a nice -- it was a fancy
23 car but I can't remember, I think it was like a Cadillac or
24 BMW, I ain't really sure.
- 25 Q. Do you remember what color it was?

TESTIMONY OF JEREL DAVIS

1 A. No, sir.

2 Q. Did Mr. Blakeney have any other automobiles around that
3 you saw or motorcycles or anything?

4 A. No, sir, not that I saw.

5 Q. That's fine. Was there any -- well, I just want you to
6 kind of -- let me ask you some more direct questions, then
7 I'll let you walk us through it. When Mr. Blakeney got back
8 did you know where he had been?

9 A. No, sir.

10 Q. When he got back what did he do?

11 A. He got out of his car and walked towards the road.

12 Q. Was anybody back toward the road, or did anybody go
13 back toward the road with him?

14 A. Douglas Lewis, he walked towards the road with him.

15 Q. Where were you and Heyward Truesdale when Blakeney and
16 Lewis walked toward the road at the back of his car?

17 A. Still in the carport.

18 Q. Were you and Heyward Truesdale talking any when that
19 was going on?

20 A. Yes, sir.

21 Q. What were y'all talking about. Tell me what was being
22 said who was saying it.

23 A. When I --

24 MR. FRICK: Object to hearsay, Your Honor.

25 THE COURT: All right. Go ahead.

TESTIMONY OF JEREL DAVIS

1 A. When Mr. Blakeney pulled up that's when Heyward told me
2 that was the man we were going to rob and I was like, "All
3 right, cool." And then Mr. Blakeney and Lewis, they walked
4 to the road and I seen the envelope came out.

5 Q. I'm going to stop you. Who had the gun when the things
6 you're now describing occurred, when Mr. Blakeney pulls up,
7 goes to the back of the car who has the gun?

8 A. I do.

9 Q. All right. And you saw the envelope?

10 A. Yes, sir.

11 Q. What do you mean you saw the envelope? What kind of
12 envelope are you talking about?

13 A. It was some kind of white like the -- I want to say it
14 was like a regular envelope but I ain't sure.

15 Q. Okay. Who had the envelope?

16 A. Mr. Blakeney.

17 Q. Did he have it in his hands or did you see it sticking
18 out of a pocket, or where did you see it?

19 A. I want to say he had it in his hands.

20 Q. Where was Lewis when Blakeney had the envelope in his
21 hands?

22 A. At the road walking towards the road with Mr.
23 Blakeney.

24 Q. What happened next? Were you and Heyward talking?

25 A. Yes, sir. That's when Heyward told me, "That's it

TESTIMONY OF JEREL DAVIS

1 right there, that's the money." And I asked him was he
2 ready to rob him and then we were about to go rob him and
3 then Heyward stopped me and that's when he said, "We've got
4 to kill him."

5 Q. We've got to what?

6 A. We've got to kill him.

7 Q. Heyward said that?

8 A. Yes, sir.

9 Q. What else?

10 A. I looked at him like what you mean? He was like, "The
11 man know me, he know my face," and that's when I started
12 shooting. I pulled the gun out of my back pocket and
13 started shooting.

14 Q. Where were you and Heyward when -- how close were you
15 and Heyward when you pulled the gun out and started
16 shooting?

17 A. Talking about how close we were together?

18 Q. To each other.

19 A. Side by side.

20 Q. When you started shooting use your finger and tell us
21 where you were when you started shooting.

22 A. (Witness complies.)

23 Q. Did you move from there while you were shooting?

24 A. Yes, sir.

25 Q. Make a line and show us where you moved to.

TESTIMONY OF JEREL DAVIS

- 1 A. (Witness complies.)
- 2 Q. How far toward the back of the car were you when you
- 3 shot the last shot?
- 4 A. Like maybe a couple of inches or a foot.
- 5 Q. Close to the back?
- 6 A. Yes, sir.
- 7 Q. Why did you stop shooting?
- 8 A. Because the gun ran out of bullets.
- 9 Q. When the gun ran out of bullets what happened with the
- 10 gun?
- 11 A. That's when I put it in my --
- 12 Q. Before you put it up did anything happen with the gun
- 13 when it's empty?
- 14 A. Yes, sir, it jammed back.
- 15 Q. What did Mr. Blakeney do when you started shooting?
- 16 A. He was trying to run.
- 17 Q. Which direction? Where was Mr. Blakeney when you
- 18 started shooting?
- 19 A. At the road.
- 20 Q. Make a mark.
- 21 A. (Witness complies.)
- 22 Q. Where did he end up? Did he end up about where they
- 23 show him on this sketch?
- 24 A. Yes, sir.
- 25 Q. Did you see him fall?

TESTIMONY OF JEREL DAVIS

- 1 A. Yes, sir.
- 2 Q. What happened after he fell?
- 3 A. That's when we ran up to get the money.
- 4 Q. Who ran up?
- 5 A. Me and Heyward.
- 6 Q. Ran up to what or who?
- 7 A. Mr. Blakeney.
- 8 Q. And what happened when you ran up to Mr. Blakeney to
- 9 get the money?
- 10 A. Heyward grabbed the money and we ran off down the
- 11 street.
- 12 Q. Did Heyward keep the money as y'all ran off down the
- 13 street?
- 14 A. Yes, sir, at that moment.
- 15 Q. At that moment?
- 16 A. Yes, sir.
- 17 Q. Where did y'all end up when the running is over with?
- 18 A. In front of Prayon's mother's house.
- 19 Q. Was Prayon there?
- 20 A. Yes, sir, she was in her car.
- 21 Q. What did y'all do?
- 22 A. Me and Heyward hopped in -- well, I think Shaun was
- 23 already outside of the car but all three of us hopped in.
- 24 Q. You and Heyward and Shaun hopped in?
- 25 A. Yes, sir.

TESTIMONY OF JEREL DAVIS

- 1 Q. Where did you hop in?
- 2 A. Front seat.
- 3 Q. Passenger side?
- 4 A. Yes, sir.
- 5 Q. Where did Heyward hop in?
- 6 A. Behind me.
- 7 Q. Where did McCrorey pop in?
- 8 A. Behind the driver's seat.
- 9 Q. Where is the gun when you hopped in the car?
- 10 A. Still in my pocket.
- 11 Q. Did the car stay there or did it leave?
- 12 A. The car stayed there.
- 13 Q. Were you in the car when it went to S and G Mini-mart
- 14 in Heath Springs?
- 15 A. Yes, sir.
- 16 Q. Did you get taken into custody out there?
- 17 A. Yes, sir.
- 18 Q. Where was the gun when the car got stopped at S and G
- 19 Mini-mart?
- 20 A. I want to say it was like beside the seat.
- 21 Q. Let me just ask you this first, did you in the car
- 22 between Kershaw and Heath Springs take the gun out on
- 23 purpose or do anything with it?
- 24 A. No, sir.
- 25 Q. Do you know where the gun ended up in the car?

TESTIMONY OF JEREL DAVIS

1 A. I'm assuming that it ended up on the floor beside me.

2 Q. How would that happen? Explain how that gun would end
3 up on the floor when it had been in your pocket.

4 A. It had slipped out because -- I can't explain how it
5 would get from me to Shaun, from the front seat to the back
6 seat, it had to slip out of my pocket.

7 Q. Did you see anybody handling the gun in the car?

8 A. No, sir.

9 Q. How about the money, do you know whether anything was
10 going on with the money in the car?

11 A. No, sir.

12 Q. Did you get any money?

13 A. No. I didn't get to get none of it.

14 Q. I'm going to show you a couple of pictures. I'll show
15 you State's Exhibit Number 16, make it a little bit bigger.
16 Does that picture make any sense to you? Do you recognize
17 anything about that?

18 A. No, sir.

19 Q. Let me do something different. I show you State's
20 Exhibit Number 12. Do you recognize what's shown in that
21 picture?

22 A. Yes, sir.

23 Q. What is that?

24 A. That is the car getting pulled over at the store.

25 Q. Is that Prayon's car?

TESTIMONY OF JEREL DAVIS

1 A. Yes, sir.

2 Q. I'm going to show you State's Exhibit Number 13. Do
3 you know what that is?

4 A. Yes, sir.

5 Q. Same car?

6 A. Yes, sir.

7 Q. Which side of the car is that, although the gas pumps
8 and trash is all in the middle of the picture.

9 A. Passenger side.

10 Q. I'm going to show you State's Exhibit Number 15. Do
11 you know what that is?

12 A. It's really hard -- it's hard to tell, but yes, sir.

13 Q. What is that?

14 A. The driver's side front seat and stuff on the seat,
15 cigarettes.

16 Q. Prayon's car?

17 A. Yes, sir.

18 Q. I'm going to show you this picture, again State's
19 Number 16. And if you can't recognize it, that's fine, I'm
20 not trying to stretch anything here. Do you know what that
21 is a picture of? It's the front passenger seat of Prayon's
22 car?

23 A. Yes, sir.

24 Q. All right. I'm going to show you a different picture
25 of part of that, State's Number 18. Do you know what that

TESTIMONY OF JEREL DAVIS

1 is?

2 A. Yes, sir.

3 Q. What is that?

4 A. Money.

5 Q. And is any of the money in anything that you can see?

6 A. Envelope.

7 Q. Is that the envelope you were talking about a little
8 bit ago?

9 A. Yes, sir.

10 Q. My question is this, Mr. Davis: Do you know how that
11 money got in the floor at your feet in that car? Do you
12 know how that money got there?

13 A. No, sir.

14 Q. Did you put it there?

15 A. No, sir.

16 Q. Did you ever have the money envelope in your hands?

17 A. No, sir.

18 Q. Who did you first see with the money envelope after
19 Mr. Blakeney had it?

20 A. Heyward.

21 Q. Who did you last see with the money envelope after
22 Mr. Blakeney had it?

23 A. Heyward.

24 Q. Did you hear anybody -- do you know whether any money
25 got divided up in the car?

TESTIMONY OF JEREL DAVIS

- 1 A. Not for certain, but I think Shaun -- I think he had
2 gave Shaun a little bit but I ain't certain though.
- 3 Q. What was your -- did the drinking have any affect on
4 you that day?
- 5 A. Yes, sir.
- 6 Q. How?
- 7 A. Intoxicated. I wasn't sick or nothing but I wasn't
8 thinking straight.
- 9 Q. Why did you shoot Mr. Blakeney?
- 10 A. Because Heyward told me to, he said that Mr. Blakeney
11 knew who he was.
- 12 Q. Was there any talk in the car -- after y'all all piled
13 back in the car at Prayon's momma's house was there any talk
14 in the car about what was going on or what had happened?
- 15 A. No, sir. Prayon had asked what happened but Heyward
16 told her just drive, nothing, just drive, it wasn't really
17 no talk though.
- 18 Q. Did anybody tell Prayon what had happened?
- 19 A. No, sir.
- 20 Q. I'm going to ask you the same thing about Prayon that I
21 asked you about McCrorey. Did Prayon have anything to do
22 with the robbery or shooting of Mr. Blakeney?
- 23 A. No, sir.
- 24 Q. Was she at his house or in his yard, in his driveway
25 when it happened?

TESTIMONY OF JEREL DAVIS

1 A. No, sir.

2 Q. How did you know where to go to do this robbery?

3 A. Heyward showed me.

4 MR. BARFIELD: Answer anything Mr. Frick has.

5 CROSS EXAMINATION

6 BY MR. FRICK:

7 Q. Who drove you to Kershaw?

8 A. Prayon.

9 Q. Heyward wasn't in the car?

10 A. No, sir.

11 Q. You're in a town you don't know, right?

12 A. Yes, sir.

13 Q. You see a man you don't know.

14 A. Yes, sir.

15 Q. Are you going to tell us today that this is your gun or

16 was it Shaun's gun? Whose gun is this?

17 A. My gun.

18 Q. Your gun?

19 A. Yes, sir.

20 Q. Are you aware that Shaun said it was his?

21 A. Yes, sir.

22 Q. Whose gun is it?

23 A. My gun.

24 Q. You're sure?

25 A. Yes, sir.

TESTIMONY OF JEREL DAVIS

1 Q. Okay. Town you don't know, guy you don't know, maybe
2 your gun, maybe not your gun, he says hey, let's go rob
3 somebody you don't know and you say okay.

4 A. Yes, sir.

5 Q. You shot Mr. Blakeney because Heyward told you to do
6 it.

7 A. Yes, sir.

8 Q. In 2008 when you got convicted of stealing, did
9 somebody tell you to do that?

10 A. Sir?

11 Q. In 2008 you got convicted of grand larceny, did you
12 not?

13 A. Yes, sir.

14 Q. Did somebody tell you to do that?

15 A. No, sir.

16 Q. Okay. Well, how come on this day you couldn't use your
17 own mind?

18 A. I was sort of intoxicated, sir, I wasn't really
19 thinking straight.

20 Q. Okay. At any point did the people standing around say,
21 "We're going to do this tonight?"

22 A. No, sir.

23 Q. There was no plan, no discussion about this robbery
24 occurring at night?

25 A. No, sir, not to my knowledge.

TESTIMONY OF JEREL DAVIS

1 Q. Not to your knowledge. I mean, did you --

2 A. They didn't say nothing to me about robbing him at
3 night.

4 Q. Well, were you with Shaun, Jerel and Heyward the whole
5 time?

6 A. Not the whole time.

7 Q. Where did you go?

8 A. I was like -- it was like a porch and logs on the side,
9 there were a group of guys and I was sitting with them some
10 of the time.

11 Q. Okay. So maybe they had this conversation and you
12 didn't know about it?

13 A. Yes, sir.

14 Q. That's what you were saying? Okay. But there wasn't a
15 plan to go do it at night, was there?

16 A. Not to my knowledge.

17 Q. Now, you say you don't know Douglas Lewis, Nip Lewis.

18 A. No, sir.

19 Q. Never met him before that day?

20 A. No, sir.

21 Q. Seen him since that day?

22 A. No, sir.

23 Q. Guess not. Prior to getting on this stand did you ever
24 tell this story before?

25 A. No, sir.

TESTIMONY OF JEREL DAVIS

- 1 Q. You didn't?
- 2 A. Well, last week.
- 3 Q. Last week.
- 4 A. Yes, sir.
- 5 Q. That's the first time you told that story, isn't it?
- 6 A. Yes, sir.
- 7 Q. Who did you tell it to?
- 8 A. I can't -- my lawyer and --
- 9 Q. You see this man sitting at the end of the table here,
- 10 Investigator Howell?
- 11 A. Yes, sir.
- 12 Q. Was he in the room?
- 13 A. Yes, sir.
- 14 Q. Had you talked to anybody about what happened on
- 15 September 21st prior to last week?
- 16 A. Yes, sir.
- 17 Q. Who?
- 18 A. Fred Thompson.
- 19 Q. What did you say about it then?
- 20 A. This was after I got locked up, though, I had wrote him
- 21 and told him that I was the person that shot Mr. Blakeney.
- 22 Q. Uh-huh. Why did you do that? Why did you tell him
- 23 that?
- 24 A. I was just trying to come clean.
- 25 Q. Trying to come clean or trying to help yourself?

TESTIMONY OF JEREL DAVIS

1 A. Fred -- like in the beginning of the interview I had
2 asked Detective Fred Thompson could he help me get a bond
3 and he was like, "No, that's up to the judge and the
4 solicitor." And I guess he thought I had some other
5 information besides that, besides my case, and then after I
6 told him that -- after I asked him that that's when I told
7 him I wanted to come clean about the shooting.

8 Q. So when you thought he could help you with a bond you
9 wanted to talk, right?

10 A. Not necessarily, but yes.

11 Q. That's why you wanted to talk to him, you wanted a
12 bond, right?

13 A. Yes, sir.

14 Q. You're testifying today because the solicitor gave you
15 a deal, right?

16 A. No, sir, that ain't why.

17 Q. No? Are you aware of what the charge of murder
18 carries?

19 A. Yes, sir.

20 Q. What does it carry?

21 A. Life.

22 Q. Okay. How about armed robbery?

23 A. Twenty or 30 to life.

24 Q. Okay. What does possession of a firearm during the
25 commission of a crime of violence carry?

TESTIMONY OF JEREL DAVIS

- 1 A. Five to ten years.
- 2 Q. What does attempted murder carry?
- 3 A. Ten to 20, life, I don't know. 20 years.
- 4 Q. What are you expecting to walk out of this courtroom
5 with later on this week?
- 6 A. 30 years.
- 7 Q. Sounds like a deal to me, does it sound like a deal to
8 you?
- 9 A. Yes, sir.
- 10 Q. And until someone came at you with that deal or someone
11 was talking to you about a bond you didn't talk about
12 nothing, did you?
- 13 A. My lawyer, he felt that it was in my best interest not
14 to really say nothing.
- 15 Q. Do you do any thinking on your own?
- 16 A. Yes, sir.
- 17 Q. So explain to me -- I understand you had vodka, you
18 drink a 24-ounce, I think said you smoked a little bit, you
19 go over there to rob a man.
- 20 A. Yes, sir.
- 21 Q. It turns into a murder.
- 22 A. Yes, sir.
- 23 Q. You didn't have any reservations about that?
- 24 A. No, sir.
- 25 Q. I thought you said even to yourself that you had a

TESTIMONY OF JEREL DAVIS

1 little bit of a pause there when he said it.

2 A. Yeah. It kind of caught me off guard because I
3 wondered where that came from.

4 Q. But you didn't think about it real long. No?

5 A. No, sir.

6 Q. All right. You had the gun, right?

7 A. Yes, sir.

8 Q. You don't know nothing about the cash in the front of
9 the car.

10 A. No, sir.

11 Q. That's up on the screen, State's Exhibit Number 18.

12 You don't have any idea how that got there.

13 A. No, sir.

14 Q. It's under your feet and you got no idea how it got
15 there. And no one divvied anything up all of the money in
16 the envelope. Look on the screen, it should be right there
17 for you.

18 A. The screen is blank.

19 Q. Okay. Well, here, I'll show you the picture, its the
20 same thing. Is there money outside the envelope?

21 A. Yes, sir.

22 Q. Okay. And you ain't get none of it?

23 A. No, sir.

24 Q. And Heyward was back there splitting it with Shaun?

25 What did Shaun do?

TESTIMONY OF JEREL DAVIS

- 1 A. Nothing.
- 2 Q. You killed a man for him and he isn't giving you no
3 money?
- 4 A. No, sir.
- 5 Q. And you ain't say nothing?
- 6 A. We had got pulled over too soon.
- 7 Q. Pulled over. Y'all down left Kershaw, drove down to
8 Heath Springs driving around about to buy some gas and at no
9 point did you go, "Yo, Heyward, come on."
- 10 A. I was expecting to get it either when we got to
11 Lancaster or either in the car, I was expecting to get it,
12 though.
- 13 Q. And this is, I believe, State's Number 19. Take a look
14 at this. What is that?
- 15 A. The back seat of the car.
- 16 Q. Is there a jacket in there?
- 17 A. Yes, sir.
- 18 Q. Do you recognize that jacket?
- 19 A. No, sir.
- 20 Q. The gun came out of that jacket?
- 21 A. That's what it said in the police reports.
- 22 Q. You've got no idea how that gun -- this is where you
23 were, right, in this? You were up in this seat here?
- 24 A. Yes, sir.
- 25 Q. You've got no idea how a gun gets from there to back

TESTIMONY OF JEREL DAVIS

1 there?

2 A. No, sir.

3 Q. Not a clue. Not a clue how some almost \$700 ends up
4 under your feet? No?

5 A. I'm assuming the gun stuck out of my pocket, I ain't --

6 Q. Assuming.

7 A. I ain't passed the gun behind me, though.

8 Q. You didn't get it from Shaun?

9 A. No, sir.

10 Q. And no one had any other gun that day?

11 A. Besides the .32, no, sir.

12 Q. And no one talked about anything on the way down to
13 Kershaw.

14 A. No, sir.

15 Q. Why are you going down to Kershaw anyway?

16 A. I was riding with Prayon, she was going to see her
17 father, I think he had recently had a stroke or a heart
18 attack or something.

19 Q. Prayon been going back and forth to Kershaw then to
20 help her dad?

21 A. I ain't sure.

22 Q. She's your girl, right?

23 A. Yes, sir.

24 Q. You didn't know whether she was going out to see her
25 father?

TESTIMONY OF JEREL DAVIS

- 1 A. We weren't really together 24/7, but I ain't live with
2 her either.
- 3 Q. But you were close enough to take a ride down to
4 Kershaw that day?
- 5 A. Yes, sir, I just wanted to go for a ride.
- 6 Q. You didn't grab the envelope?
- 7 A. No, sir.
- 8 Q. You don't know Nip Lewis.
- 9 A. No, sir.
- 10 Q. Don't know nothing about Kershaw still, do you?
- 11 A. No, sir.
- 12 Q. I think you said Shaun was your homeboy, right?
- 13 A. Yes, sir.
- 14 Q. You were pretty close then, close friends?
- 15 A. I had knew him for a few months, we were kind of tight.
- 16 Q. Well, I mean, Heyward wasn't your homeboy.
- 17 A. I met him that day.
- 18 Q. This .32 that had nothing to do with anything that the
19 solicitor asked you about, you never saw it again?
- 20 A. No, sir.
- 21 Q. No one left that yard with it?
- 22 A. No, sir.
- 23 Q. And your whole intent was to go rob Mr. Blakeney?
- 24 A. Yes, sir.
- 25 Q. Just because Heyward told you to do it.

TESTIMONY OF JEREL DAVIS

1 A. Because I was broke at the time, I didn't have no money
2 and it sounded like a good idea at the time.

3 Q. It sounded like a good idea to rob a man on the street
4 in a town that you had never been in and with people you
5 didn't know?

6 A. I was just thinking about the money at the time, I
7 wasn't --

8 MR. FRICK: Thank you, sir. That's all of the
9 questions I have.

10 MR. BARFIELD: No further questions. Thank you, sir.

11 THE COURT: You can step down but obviously you're not
12 free to go.

13 MR. BARFIELD: May we have a side bar very briefly?

14 (Bench conference was held.)

15 THE COURT: All right, jurors. The State had 57
16 witnesses, so far we've had 32, they think they've covered
17 it all but they're going to have to go over everything and
18 they may be through. We're going to break for the day,
19 don't talk about the case, again don't go riding back to
20 Kershaw taking measurements or anything and we will crank it
21 back on in the morning, and think we'll give you a little
22 bit more time, 9:15 all right? See you then.

23 (The jury left the courtroom.)

24 THE COURT: Okay. Mr. Truesdale, again the State may
25 have put all of the evidence in and may not you have, got

1 all night to think about it, you've got to decide whether
2 you are going to testify or not. Mr. Frick has told me he's
3 been over it with you a good many times, but --

4 MR. FRICK: We have we've discussed it.

5 THE COURT: Even if he testifies it won't take that
6 long, and I say that, I'm not suggesting that he doesn't
7 testify, that's his decision. Any jury charges y'all want
8 out of the ordinary?

9 MR. BARFIELD: I would -- on the murder charge there's
10 been nothing in the presentation so far that would justify a
11 self-defense type of circumstance so I would ask if you're
12 going to charge inferred malice from the use of a deadly
13 weapon, I would ask for that.

14 THE COURT: You can't do that anymore.

15 MR. BARFIELD: You can if there's not a self-defense
16 issue.

17 THE COURT: No, I'll get reversed on it. You can argue
18 it though.

19 MR. BARFIELD: I'm going to argue it.

20 THE COURT: I'm going to argue -- I mean charge, I'm
21 not arguing, I'm going to charge them they can infer malice
22 but they don't have to if death occurs while a felony is
23 being committed. All right.

24 MR. FRICK: Your Honor, I'm going to ask for mere
25 presence.

1 THE COURT: I'm going to charge mere presence, I will
2 charge mere presence.

3 MR. BARFIELD: Of course I want the usual hand of all,
4 hand of all information.

5 THE COURT: Well, I'll charge accomplice liability,
6 then I'm going to expand it to hand of one, hand of all. I
7 think I'm going to have to charge transferred intent, bad
8 blood between he and Lewis.

9 MR. FRICK: I understand.

10 THE COURT: It's going to basically say if you intend
11 to kill someone and he killed the wrong person, if he did it
12 with malice that's expressed or inferred, that's it.

13 MR. BARFIELD: I guess my only issue on that, though,
14 is there has been no testimony that he was actually the
15 person who fired the shots and there was no -- other than
16 Mr. Lewis' speculation.

17 THE COURT: Well, if you don't want me to charge it I
18 only mention it because it was evidence in the case, it's
19 not going to hurt your case for me to not charge it.

20 MR. BARFIELD: Yes, sir.

21 THE COURT: That's basically it, the rest of it is just
22 standard stuff.

23 MR. BARFIELD: Mr. Frick put in a couple of pictures.

24 THE COURT: That's right, he did do that so you can
25 close if that's what you want to do.

1 MR. BARFIELD: I want to argue last and I waive
2 opening.

3 MR. FRICK: I'm not going to require him to open.

4 THE COURT: All right. So how long do you think you
5 will sum up?

6 MR. FRICK: Honestly I don't know.

7 THE COURT: And just for the record, the shooter gets
8 30 years, we understand that, but he's pleading to
9 manslaughter which carries 85 percent, murder carries a
10 minimum of 30, that's day for day, you know, then you've got
11 consecutive things to think about, too. But anyway, the
12 shooter gets a deal 30 years on everything which his best
13 case scenario is all he gets is 30, and I'm not even saying
14 I'm doing that but that's a worst deal than the shooter
15 gets, and the only reason I mention that is because there's
16 no evidence of manslaughter so I can't charge it.

17 MR. BARFIELD: It's murder or nothing, I knew that
18 going in.

19 THE COURT: I know, but he --

20 MR. FRICK: And we know that too.

21 THE COURT: But I don't know that your client knows
22 that and he needs to understand that. If he says later why
23 didn't the judge charge manslaughter when the shooter got
24 zero, but the solicitor has a right to drop it to
25 manslaughter and the manslaughter is the lesser-included, he

1 can do that, but I can't charge that. I'm just protecting
2 you from a post-conviction later.

3 MR. FRICK: And we have been over it, this is what he
4 is looking at, there's no lesser, it's all or nothing.

5 THE COURT: 9:15 unless I can help y'all.

6 MR. FRICK: Do you want me to do a directed verdict
7 motion in the morning?

8 THE COURT: Well, you can make it now if you feel
9 standing and feel good, you can renew it if he puts some
10 more stuff in it.

11 MR. FRICK: Your Honor, obviously I would make a direct
12 verdict motion on all charges, but the one I would really
13 make the argument on is possession of a firearm in the crime
14 of violence.

15 THE COURT: I don't like that and if I would have been
16 in the case earlier I would have made the solicitor throw
17 that out but I don't think I can do it at this point over
18 his objection.

19 MR. FRICK: Well, but I think you can. I think it's
20 exactly why we have the directed verdict because there's not
21 one single bit of testimony that he ever had his hands on
22 the gun. I don't think this is a constructive possession
23 issue, you either have it and you can be involved in the
24 murder or according to our non-felony murder, felony murder
25 rule we have in South Carolina --

1 THE COURT: Well, just find me a case on it and I will
2 be happy to throw it out, you've had all of this time to
3 look up one, find me one that says you can't throw it out.
4 It's not good to do that when he doesn't have the gun but
5 the problem is if you throw it out now the jury doesn't
6 understand that, hand of one, hand of all, gun of one, gun
7 of all, that's what he's going to argue even though he
8 didn't have it.

9 MR. FRICK: I think he can still argue hand of one,
10 hand of all pretty well.

11 THE COURT: I understand, I'm just saying he can think
12 about it and throw it out, y'all can think about everything
13 else, whether he testifies. So far we've got -- I deny your
14 motions because we've got 32 witnesses have testified and I
15 didn't hear anything favoring your client so to throw it
16 out -- I can't throw it out other than the gun charge, which
17 I usually throw out early on so I don't have to do it after
18 the jury is sworn and say, listen, if he didn't have the gun
19 just 30 years to life is enough, no need to argue that five
20 year thing. But there you go.

21 (Court adjourned for the evening and resumed at
22 at 9:15 a.m. May 16, 2013.)

23 THE COURT: Okay. Solicitor, you want the gun charge
24 to go forward?

25 MR. BARFIELD: Yes, sir.

1 THE COURT: Well, the case says I can't even sentence
2 somebody for possession of a firearm in a murder charge.

3 MR. BARFIELD: Yes, sir.

4 THE COURT: You can do it for armed robbery. And the
5 jury has already heard that murder carries up to life so you
6 can't add to. The statute says that — you talking about
7 armed robbery and you've got to prove dominion and control
8 which you could argue that they did by shooting, that's what
9 I'm assuming you're going to argue. I'm not going to touch
10 on that much.

11 MR. FRICK: I do want to renew my directed verdict
12 motion on that.

13 THE COURT: All right. You are renewed.

14 MR. FRICK: Thank you.

15 THE COURT: I don't think it's good policy to have it
16 when the shooter didn't have the gun but if I dismiss it now
17 then you couldn't have done armed robbery because the judge
18 has already thrown out the gun thing, so there you go.

19 MR. FRICK: Judge, I was looking at the Anderson Charge
20 Book, I don't know which charge you officially use on the
21 mere presence charge and I'm guessing you use one that's in
22 combination with accomplice liability. The specific
23 language I'm looking at in it it talks about mere presence
24 where if the defendant is where a crime has occurred or mere
25 association with people who committed a crime or mere

1 knowledge that another is going to commit a crime, is that
2 in your language?

3 THE COURT: Prior knowledge that a crime is going to be
4 committed without knowing is not sufficient to make a person
5 guilty of that crime. Mere knowledge another person is
6 going to commit a crime, even if the defendant is present
7 when the crime is committed, is not sufficient to convict.
8 That's what you're talking about?

9 MR. FRICK: Yes, sir, thank you.

10 THE COURT: I don't have Anderson's charge but that's
11 what I'm going to charge.

12 MR. FRICK: That will do.

13 THE COURT: And I'm going to tell them, you know, the
14 fact that he didn't testify is not a factor to be considered
15 by them unless you object to it.

16 MR. FRICK: I don't think I'm going to object that, no,
17 sir.

18 (The jury returned to the courtroom.)

19 THE COURT: Okay. Ready to proceed?

20 MR. BARFIELD: Yes, sir, Your Honor. That is the case
21 for the State of South Carolina.

22 THE COURT: All right. What about the defense?

23 MR. FRICK: Defense rests, Your Honor.

24 THE COURT: All right. Jurors, you have obviously
25 noticed that the defendant is not going to testify, he has a

1 constitutional right not to testify. The fact that he does
2 not testify is not a fact to be considered by you and
3 discussed by you on the issue on whether or not the State
4 meets the burden of proof on any of the charges beyond a
5 reasonable doubt. It's not to be considered by you during
6 any deliberations because you have a constitutional right to
7 do something, you can't be penalized by exercising that
8 right so you are to draw no conclusion of inference from the
9 fact that he didn't testify on the issue of his guilt. The
10 State has the burden of proof beyond a reasonable doubt on
11 all three charges. Now, we've entered what is going to be
12 called a final summation, you know, some call a closing
13 argument, I just say summation because argument you get to
14 talk back, right? Y'all don't get to talk back so we just
15 call it summation. The State has the burden of proof and
16 has the option of going first or last or what?

17 MR. BARFIELD: We will waive opening.

18 THE COURT: He has the right of waiving opening and
19 just close.

20 MR. FRICK: Thank you, Your Honor, solicitor. Ladies
21 and gentlemen of the jury, every time I do one of these
22 things I wonder how in the world you hear about these cases
23 that drag on for months and months. We've been here for a
24 few days, I'm already exhausted and you've heard more of me
25 than you care to. Obviously you're here in the case of

CLOSING ARGUMENTS

1 State versus Heyward Truesdale, and as I told you before and
2 as I told you I would tell you again, you will hear again
3 and again before this day is over with, the State has got to
4 meet their burden of proof beyond a reasonable doubt. Now,
5 if you've ever served on any other jury or participated in
6 any other activities, civil court, car wrecks, lawsuits,
7 stuff like that, the moving party, the plaintiff's side has
8 to show that it's more likely than not, the preponderance of
9 the evidence, that's not the burden we have here. This is
10 criminal court, we have the highest burden. The State is
11 accusing someone of committing a crime, in this case one of
12 the most heinous crimes we've got, murder, armed robbery,
13 having a weapon. Before you can find somebody guilty on
14 that the State has got to basically remove the doubt. Now,
15 not all doubt, you can't remove all doubt but they've got to
16 show you beyond a reasonable doubt is there any other
17 reasonable explanation. And as I told you, that is not,
18 "I've been sitting here, I've been looking and I heard that
19 testimony and it sounded like Heyward was there, I think he
20 did it. Kind of been looking at him, it looks like he might
21 have done that. Well, it's even possible he might have done
22 it, or maybe he did." Folks, that's not enough. They've
23 got to show you that there's no other reasonable
24 explanation. And I want to reiterate the fact that you are
25 the judge of the facts. You've listened to the testimony,

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1 you've seen us talk about all of this stuff and in just a
2 little while you're going to have all of this stuff and look
3 at it all you want to. And a lot of this stuff you're
4 probably not going to care to look at because we've got a
5 lot of GSR kits and a lot of stuff that you have reports on
6 and you don't necessarily need to handle but they're there
7 for you. You can look at anything you want to. You can
8 hear testimony, whatever you need to do, anything that's in
9 evidence. What I want you to remember is you get to judge
10 what are the facts, you get to determine what you want to
11 believe. If an expert got up there and you don't think that
12 that's correct you ain't got to believe them just because
13 somebody called them an expert. You get to judge what you
14 heard from that stand. You get to judge whether anybody had
15 any bias, whether they had any motivation to say what they
16 said. Maybe they got a deal to get up there and say what
17 they said, you get to consider all of that in determining
18 whether you want to believe any of what they said, part of
19 what they said or not a thing that they said. Now, the
20 State's whole case revolves around this legal principle,
21 accomplice liability, you may have heard it called hand of
22 one, hand of all, you associate with people who do stuff bad
23 then you do stuff bad too. This is why your momma told you
24 be careful who your friends are, you get in trouble with
25 them. Now, what Mr. Barfield may say at some point when he

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1 gets up here is all right, Heyward didn't have a gun, it
2 doesn't matter, he can still be guilty of armed robbery and
3 murder, even though did he not have a gun and not one single
4 person can say he had a gun. Barfield is going to tell you
5 that doesn't matter, and that may be what the law says, but
6 to be guilty under accomplice liability you've got to do
7 something to further the incident, you've got to have
8 participated and just being there is not enough. In fact,
9 what the law tells you is if you know someone is going to go
10 do something bad, you don't help them out with it and you're
11 there when it happens you're not guilty, you didn't commit
12 the act. Now, I'm not going to go back through the cat
13 story again, but remember Button and the trash bag and that
14 little cute cat sitting there staring at me, I don't have
15 enough evidence just because she's sitting there, just
16 because she's sitting there, that's not enough, You've got
17 to have something that proves that you participated. So
18 what is the State's theory? Well, you can't prove that they
19 did not have the gun so the theory has got to be this is all
20 Heyward's idea, all his idea. "There is this man in Kershaw
21 and he's done come into a lot of money and I have got to get
22 me some of that," that's what you heard, "I have got to get
23 me some of that." So Heyward has got this brilliant idea,
24 unfortunately he must need someone to execute it with him, I
25 guess he's the CEO of this robbery and in the end we find

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1 out he must be the most generous CEO you've ever seen
2 because he got all of \$60 on him. Well, so he's got this
3 idea, if he can't execute it by himself he needs some folks.
4 He doesn't even have a gun, he needs a gun. Are you going
5 to rob somebody without a gun? He doesn't have a gun.
6 Luckily some folks show up, Prayon comes to town with Jerel
7 and Shaun. Now, he don't know Jerel, he don't know Shaun
8 and Shaun and Jerel both said they don't know him, and
9 Prayon said, "I haven't seen my brother in about a year,"
10 haven't talked to each other. No one has had any previous
11 conversations about anything let alone forming some plan to
12 go rob somebody. So luckily these folks show up because
13 Heyward is just itching to go execute this brilliant plan,
14 he's got to go get him some of that. He doesn't have any
15 money, there's your motivation, he doesn't have any money.
16 He asked his sister for five bucks. Do we know he didn't
17 have any money? Well yeah, he asked for five bucks, his
18 sister who hadn't seen him in a year, hadn't talked to him
19 in a year, just knew that he must not have had any cash on
20 his person, he's asking for five bucks. Okay. And again,
21 he has got no gun, he needs somebody to bring the gun. And
22 thank goodness Shaun -- no wait, Jerel -- no wait, Shaun --
23 well wait -- well, somebody had a gun. Thank goodness. And
24 Heyward in executing this goes, "You hang on to the gun, I'm
25 going to orchestrate this," with folks he don't know.

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1 That's the State's theory, ladies and gentlemen. Now, what
2 else does the State have? It's a battle of have and
3 have-nots here. You've got DNA, you have got the report
4 here, there's a cigarette in the car. No doubt about it,
5 Prayon and Jerel smoked that cigarette at some point, no
6 question on that. You've got the envelope, you've got the
7 envelope and it has got Mr. Blakeney's blood on it, no doubt
8 about it. You've got another cigarette and it has got
9 Heyward and Jerel's DNA. Well, maybe, possibly. I mean, we
10 think it is, it probably is, it could be theirs, it might be
11 somebody else's. There's a one in 570,000 chance that you
12 could find somebody else, six billion people in the world,
13 I'm not going to attempt to do the math on that, but if you
14 just look at South Carolina you're looking at about it could
15 be nine other people, but don't worry about that, it's them.
16 Okay. We'll talk about the cigarette again in a minute.
17 We've got GSR, GSR. I mean, you've got to have GSR if
18 you've got a shooting, right? Except Heyward doesn't have
19 any, Shaun doesn't have any, Jerel doesn't have any. Who
20 has got GSR on them? Well, Mr. Blakeney had GSR on him, and
21 he's got -- remember what he said and you've got the report
22 here, it says metals consistent with gunshot residue. Does
23 that mean he fired the gun? No. We know he was the victim
24 of a gun shooting, he had the wounds, that's what killed
25 him. What did Mr. Roberts tell you about that? He said

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1 that's not uncommon if you're the victim of a shooting to
2 have GSR on his person and he did, he had particles. Who
3 else had gunshot residue? We had one other person who had
4 gunshot residue on him and that was Mr. Lewis and he had
5 lead particles on his right hand. We've got a jacket, there
6 was a gun, the gun was in the jacket, the gun that was used
7 in this robbery was in that jacket. Surely we've got GSR on
8 it. No. Mr. Roberts said he'd never seen that jacket
9 before then, didn't even get sent. All right. Well, these
10 folks were wearing shirts, we know they were wearing red
11 shirts, we found red shirts in cars, surely we checked those
12 because, you know, GSR comes off your hands in a little
13 while but it will stay on your clothes until you wash them.
14 Surely we've collected this and sent that on. SLED agent
15 says, "No, I didn't have any shirts." He also said if you
16 fired the gun it stays on your hand, if you touch something
17 it could be there. All right. Well, you heard the
18 testimony, whoever fired this gun went fleeing, run, jumped
19 got in Prayon's car and they drove off. Well, surely we
20 collected something from the door handle. Nope, nope, we
21 didn't. Okay. Then there's the gun, now there's the gun
22 that was definitely used. Whose gun was it? I don't know.
23 Was it Jerel's? Was it Shaun's? Shaun couldn't make up his
24 mind, he said three different things yesterday. Jerel says,
25 "No doubt about it, it is mine." Jerel also told you he was

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1 willing to do anything to help himself out, wrote it in a
2 letter, said it yesterday, "Yep, that's why I am here and
3 took this deal." He decided to protect his woman and his
4 homeboy in the process. Prayon didn't have anything to do
5 with it, wasn't Shaun's gun even though he claimed it a
6 couple of times. What don't we have? We don't have any
7 fingerprints. What about the 9-millimeter stuff we found?
8 No, we don't find a gun. But you've got a magazine full of
9 bullets and you've got bullets in Nip Lewis' car. What
10 about that? Don't worry about that, it's just a shooting,
11 why are we going to worry about bullets? Got blood on the
12 armrest in Lewis' car. Well, yeah, it's his blood, he got
13 shot, got to be his blood. "Did you swab it? No. Okay."
14 I've already talked about the jacket and shirts, I'm not
15 going to go back through that but you know what we don't
16 have there. Let's talk briefly about witnesses. Freedonia
17 Truesdale. Of course, Heyward is her brother, Alexis,
18 that's her brother and Prayon, that's her brother.
19 Freedonia doesn't really add too much to the story. She
20 doesn't see Heyward with any weapon, she really doesn't see
21 a whole lot of anything about the shooting itself, but she
22 does tell you one thing, she's at her momma's house and she
23 sees Douglas Lewis come driving up to tell everybody that he
24 had been shot and she sees him drive off. In fact, it was
25 either her or Alexis that said they see him just driving all

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1 over town. Alexis doesn't add too much to it. She tells
2 you that I think she's goes by the scene, it's either her or
3 Freedonia that says she goes by the scene and they don't see
4 Heyward there. Now Prayon, a little bit different, little
5 bit different. Now, obviously she says that she is near the
6 scene. She -- using her little chart that the solicitor
7 came up with, she says she's down here at the stop sign near
8 Mr. Blakeney's house and she hears the shooting. She's in
9 close proximity, I know this isn't to scale, she's in pretty
10 close proximity, doesn't know anything about the shooting,
11 gets in her car, cuts the block back to her momma's house,
12 when she gets back to her momma's house Heyward is already
13 in the front yard having a conversation with Freedonia and
14 then Shaun and Jerel come from this general direction which
15 would generally be back from where Mr. Blakeney was. Now,
16 Prayon is not going to claim too much, but Prayon is awfully
17 connected in this story, isn't she? Nip Lewis knows her,
18 says he knew her from the streets, oops, that doesn't sound
19 good so let me change it, but the first thing he says is he
20 knows her from the streets. All right. Of course, Shaun is
21 staying at her house because he doesn't have any place to
22 live so he stays with her on and off, and Jerel, well that's
23 her boyfriend. And, of course, Heyward is her brother and
24 she says she hadn't seen him in a long time. That's
25 basically what Prayon tells you. Now Douglas Lewis, we'll

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1 get to Mr. Lewis in a minute. Shaun McCrorey. Got up there
2 and told you, "That's my gun, no wait, that's not -- it's
3 not my -- okay. Did you see him leave the scene? I sure
4 did." September of 2011 he sees them walking up, they were
5 walking up to the car because he was already back at the
6 car. When he first testifies under direct examination he
7 sees them jogging, jogging, they weren't running, he was
8 very clear on this, they were not running, they were not
9 walking but it was faster than a walk, it was a jog. Okay.
10 Now, at some point he says that he was running and he
11 changed his mind and said, "No, they were walking, no they
12 were jogging." I asked him several times, he finally
13 settled on an answer but he wasn't too certain. Shaun made
14 the deal. Remember, he had charges here and he had other
15 charges and he got his deal, he's going to get up there,
16 he's going to say what he's supposed to say. He didn't do
17 too well under cross examination because I wasn't on the
18 script, he didn't know what to say. Jerel gets up there and
19 tells you, "I did it, I shot Mr. Blakeney. I was broke, I'm
20 hanging out in a town I don't know nothing about, I don't
21 know the street names, I don't know nothing about, I'm
22 hanging out with folks I don't know besides for Shaun and
23 Prayon. This dude walks up I have never seen him before,
24 don't know him," he says, 'Hey, I've got a lick." And Jerel
25 says, "That's cool, I'm broke, I've got a gun. Okay. Well,

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1 we're fixin' to go rob this guy. Okay. I'm ready to go to
2 this house that I don't know to go rob this man I don't know
3 nothing about. By the way, has he got any money on him?
4 Nobody talks about that, we're just going to go find out, I
5 guess. Well, we get over there and low and behold man, that
6 guy knows me." Apparently at this point Heyward Truesdale
7 has lived his whole life in the town of Kershaw, spent a
8 little time in Winston-Salem but is from there, Mr. Blakeney
9 who is from there, apparently at this point Heyward
10 realizes, "Man, that dude knows me," light bulb comes on,
11 "Oh, we've got to shoot him now." So Jerel says, "Okay,"
12 and starts shooting. No real question is asked, he kind of
13 went "Huh? What? Shoot him?" But he's fine with it, we'll
14 just go ahead and shoot him and that's no problem so he
15 does. Why? Because Heyward asked him to, a man he didn't
16 know, had no prior history to, had no conversation. There's
17 no conversations about this, there's no we sit down and talk
18 about it, the only thing you hear is Heyward said, "I've got
19 to hit a lick and I know this guy that's got money." By the
20 way, who is the only person that mentioned something about
21 money, an amount, an amount? One person mentioned an amount
22 of money. Prayon Truesdale gets up here and says, "Yeah, I
23 heard that guy got like two and a half million dollars." Is
24 she the only one that got this brilliant idea? Don't even
25 know if he's got money on him that day. Fine. Those are

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1 your witnesses basically. Now, there's some other witnesses
2 that come along, some other, a lot of police officers, we'll
3 deal with that in a second, but these are your key fact
4 witnesses that the State is relying on to support their
5 theory. Let's talk quickly about the scene. You've got
6 five or six shots. Douglas Lewis gets hit with the first
7 one, okay, well, we have got four or five bullets and you've
8 got five .380 shell casings left, which, as you heard, a
9 .380 is a medium caliber gun, so is a 9-millimeter. Now,
10 skipping way ahead to the autopsy, no bullets are removed
11 from the body. Now, there is a partial bullet that's up
12 here somewhere that is with the body, I think Mr. Parnell
13 told you that it was with the clothing, it could have fallen
14 out. Fine. We can't identify it, can't tell you what the
15 caliber is, can't tell you any characteristics about it.
16 Now, I'm not suggesting that wasn't a bullet or that it was
17 planted, I say it was. This was one of the bullets that
18 caused this tragic event, but you can't identify what it
19 was, you can't say that that bullet was fired by that .380,
20 can't say that it wasn't but you can't say that it was
21 either. And we know that a medium caliber gun caused these
22 injuries, this medium caliber .380, 9-millimeter. Now,
23 we've got the cigarette and the notebook. I told you we
24 would talk about the cigarette and the notebook. They're in
25 the driveway. The cigarette the solicitor is going to come

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1 stand up here in a second and tell you all about why you can
2 put Heyward at the scene just because you've got this
3 cigarette that he and Jerel smoked, this is going to be key,
4 got their DNA on the scene, they're there, it's at the end
5 of the driveway. Hold that thought for a second. All
6 right. This is your basic thing, you've got the gunshots
7 that go from five and three, it's just a series of shots
8 down the driveway, down the car. All right. But they start
9 at the bushes, they're in the bushes and they come down and
10 stop before I think we get to the end of the car, the last
11 one is going to be right there at that sidewalk that
12 intersects the driveway. Okay. Nip Lewis tells you after
13 the first shot that Jerel just stood there and unloaded.
14 Well, that's interesting because the shell casings are
15 scattered down, if he stood there and unloaded wouldn't the
16 shell casings kind of be in one spot? I don't know. Now,
17 you do have one fired bullet that was able to be identified,
18 it's on there I think number four or seven, it's number
19 seven on there and that was fired by that .380. I mean, it
20 matches, that gun fired that bullet, there's no question
21 about that. Now, who it hit and what it hit we don't know
22 but it was fired by that gun. Now, here is one of
23 Mr. Blakeney's pieces of paper that's clear on the other
24 side of his car, we marked it, it's important to mark, it
25 apparently has no relevance. Now, this is a view -- and I

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1 want you to pay attention on this one now, you've got shell
2 casings -- that I believe three shell casings at six and
3 then look back behind there, that's the carport, that's the
4 carport where everybody is hanging out waiting for Mr.
5 Blakeney to come back. This is the carport where everybody
6 said that Heyward and Jerel were standing when they decide
7 to execute this plan. This is where they were, it's where
8 everybody says. No one says they were in the road when this
9 happened, they start down there. In fact, the evidence
10 suggests that the shooting happened near that area because
11 of the shell casings that come down the driveway, so whoever
12 was there was standing about right there. Maybe you'll hear
13 they were hiding over there trying to conceal themselves,
14 who knows. I don't know, but it's clear that's where they
15 were. That's the end of the driveway out past number two.
16 Number two, remember, that was some glass particles that we
17 marked, they didn't have any evidentiary significance so
18 nothing was done with them, and that's fine, they just
19 marked it which is what they're supposed to do when you see
20 things of interest you mark them and try to determine what
21 they are. Past there is where Mr. Blakeney is. Right near
22 that telephone post is where you find the cigarette with the
23 DNA. Here is another view of it, it's somewhere around
24 there, I know you've got four and seven. Seven is your
25 fired bullet, four is the notebook. This is the notebook,

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1 this is what is there, the thing that Mr. Blakeney was
2 keeping track of his selling and transactions. Okay. So
3 the cigarette and the notebook are pretty close proximity.
4 Well, if they smoked a cigarette how did it get all of the
5 way down there? The testimony was everybody was standing up
6 under the carport, that's where they said that everybody was
7 standing around smoking and joking, there ain't no
8 cigarettes up there. You didn't hear about any cigarette
9 butts up there, the cigarette butt is down here. So clearly
10 what happened is after they killed Mr. Blakeney they stood
11 there and smoked a cigarette. I mean, that can be the only
12 possible explanation then, right? Except for the fact
13 nobody hung around to smoke a cigarette. If you remember,
14 everybody took off as soon as shots were fired, that's what
15 everybody said, even folks who couldn't identify anybody
16 said folks were running. So they didn't stand around
17 afterwards and smoke a cigarette so why is this cigarette
18 down there? Could it be the theory is incorrect? Don't
19 know, that's for you to decide, just thought I would point
20 it out to you. What about the beer can? I know you think
21 I'm crazy, but we marked a piece of paper that's on the
22 other side of the yard, we marked the glass particles that
23 are in the middle of the road, this is a beer can sitting
24 right behind a shell casing. Weren't worried about that.
25 Now we get to the white Malibu, Prayon's car. This is it,

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1 this is the inside of the car, you've seen it before.
2 Drivers seat is where Prayon was sitting, the passenger seat
3 is where Jerel was sitting with a red shirt and a pile of
4 money. Now, Jerel says he didn't see no envelope. Oh yeah,
5 and briefly back to the red shirt. Of course, we were
6 looking for some guys wearing a red shirt, at least one red
7 shirt, some people said shirts, we're at least looking for a
8 red shirt, somebody with a red shirt was involved with this
9 thing. Well, here is a man sitting in the front seat with a
10 red shirt, we didn't worry about the red shirt. Okay. The
11 envelope. This is the envelope, this is the -- it was
12 pulled out of this car, it was sent to SLED, it was
13 analyzed, it has Mr. Blakeney's blood on it. That is the
14 envelope sitting in the floorboard. Jerel Davis has
15 absolutely no idea it's sitting there. Now, there was
16 testimony, and you may hear argument shortly, that that
17 wasn't exactly where it was. I think there was some
18 testimony that it got pulled out for purposes of
19 photographing it, I don't know, that's not what Jeff Steele
20 said when I asked him the question, he said, "That's where
21 it was when I took the photograph." So I don't know what
22 the answer is on that. But what's going to be suggested to
23 you, I believe, is well, you heard Heyward had the envelope
24 and he's sitting right there behind that car seat so he took
25 it and shoved it up under the car seat and apparently had a

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1 bunch of other twenties and sprinkled it around because he
2 made it look real good if he was doing this because he threw
3 that thing all of the way up under the car seat and that's
4 carpet there, it's hard carpet so there's a little bit of
5 friction there. He throws it up under there, takes a couple
6 of other twenties and crumples it up, throws it in there,
7 even threw in a football schedule, a lottery ticket and a
8 stick for good measure so he made it look read good. That's
9 not what happened. Jerel Davis had the envelope, he had it.
10 He had the gun, he had the envelope, but he has no idea what
11 happened to either one of them when he gets in this car, no
12 idea. Says he didn't get his cut. He executes the plan, he
13 is the gunman, he's not worried about it, Heyward is going
14 to make good on it, must be an honest thief then. So Jerel
15 has got all of the money. Now, we get folks out, and of
16 course, we had a little interesting thing on that. The
17 first question I asked is did anybody else have any money,
18 no, no one else had any money. Oh, wait a minute, we've got
19 a couple of envelopes and the solicitor handed them to me,
20 so yeah, he must have had some money. All right. Well,
21 maybe he did have money, I'm not suggesting that the man was
22 not telling the truth, I think he forgot and got confused
23 when I asked him the question, that's fine. What did he
24 have? I think Shaun had 120 bucks, Heyward has got 60
25 bucks. Again, this is the most generous CEO of a robbery

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1 I've ever seen because he is letting Jerel have the whole
2 envelope. Shaun, who didn't do a thing apparently except he
3 was cutting the block keeping a lookout, but he gets \$120
4 and out of the goodness of his heart he only takes 60 bucks,
5 he's going to take about 10 percent. Now, let's get to Mr.
6 Lewis, he was the last person to sell or attempt to sell
7 anything to Mr. Blakeney. How do we know that?
8 Mr. Blakeney took good notes. There it is folks, Douglas,
9 camera, air conditioner, it has got the amounts. He wrote
10 down his last transaction, and he didn't get to complete
11 that transaction but he wrote down what it was. Mr. Lewis
12 even said, "I don't want a partial payment, no, just hang on
13 to your money right now, I'll come back later." Nip Lewis
14 is the only person that knows that Blakeney is going to the
15 bank, they talked about him coming back. They executed a
16 plan for them to meet up later for him to give him the
17 money. He's the only person that knew that when Blakeney
18 got out of that car he was going to have money on him, the
19 only person. Heyward is going up there blind, now that's a
20 good execution of a robbery. So is he the reason, is he the
21 reason why Blakeney actually went to the bank? He wanted to
22 do this transaction and there were some other folks in the
23 yard. Now he is a victim, right? I mean, he got shot.
24 Look at that gunshot wound, it's horrendous. He had to get
25 flown out to Richland Memorial where he stayed long enough

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1 to be home in time to talk to Investigator Whittaker that
2 evening. Now, I don't know how good they are at Richland
3 Memorial, maybe they are very efficient but you can't walk
4 into the emergency room with a cold get out in four hours.
5 This man walks in with a gunshot wound and within an hour
6 driving time, maybe 45 minutes, he's back home in time in
7 the evening to talk to an investigator about what happened
8 that day, by the way with information that he didn't know or
9 didn't want to talk about right after it happened. No. He
10 was too busy making sure everybody in Kershaw knew that Nip
11 Lewis done been shot. First he can't remember which way
12 he's got his car pointed, the solicitor asked him the
13 question, he's got his car pointed back towards Truesdale's
14 house, when I asked him the question, no, it was pointed
15 back down towards the other way. No, I ran over, ran over
16 to Lakendrick Miller's house. Well, Lakendrick Miller told
17 you Nip's car drove up, the burgundy van drove up and Nip
18 was in there going, "I've been shot, I've been shot." And
19 Lakendrick said, "I'm going to call 911. I called 911.
20 What did Nip do? Drove off." Well, he told you the
21 reasonable explanation why, they didn't get there as soon as
22 he called, he couldn't wait around for that. So what does
23 he do? He too circles the block. In fact, I think he --
24 his explanation is that he runs back over here, hops in his
25 car and drives back up this way. Now, you have a picture of

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1 the scene, Mr. Blakeney is in the middle of the road, if he
2 drove back that way he would have run over Mr. Blakeney and
3 that clearly did not occur. But he ends up back over here
4 because Freedonia and Alexis tells you that Nip Lewis shows
5 up in their front yard telling them he done been shot. I
6 mean, he wanted everybody in Kershaw to know, everybody.
7 Kind of reminds me of an old play, I think it was Hamlet
8 which says, Me thinks she does protest too much. I mean, he
9 wants everybody to know that he's a victim. Why? Could it
10 be maybe he wanted to execute something? Maybe he is
11 involved. He could be, don't know, but the evidence is
12 there for your consideration. He didn't wait for 911.
13 Folks, he's the only one that's got lead particles on his
14 hand. Now, you heard, you heard Mr. Roberts get up there
15 and say when a gun fires you've got stuff comes out this
16 way, stuff comes out this way, out this way, lead particles
17 on his right hand. Not just metals, lead particles which
18 Mr. Roberts told you is much more -- and I can't tell you
19 whether or not somebody fired a gun, it's not that
20 conclusive but it means you've been around a fired gun and
21 he said if you've got lead particles that's much more
22 suggestive that you did fire a gun. And low and behold he's
23 got a magazine loaded with 9-millimeter bullets in his car,
24 he's got a box of bullets. Why is he riding around with a
25 magazine and no gun? "Well, somebody owns a gun and I ain't

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1 seen him but I have got a magazine," he couldn't explain it,
2 couldn't explain it. Could that be why he couldn't hang
3 out? He had to -- I mean, it was okay to wait for the
4 ambulance when he got back over to the rim shop, that was
5 okay, he could do that, that was fine but he couldn't wait
6 here and he couldn't wait here. What's the difference?
7 Well, maybe he had something he had to take care of, because
8 you've got this left in the car and there's the box of
9 bullets. So again, what about the GSR on anything else?
10 What about any other DNA on the envelope? I mean, we're
11 saying Heyward picked the thing up, that's what Jerel is
12 trying to tell you, he's trying to tell you after he shot
13 the man Heyward comes up and grabs the envelope, even though
14 he doesn't end up with any money out of this thing if you're
15 going to believe that theory. Well, could we try? I mean,
16 take a look at this envelope, you can't see the blood
17 spatter they're talking about so you've got to put it under
18 a microscope so we're examining this thing. The bullet hole
19 we're saying is a bullet hole, you've got to examine it
20 under a microscope, that's what we've said he did. You
21 don't go the extra step of trying to see if there's any
22 other evidence of the envelope. What about the nine
23 millimeter? You've got someone shot with a medium caliber
24 pistol, it's through and through shots so you don't have the
25 bullets, you can't say that was definitely the gun. You can

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1 say that a medium caliber gun did it and that's a medium
2 caliber gun, and yeah, it was out there on the scene but you
3 can't say that it was. And here is a guy driving around
4 clearly with medium caliber ammunition that it goes to a
5 medium caliber gun, but we don't worry about that. What
6 about any kind of medical records? Now, I know he got up
7 here and testified, he doesn't have to put in medical
8 records but we don't know anything about what happened to
9 Mr. Lewis. You've got the picture, that's what you've got,
10 that's what you've got about his injuries and that's what he
11 tells you. He tells you he's got this horrendous wound,
12 he's running around town, driving around town and he's back
13 home after being at the hospital in about four or five
14 hours. What kind of injury did he get? Wasn't any other
15 folks at the scene. You heard testimony there was all kinds
16 of other people standing around but we don't know who any of
17 them are, no one comes forward. No one comes forward to
18 confirm any conversation between Jerel and Heyward about
19 let's do it now or whatever the heck Jerel said that Heyward
20 said was the trigger words for this event to take place or
21 the, "Oh, I've got to shoot him now because he knows me,"
22 there's no one that confirms me. You know there's at least
23 one other guy out there, the guy who had the PS3. Who was
24 that guy? I don't know. Lewis, who says he knew Heyward,
25 they had a history, had a history, they had had some

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1 troubles a couple of weeks before or a week before so he's
2 got a perfect scapegoat once he gets back from the hospital
3 and needs somebody to blame, because he finds out it's a
4 murder and he needs an explanation. So he puts Heyward's
5 name in here because he saw him out there and, "Well,
6 Heyward and I don't get along too well. The guy with the
7 PS3? Oh, I don't know who that was." The bullet fragment
8 we talked about, it was a medium caliber, it was a medium
9 caliber bullet that caused the fatal injuries, you can't
10 make any determination from that fragment. And then, of
11 course, the rim shop that I talked about that nobody
12 bothered to look at. So is there any other explanation?
13 Yeah, sure is. Heyward didn't come up with this idea. Is
14 it really reasonable to expect that somebody is going to
15 wonder around town for awhile? It wasn't like Blakeney got
16 the money the day before, he had gotten it fairly recently
17 but had enough time to go out and buy a motorcycle, by a
18 BMW, accumulate a whole lot of stuff, so he apparently was
19 just carrying this idea around in his head for a long time
20 and then luckily some folks show up. That's not reasonable.
21 Come on, folks. Heyward never had the gun, you cannot put
22 this gun in his hand at any point. The only gun anyone
23 talks about Heyward even remotely being involved in is some
24 .32 that ain't got nothing to do with this, nothing to do
25 with this. He doesn't walk away with it, he doesn't have it

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1 on his person, no one sees any .32 bullets, no one says
2 anything else about a .32 except somebody was trying to sell
3 one when they're all standing around talking, drinking and
4 smoking. Who commits an armed robbery, comes away with an
5 envelope full of money and then gives it to everybody else?
6 Who does that? That's what you have to believe if you
7 believe the State's theory because Heyward didn't have the
8 money. Folks, Heyward was there, Heyward was there and was
9 a convenient scapegoat because it's easy to pile the
10 evidence up and suggest and throw allegations and throw
11 maybes and say he was there, he was around these folks, that
12 must make him guilty. You can't be around these bad people
13 and not be guilty. Well, that's not what the law says but
14 that's what the State's theory is, and that's all they can
15 prove is that he was there. Maybes do not make it so, you
16 cannot convict on maybe he did it and that's all the State
17 has proven to you, ladies and gentlemen. Heyward Truesdale
18 is not guilty of murder, not guilty of armed robbery and
19 certainly not guilty of possessing any firearm. I thank you
20 for your time, your attention and your service.

21 THE COURT: Jurors, the solicitor is going to go next
22 and he will take about as long as he did, are y'all good for
23 that? If anybody needs a break let me know. It doesn't
24 have to be a unanimous decision. Solicitor, you may
25 proceed.

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1 MR. BARFIELD: This is what really happened in this
2 case. Douglas Lewis had a 9-millimeter handgun and he shot
3 Mr. Blakeney and he shot himself and he didn't stay around
4 to smoke a cigarette but he stayed around long enough to
5 pick up all of his at least six nine millimeter cartridge
6 cases. Then he got in his van and then he rode off and he
7 threw the pistol away somewhere, but for some reason left
8 the magazine and the unfired ammo in the van, and then at
9 some point after he knew Jerel Davis had been arrested and
10 charged in this case he paid Jerel Davis a million dollars
11 to come here yesterday and admit to shooting and killing
12 Heyward Edward Blakeney. That's non-sense. That's what
13 they want you to think. I don't know what they want you to
14 think, but they want you to think all kinds of crazy stuff
15 and that's about as crazy as it gets. I told you Monday
16 that you were going to hear a lot of tedious -- some of this
17 stuff was interesting and you probably -- there's nothing
18 enjoyable about this but you probably were happy to hear
19 some of it, some of it was probably real boring and probably
20 put you to sleep. But I also told you you had to hear
21 everything that we knew about this case. And you've seen me
22 toting this box around, this is my case. You haven't got a
23 single piece of paper in your hands, everything you had to
24 hear about this case you had to hear in this courtroom and
25 we appreciate your attention to it. And we recognize that

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1 what you've now got to do is harder than what any of the
2 rest of us in this case or in this courtroom have to do
3 because you've got to decide what the truth is and that's
4 difficult. But it's serious, it's serious to everybody
5 involved in this case. I'm going to talk to you about some
6 odds and ins and probably will skip around some, I'm not
7 going to rehash everything but there are some things I want
8 to emphasize to you. And again, what Mr. Frick and I are
9 saying now is not evidence either, it's simply our jobs at
10 this point to get up here and tell you what our positions
11 are, what the State's position is and what the defense's
12 position is. And, of course, you've got to sort through
13 this stuff and decide what your position is and all 12 of
14 y'all have got to have the same position for this thing to
15 get resolved. What are the charges? The charges are
16 murder, armed robbery and possession of a firearm during the
17 commission of a violent crime, and the Judge is going to
18 tell you a lot more about the law and the charges than I but
19 I want to hit on a few things as to each of them very
20 briefly. Murder is the unlawful killing of another person
21 with malice aforethought either expressed or implied. Well,
22 what in the world does that mean? What's malice? He's
23 going to tell you the legal definition of malice, it means
24 hatred, it means ill will, it means unlawful intent to do
25 bad things to somebody. It can be expressed, meaning you

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1 can walk up -- I could walk up to you and say, "I hate you
2 and I'm going to kill you," and I pull out a gun and kill
3 you, that's expressed malice. It can also be inferred from
4 the facts and circumstances of how a case occurs. It can be
5 inferred from the commission of a felony which results in
6 the killing of somebody. What does that mean? Malice --
7 you can go somewhere to do something to somebody never
8 intending to start with to kill him, but if you're going to
9 go there and do a felony and in the course of the commission
10 of that felony somebody dies at your hands then that's
11 malice and that's murder. It can also be inferred from
12 lying in wait for somebody, and that's exactly what we have
13 in this case. If you think about it that's exactly what we
14 have in this case. It's just like hiding in the bushes at
15 somebody's house in the middle of the night waiting on them
16 to get home and accosting him and robbing him and shooting
17 him and killing him, same thing, this is just daylight lying
18 in wait. Whoever was over there, including Jerel Davis and
19 Heyward Truesdale, weren't necessarily hiding but they were
20 simply waiting on Edward Blakeney to get back from the bank
21 with the fruits of robbery, that's exactly what they did.
22 It doesn't get any worse than this, wait on the old man to
23 get back from the bank with an envelope of money, just
24 standing around waiting, chewing the fat, jawing, smoking
25 cigarettes, whatever, waiting to jump him when he gets back.

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1 That's malice. It doesn't get any worse than that. Use of
2 a deadly weapon. You can find malice from the use of a
3 deadly weapon, and I'm going to tell you I don't care if
4 it's a small caliber, a medium caliber, a large caliber or a
5 dadgum bazooka, a gun is a gun and it will kill you and this
6 gun killed Harry Edward Blakeney. One shot would have been
7 enough but we have got at least six because at least six hit
8 him. Jerel Davis said there were eight in it, Ira Parnell
9 said it holds eight and everybody told you when the gun was
10 found the slide was locked back and it was dry fired. There
11 weren't any other bullets in that Malibu when it got stopped
12 in Heath Springs, every bullet in this got shot, he simply
13 shot it until he was out of bullets. That's malice. What
14 does the aforethought mean? The Judge will tell you about
15 that, too. The aforethought means before but it doesn't
16 have to be long before, but in this case I'll tell you it
17 was a good while before, way back at the house up Richland
18 Street towards the cemetery. That's when the malice
19 started, that's when the aforethought began but it could
20 have been just the instant that Mr. Blakeney got shot.
21 You've got all of the elements of murder in this case, all
22 of them. Armed robbery. I don't need to tell you what
23 armed robbery is. The Judge is going to give you the legal
24 definition, but stealing from somebody at gunpoint is armed
25 robbery. It doesn't get any simpler than that. What about

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1 possession of a firearm during the commission of a violent
2 crime? That's kind of an add-on charge that we have in our
3 law and it means that if you commit a violent crime, which
4 murder and armed robbery are, and you do it while you're
5 armed with a firearm or a gun or a knife, in this case a
6 gun, that's a separate crime. Nobody has told you and I'm
7 not telling you, I'm not suggesting for a minute that
8 Heyward Truesdale shot Harry Edward Blakeney. You've got
9 the guy who did it who talked to you yesterday, he told you
10 he did it, but I submit to you that Heyward Truesdale is
11 still guilty of the firearm charge, that he although might
12 not having had it in his hand was controlling the use of
13 that firearm because he's the one that directed drunk Jerel
14 Davis, broke, drunk Jerel Davis to shoot him, that's why
15 Jerel Davis shot him. He controlled the actions of that
16 firearm when he told Jerel Davis to shoot. He is just as
17 guilty of firing that firearm as Jerel Davis is for having
18 that directly in his possession. All right. Accomplice
19 liability. The hand of one is the hand of all, the act of
20 one is the act of all. The Judge is going tell you a little
21 bit -- a lot about it in a little bit, I'll tell you a
22 little bit about it now. If two people have a common intent
23 to commit a crime and they're both present together acting
24 together, acting, you've got to be doing something, then
25 they are both guilty of everything that happens during the

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1 commission of that crime. This is what I'm asking you to
2 do. It's clear what happened to Edward Blakeney and it's
3 clear who did the actual killing, but when you go back there
4 and start thinking about this case and start talking about
5 this case, this is what you've got to do to make this make
6 sense to you, you've got to put Heyward Truesdale in Jerel
7 Davis' shoes. They jump into each other's skin, they jump
8 into each other's shoes, they jump into each other's clothes
9 when they're compatriots in crime, when they are cohorts in
10 crime, when they are partners in crime. You can't say he
11 did this part of it and he did that part of it, if they are
12 there together for the same reason to commit this crime,
13 which was to be initially an armed robbery, then they are
14 one in the same. You can have -- it's the same person, put
15 them in each other's shoes, in each other's clothes, in each
16 other's skin, you can't break it out by who did what little
17 piece of it. They're both guilty of all of it if they're
18 acting together, and of course, that's the key is Heyward
19 Truesdale acting with Jerel Davis. We're going to talk
20 about that. I submit they were acting together and you've
21 got to put them in each other's shoes, it doesn't matter who
22 the shooters were. Examples. Two guys say we're going to
23 go rob a convenience store and there's only one gun, there's
24 only one bullet in the gun and only one of the guys is
25 carrying the gun but they go into the convenience store to

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1 rob it, and the idiot with the gun decides robbery is not
2 enough, I'm going to pull the gun out and shoot the clerk
3 and the clerk gets shot and killed. That's armed robbery
4 and it's murder, they're both guilty of it, doesn't matter
5 who pulled the trigger, doesn't matter how many guns or how
6 many bullets. You heard, I think, 34 witnesses. And I'm
7 thankful that I didn't call all 57 of them for your benefit,
8 thankful to Mr. Frick that we could work out a lot of things
9 and not have to call a lot of these witnesses, but you still
10 heard a lot of people. If I had a case and there was one
11 witness then there would be one story, but I had 34
12 witnesses and obviously you're never going to hear exactly
13 the same thing from every witness. I wouldn't expect that
14 and you shouldn't expect that, and if I did come in here
15 with 34 witnesses or even three or four who are talking
16 about the same piece of a case and everybody said exactly
17 the same thing then y'all are going to say, "Barfield sat
18 them all down in the room and wrote it all out and told them
19 what to say and they all came in here with it memorized and
20 all said the same thing." You ain't going to hear that in
21 any case and especially in a murder case. This was not
22 somebody pulling up behind another car at a stop sign and
23 not slowing down quick enough and just tapping somebody in a
24 bumper, this was a killing, just an execution of a man in
25 the street beside his house. And things are happening fast

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1 and people are yelling and screaming and people are running
2 and people are looking here and there to figure out what in
3 the heck was going on and where it was happening, they're
4 not going to see the same thing in the same vantage point in
5 the same frame of mind and they're not going to come in here
6 and tell you exactly the same thing. But you've got to
7 decide what you can believe, and the Judge is going to tell
8 you this, you can believe everything that some witness says
9 or nothing that that same witness says, or believe some of
10 what a witness says and believe some of the other stuff the
11 witness says is bull, it's entirely up to you. Now, what
12 are some of the kinds of things you can look at to determine
13 whether you believe a witness? Is the witness kin to
14 somebody or related to somebody in some way or have a
15 relationship with somebody in some way? Certainly you can
16 consider that. You can consider what a witness has to gain
17 by saying something favorable to one side or the other in a
18 case. The big thing that you have heard -- and, you know,
19 we bring it all in here, we don't -- we lay it all out for
20 you, that's why there were 34 witnesses, and you heard that
21 three of my witnesses got charged in this case and you heard
22 what's happening with their cases. Let's talk about them
23 one by one briefly. Prayon Truesdale. She testified, she's
24 charged in this case and she told you she was charged, I
25 think, with a conspiracy to commit armed robbery and

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1 accessory after the fact of committing murder and armed
2 robbery, and I think she told you that I wasn't going to
3 prosecute her for those. That's a good deal for her, isn't
4 it? There's no harm coming to her out of this murder case
5 involving victim Edward Blakeney. Why is that? You've
6 heard the whole case, you've heard nothing this week that
7 tells you that Prayon Truesdale broke the law. She's not
8 being prosecuted because she didn't -- the evidence doesn't
9 show she did anything wrong. She drove a car away with some
10 guys after she heard gunshots, and, of course, she found out
11 later that something bad had happened. But she tried to
12 find out while they were driving away, "What the heck is
13 going on? What the heck is going on?" Nobody would tell
14 her. Heyward said, "Go, go, go," that's all he would say.
15 Now, if she would have been smart she probably would have
16 slammed on the brakes before she got down to the cemetery
17 and told them yahoos to get out of the car so she wouldn't
18 be wrapped up in this. She went on up to Heath Springs, she
19 wasn't running. She had a group of guys in the car,
20 obviously something had happened but she didn't know what
21 had happened so she's not getting anything by not being
22 prosecuted. Shaun McCrorey, he's being prosecuted. He told
23 you he's got some charges involving another shooting, an
24 attempted murder on another case completely unrelated to
25 this, he's got charges on two or three different things, he

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1 told you he worked out a plea agreement and he's going to
2 prison for 15 years for other stuff, and he actually -- he
3 told you he is pleading guilty to two charges in this case,
4 accessory after the fact of armed robbery. And why is that?
5 Because he admitted to you that -- he admitted to you
6 primarily that he took some money that was gleaned from this
7 robbery and that is accessory after the fact, he's helping
8 to get rid of the stolen goods. And carrying the pistol, he
9 admitted to you that he had this pistol at some point. He's
10 going to plead guilty to those two charges and that's what
11 the evidence in this case shows his role in this case was.
12 Everybody -- if I misspeak you use your recollection, but I
13 submit to you that everybody in this case who knew anything
14 about Shaun McCrorey when Mr. Blakeney was shot says he was
15 walking around with some little old girl, he was hitting on
16 a little girl walking up and down the street in Kershaw with
17 this little girl. There's nobody -- other than Freedonia,
18 that was the only person that said anything about Shaun
19 McCrorey being over at Blakeney's house. Out of all of the
20 witnesses I think she is the only one that said she saw
21 Shaun McCrorey over at Blakeney's house. But all of the
22 other witnesses in this case told you that Shaun McCrorey
23 was walking around with this little girl trying to get sweet
24 with her when this shooting happened. He wasn't present, he
25 wasn't participating in the robbery or shooting of Edward

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1 Blakeney and he is pleading guilty appropriately and he is
2 going to prison for 15 years for all of the stuff he is
3 pleading to. And then Jerel Davis. Well, man, he got a
4 geat deal, didn't he? Well, yeah, 30 years is a lot better
5 than life, but 30 years isn't any picnic either. He's not
6 walking out of here in a couple of months because he got on
7 the witness stand and cooked up a story on Heyward
8 Truesdale. He's going to prison for 30 years probably this
9 morning after we get through with this trial and he gets
10 sentenced. Well, again, that's better than life but that's
11 30 years, that's not such a great deal for him. So did they
12 get on the witness stand and lie because all of these great
13 deals Barfield gave them? No, they didn't lie, they told
14 you the truth. Douglas Lewis. You do have State's Exhibit
15 42, and bless his heart, this might be the last thing that
16 Edward Blakeney ever wrote, but it has got Douglas and it
17 has got 9/21/11. We don't have video of this crime
18 occurring but dadgum it, this is about as close to
19 documentation as we have. And Edward Blakeney is writing
20 down Douglas and the camcorder and air conditioner and the
21 prices, that tells you Douglas Lewis was telling you the
22 truth when he testified. He was probably taking advantage
23 of Mr. Blakeney, too, I'll give you that. Nobody should
24 have been selling Mr. Blakeney stuff, but he would buy it so
25 they would sell it. But there it is right there, that's

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1 Douglas Lewis' reason for being over there. All right. He
2 ends up behind the rim shop in Kershaw, he tells the police,
3 "I don't know who shot me." Don't we all -- don't I, at
4 least, wish he would have said, "I know who shot me,"
5 immediately? Why doesn't he? Well, number one he's been
6 shot, he told you -- you've seen that he had been shot.
7 Let's talk about him being shot, too. I haven't never been
8 shot, I hope I never get shot, if I do get shot I hope I get
9 shot like Douglas Lewis got shot. That \$15,000 helicopter
10 ride for a short visit at the ER in Palmetto Richland seems
11 kind of ludicrous, but when EMS and folks are dealing with
12 us we don't tell them what they're going to do, they tell us
13 what they're going to do and they flew him to Columbia, and
14 lucky for him it wasn't such a big deal. He probably got
15 home that night before the investigators got home that
16 night, well, you know he did because some of them went to
17 see them. But he got shot nonetheless, he is a victim in
18 this case, he had been shot. And probably worse than him
19 getting shot, he's standing -- again, this is the car, I
20 apologize for getting so close to you, but this is where he
21 is standing and that's where Mr. Blakeney is standing. And
22 the bullets starts flying and he sees Edward Blakeney get
23 shot to death right there at him, six times and he hears it.
24 He sees Mr. Blakeney trying to run and he hears Mr. Blakeney
25 say, "Oh, don't shoot me anymore, don't shoot me anymore."

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1 Who wants to do that? Who wants to see that? And how was
2 Douglas Lewis supposed to act after all of that happened?
3 Well, yeah, he's going to hang around and he's going to
4 kneel over Mr. Blakeney and he's going to wait until
5 somebody comes out to help and he is going to wait on
6 police, fire and EMS when these guys, particularly Davis who
7 just shot the crap out of Mr. Blakeney and him have run off
8 and he doesn't know where they are, he doesn't know if
9 they've got more bullets or not. No, he's not going to hang
10 around there. And yeah, he's going to tell everybody he
11 sees, "I've been hit, call 911," and he's not going to want
12 to hang around in that neighborhood, and if he doesn't see
13 red lights coming down the street he's going to take off.
14 And where does he go? He goes to a shop where he knows some
15 of his people work, he does wait there. He doesn't hide a
16 nine millimeter pistol in the trash can at the rim shop, he
17 goes there to get away from the neighborhood where these
18 guys are where he knew these guys last were. He's excited
19 and he's scared to death and the last thing he wants is more
20 trouble and he doesn't tell them who shot him, but he does
21 that night when they come to see him and things are calmed
22 down a little bit and he realizes he ain't going to die and
23 he's home, he's not fixin' to be put on the dadgum
24 helicopter for the hospital. And then he tells them, yeah,
25 I know who shot me. I know Heyward Truesdale, he was there

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1 and the other guy that you have got this picture of was the
2 guy that actually shot me and they were together. You can
3 believe him, you should believe him. Mr. Blakeney went to
4 the bank five times on September 21. Let's talk about
5 Mr. Blakeney. He's a 69 year old man living alone in the
6 family home in Kershaw, he's got schizophrenia and he's got
7 money and that's probably the worst combination that could
8 occur for anybody. We don't know all of the details about
9 his money, you don't need to know how much, don't need to
10 know what he did with parts of it, but we know what he did
11 with some of it. He bought a 55 -- a 69 year old man bought
12 a white \$55,000 BMW convertible when his previous car was a
13 boxed-up Chevrolet Caprice like the highway patrol drove in
14 the eighties, a rag, and he goes from a rag to the riches of
15 this BMW which is parked in his driveway right there on
16 Ingram Street for the world to see. And the poor man -- and
17 his son and brother are back there and I apologize for
18 saying things about him, but the truth is the truth, the
19 poor man buys a \$30,000 Harley Davidson motorcycle matching
20 white to the BMW which he don't even know how to ride and he
21 parks it in this carport. There's no secret that Edward
22 Blakeney has money. And then he starts buying everyone's
23 junk. You'll see the pictures. I'm not going to start
24 putting up pictures right now I don't think, but you will
25 have them back up there, his house was -- I don't watch this

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1 but I pass through it, Hoarders. I don't know if
2 Mr. Blakeney was a hoarder but you look at his house and it
3 looks like the video on the TV show Hoarders on A and E or
4 whatever that is, just junk everywhere. It is junk. You
5 look at the pictures and see what's there. He isn't buying
6 gems and collectibles, he's buying junk from anybody that
7 would go by there and sell him stuff. It looked like
8 McDonalds over there with cars coming through, people coming
9 out, him writing his little notes down and then taking his
10 money and him taking their junk and putting it in that red
11 trailer or taking it and throwing it on the bed inside the
12 house. He's a perfect target for a robbery, he is the
13 perfect target for a larceny. Let's talk larceny. That
14 means you just steal from somebody, you just take it. He
15 didn't need to be shot, he didn't need to be confronted with
16 a gun for somebody to get his money, he was the easiest
17 pickings on the east side of town of Kershaw. Just -- the
18 whole thing was just so unnecessary, wasn't even any need
19 for a gun, didn't need to call it a robbery, just walk up to
20 the old man and snatch his money and take off. He goes to
21 the bank that day five times. And you'll have those
22 documents too, I'm not going to pull them out, but he cashed
23 five checks that day and the total of those checks was
24 \$5,137. Now, you know, it's 10:30 and if I had \$5,000 in my
25 pocket I could probably get rid of it by 5:00 and I would

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1 have a good time doing it, but what in the world is going on
2 with this money, \$5,137 he took out of bank that day? The
3 last time he went to the bank, you'll see the picture with
4 the time stamp and you heard Ms. Sanders testify, the last
5 time he went to the bank he cashed a check in the amount of
6 855 bucks and he did that at 2:42 p.m. 9/21/11, and by
7 2:55 p.m. on 9/21 of '11 he is dead in the street beside his
8 house because he and Jerel Davis were greedy and were lying
9 around at his house waiting on him to get back so they could
10 take that money, and they knew he was at the bank. He isn't
11 going to Bantam Chef to get him a milkshake, he's going to
12 the bank to come back with a wad of money and they knew it
13 and they waited on him to take his money. Let's talk about
14 the money that got recovered in this case. Is it
15 coincidence or is it -- well, we know money in the car at
16 the S and G Mart in Heath Springs is Harry Edward Blakeney's
17 money. It's in the First Citizens bank envelope which has a
18 bullet hole in the corner of it probably which he had in his
19 possession when one of those six bullets was about to enter
20 his body and it had blood on it which had his DNA. We know
21 he had the money, we know that car had the stolen money.
22 What have we got out of that car and out of the two people?
23 \$450 out of envelope, \$200 in another batch in the
24 floorboard, \$10 somewhere on one of the seats, \$4 in the
25 console. What else have we got? What else did we recover?

CLOSING ARGUMENTS

1 Sixty bucks off Heyward Truesdale and \$125 off Shaun
2 McCrorey. He cashed a check for \$855 at 2:42 p.m. and by
3 the time the car was stopped in Heath Springs cash in that
4 car totaling \$849 was seized by the police. There's your
5 money, \$60 of which I tell you was on him somewhere. Let's
6 talk just a minute about the autopsy and the forensics. Ed
7 Blakeney got shot six times, shot once Dr. Ross I think said
8 here, broke his jaw, came out the other side of his face or
9 his head, that was bad enough but it didn't kill him. He
10 got shot in the chest -- excuse me, got shot in the back,
11 came out the left side of his neck and it hit his aorta and
12 his left lung, that's what killed him. He bled out, he bled
13 to death internally from that shot. Got shot in the chest,
14 came out his back. Got shot in his left butt, came out his
15 right butt. Got shot in his left thigh on the back and it
16 came out the front, and he got shot on one of the fingers of
17 his left hand. He got shot front, back and side. Why is
18 that? Because when the shots start the man is going to try
19 to run for his life but he doesn't make it. The gunshots
20 were distant according to Dr. Ross. Now distant, don't
21 think that distant means across the street. She told you
22 distant means it's just far enough there's no tattooing or
23 what they call stippling on his body. If there's a muzzle
24 imprint that means somebody put a gun beside your head and
25 pulled the trigger, you can see the end of the barrel on

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1 somebody's cheek. If it's within two or three feet there's
2 going to be hot stuff coming out of the muzzle of that gun
3 and it's going to make tattoo marks with gun powder on your
4 skin. There wasn't anything of that with Mr. Blakeney which
5 means they were at least two or three feet away. And you
6 know how close they were. You know that Davis and Heyward
7 Truesdale were within 10 or 12 feet of Edward Blakeney when
8 they shot because Davis told you and he showed you on the
9 crime scene sketch where they started and they told you
10 where they ended up. He started on the carport, shots start
11 getting fired, they're moving up toward the rear of Mr.
12 Blakeney's car which is right on him, walking up on it and
13 you see where the cartridge cases were fired, were recovered
14 and you've heard testimony and you can see that this .380
15 pistol ejects from the right. So they're walking to the
16 right of the car between the car and the bushes and Davis is
17 firing the gun and it's kicking the cartridge cases over to
18 the bushes, you can see how they're scattered and moving out
19 toward the street. He didn't stand in one place, they're
20 moving on Mr. Blakeney when they're shooting. The gunshot
21 residue, Mr. Roberts told you about that. Again, maybe
22 Douglas Lewis has gunshot round lead particles on his hand
23 because he shot and killed Mr. Blakeney and then shot
24 himself to look like it was legit. That's bull, don't even
25 consider that. Mr. Roberts explained to you how most of the

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1 gunshot residue comes out the muzzle of the gun, same way
2 the bullet does, that's where the -- that's logical. It
3 escapes other crevices on the gun, but he also told you that
4 it's very common with gunshot residue to be on victims, it's
5 not uncommon at all for gunshot residue to be on the hands
6 of somebody who actually fired a gun. Jerel Davis didn't
7 have gunshot residue on his hands but he shot the gun, he
8 told you he shot the gun, that's no mystery. So certainly
9 it's plausible for him not to have gunshot residue on his
10 hands. And Mr. Roberts explained to you all the different
11 ways that the gunshot residue gets gone, and I'm not going
12 to go through all of that but it just doesn't stay on you
13 forever. No fingerprints on the gun. They tried, did swab
14 the gun, tried to get DNA, couldn't develop any profiles
15 from the swabs on the gun to match it to anybody's DNA.
16 Clearly this gun fired the five cartridge cases that were
17 found in Mr. Blakeney house, clearly this gun fired the
18 fired bullet that was found in Mr. Blakeney's house. Can't
19 tell anything that the little jacket fragment that was found
20 at Mr. Blakeney's body at the autopsy. No other bullets in
21 his body, they all went through him. The DNA. You make
22 what you want to make of the cigarette butt at
23 Mr. Blakeney's house. I'm not telling you that that
24 evidence conclusively says that Heyward Truesdale smoked a
25 cigarette, the butt of which got thrown on the ground at Mr.

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1 Blakeney's house, but there's evidence that puts Heyward
2 Truesdale at Mr. Blakeney's house through the DNA on that
3 cigarette butt. One in 570,000, nobody can say what that
4 means necessarily but it's sure better than one in the
5 chance of two. You do what you want with that cigarette
6 butt, but I submit that there's evidence -- that is evidence
7 that Heyward Truesdale was at that house. How do we know
8 Heyward Truesdale is the brains if there are any brains in
9 this whole fiasco behind the killing of Mr. Blakeney?
10 Prayon, his sister -- and that's interesting too. I guess
11 y'all can go back there and say Prayon got such a good deal
12 for Barfield that it didn't matter that that's her brother
13 over there and she's going to throw him under the bus in
14 this case, maybe you will conclude that, I'll just submit
15 that's just not the way it is. She is his blood sister, she
16 tells you the truth and it hurts him but she tells you the
17 truth. She lives in Lancaster, Davis lives in Lancaster,
18 McCrorey lives in Lancaster, I'm not telling you they've
19 never been to Kershaw but not too many people go to Kershaw
20 unless you have to, unless you're like me and live down
21 there. They don't know anything about Kershaw or the people
22 in Kershaw and they don't know Harry Edward Blakeney, they
23 don't know where he lives and they don't know that he has
24 got a bunch of money and they don't know he's buying stuff
25 off people of the street before they go to Kershaw that day,

CLOSING ARGUMENTS

1 they don't know that. Heyward Truesdale stayed in Kershaw,
2 been in Winston-Salem, mama lives down the street with his
3 sister down Ingram Street, got another sister who lives in
4 another place in Kershaw, roots in Kershaw, present in
5 Kershaw, been in Kershaw for some period of time. He
6 doesn't have a car, I think Prayon said he doesn't have a
7 car so unless he gets a ride with somebody he's stuck in
8 Kershaw. He knows Kershaw, he knows the neighborhood, who
9 is who. He sees that BMW, he sees that motorcycle, he sees
10 that old man with a trailer full of stuff and people in and
11 out of there all of the time, he knows what's going on over
12 there. He's the man that has the information on the victim,
13 he's the man that has the idea to go get an easy lick, to go
14 get some easy money. How else do we know that he knew
15 Blakeney? Because he told Davis. And Davis is just a fool,
16 I guess, but he tells Davis, "Shoot him, he knows me. Shoot
17 him, he knows me." Heyward Truesdale admits to you that he
18 knew Blakeney and therefore I submit to you has all of this
19 information about Blakeney and his money. They end up --
20 and the testimony is consistent, they end up down the
21 street, State's Exhibit Number -- well, that's not on --
22 they walk down to the second house, it was referred to as
23 the second house, it was referred to as Anthony's house, it
24 was referred to as the house down Richland Street towards
25 the cemetery. But they all end up at Prayon's momma's house

CLOSING ARGUMENTS

1 right down at the end of Ingram Street, they start there and
2 the guys, McCrorey and Davis and later on Prayon end up at
3 the second house down toward the cemetery and that's where
4 Heyward comes into the picture. He'd been down there, he
5 was down there, he's sitting down there and there's some
6 other people out there, they're sitting around jawing
7 outside and Heyward is the one that starts talking about
8 Mr. Blakeney. He doesn't use his name but he talks about
9 the man up the street back toward town, that's not what he
10 said but he said the man up the street, he's got money. And
11 Mr. Frick said, "But Prayon knew that Blakeney had \$2.3
12 million dollars." She told you that's what Heyward said,
13 the man up the street with \$2 million dollars, or
14 \$2.3 million. This is some of what the witnesses told you
15 Heyward said, "The man up the street has got money, got lots
16 of money, he has got a couple of million dollars," that's
17 what the witnesses said Heyward said. The witnesses also
18 told you that Heyward is the one that had the idea to do the
19 robbery. They told you that Heyward said he needed a lick,
20 that he had a lick for us, for y'all, "I've got a lick for
21 us. It's a quick lick, it's a good lick." Heyward said,
22 "I've got to get me some of that." Some of that what? Some
23 of that money that that old man up the street had.
24 Heyward's idea to do the lick. And we also know when
25 they're up at that house toward the cemetery this gun,

CLOSING ARGUMENTS

1 McCrorey's gun, Davis' gun, it doesn't matter, it's the gun
2 that killed Edward Blakeney, that gun is there and it's
3 shown around. And that other gun, that .32 that somebody is
4 trying to sell is out there, it doesn't have anything to do
5 with this case, but there are guns out there and Heyward is
6 talking about a lick and the man with all the money,
7 Heyward, is doing all of that talking. And Davis, the fool
8 that he is, says, "I'm up with that." So what happens?
9 Well, Davis doesn't know where Blakeney lives, he doesn't
10 know it was on the corner of Church and Ingram Streets. So
11 Heyward takes him there and they get there and there are
12 other people there and they wait, they wait because Mr.
13 Blakeney is not there and they wait until he gets back. And
14 they're talking between the two of themselves and Davis
15 doesn't know who Blakeney is, and then this car pulls up and
16 Heyward says, "That's him." I mean, he had to tell him who
17 we're talking about, if you're going to murder somebody you
18 want to make sure you murder the right guy I reckon. So
19 Heyward tells Davis who the target is and points Blakeney
20 out when he gets to the driveway in the car, and then he
21 gets out and then there's more talk between Heyward and
22 Davis and at some point Heyward knowing Davis has the gun
23 says, "Shoot him, he knows me. Shoot him, he knows me."
24 And again it is just unfathomable that Davis would do it but
25 he pulls out the gun and shoots at least six times and

CLOSING ARGUMENTS

1 according to him probably eight. Would any of that have
2 happened had they not met up with Heyward Truesdale that
3 day? None of it would have happened had they not met up
4 with Heyward Truesdale that day. If Prayon and Jerel Davis
5 and Shaun McCrorey had gone to Kershaw and had stayed at
6 Prayon's momma's house and had done whatever else they were
7 going to do that day but had never walked down toward the
8 cemetery and met up with Heyward Truesdale Edward Blakeney
9 would be alive today and he might know how to ride that
10 motorcycle by now. It's him, it's him. Now, this is the
11 elephant in the room and it's going to be hard for you.
12 Remember, I said the hand of one is the hand of all, two
13 different things I'm talking about here for a minute, but
14 the hand of one is the hand of all. If you conclude it's
15 his idea to do the robbery and that he goes and that he
16 provides the information about who the victim is and about
17 the victim's resources and about where the victim lived and
18 takes the actual shooter to the house and tells the shooter
19 that's him when Blakeney pulls back in the driveway, and
20 then tells the shooter at some point in that process to pull
21 the gun out and shoot him then he is just absolutely 100
22 percent as guilty as Jerel Davis is of these charges. Okay.
23 The hand of one is the hand of all, the act of one is the
24 act of all. You put them in each other's shoes, you put
25 them in each other's clothes, you put them in each other's

CLOSING ARGUMENTS

1 skin. You can't distinguish roles if they're there acting
2 together. Now, this is the hard part for you, that's
3 probably hard but this is probably harder for you. Jerel
4 Davis yesterday got on the witness stand and he was charged
5 with murder and the same charges that Heyward Truesdale is
6 charged with, the same other charges, and he got on the
7 stand yesterday and told you, "Barfield let me plead guilty
8 to voluntary manslaughter and I'm going to go to jail for 30
9 years." Okay. He is charged with murder and you're going
10 to have a verdict form back there that says yes or no,
11 guilty or not guilty to murder, to armed robbery and to
12 possession of a firearm during the commission of a violent
13 crime, it doesn't say at all voluntary manslaughter, that's
14 not an option for Heyward Truesdale. And y'all are probably
15 going to have trouble with that, but I'm asking you not to.
16 You are here today to judge, number one, what this -- what
17 happened in this case, not yet who did it but what happened,
18 what happened to Edward Blakeney. Is what happened to
19 Edward Blakeney murder? I submit to you that there can be
20 absolutely no doubt that Edward Blakeney was murdered under
21 the legal definition of murder that we have in South
22 Carolina and you're here today to decide if Edward Blakeney
23 was murdered and if the people charged -- if this person
24 charged in his killing is guilty of murder. Now, Jerel
25 Davis didn't plead guilty to murder, he pled guilty to

CLOSING ARGUMENTS

1 manslaughter, but you are not here today to pass judgment on
2 Jerel Davis, that's done, that happened Monday without your
3 involvement. You are here today only to decide whether he's
4 guilty of murder, and again to do that you look at what
5 happened to Edward Blakeney and determine was it murder and
6 you have to just set aside the deal that Jerel Davis cut.
7 You're not here to decide Jerel Davis's fate, you're here to
8 decide Heyward Truesdale's. It's going to be hard for you,
9 but do it, find him guilty of murder. Now, I'm not giving
10 the murder charge away, I can't more emphatically than I
11 just did encourage you to find him guilty of murder, but I
12 want you to understand this too, if you just can't do that,
13 I'm asking you to but if you just decide you can't do that
14 that doesn't mean that you still can't find him guilty of
15 armed robbery, it's not all or nothing as to the charges.
16 And I submit to you that there's absolutely no doubt that he
17 is guilty of armed robbery, I submit there's absolutely no
18 doubt he is guilty of murder but if that causes you -- I
19 hope it doesn't, but if that causes you a problem that
20 doesn't mean he's not guilty of armed robbery if you find he
21 was present and participating and set this thing up and went
22 over there and made it happen. That's it, that's all I've
23 got. I'm going to take my box up to my office later and
24 y'all are going to go in there and everything you know about
25 this case has to be in your head in addition to all of this

CLOSING ARGUMENTS

1 stuff that we put in for you to look at. It's not easy, I
2 don't presume anything of you. I encourage vigorous debate.
3 I encourage though as much as anything else just use your
4 common sense. You know, there's so many details in these
5 things sometimes we just get way down and our heads seem to
6 want to explode, but look at the big picture in this case
7 and use your common sense and conclude that Heyward
8 Truesdale started it and Heyward Truesdale stayed right with
9 it through its end all of the way through his arrest at the
10 S and G Mini-mart in Heath Springs and find him guilty.
11 Thank you.

12 THE COURT: Okay. Jurors, it's almost in your hands
13 night quite, don't talk about the case quite yet, we'll just
14 take a break.

15 (The jury left the courtroom and a recess was
16 taken.)

17 THE COURT: Okay. Solicitor, are you ready?

18 MR. BARFIELD: Yes, sir.

19 THE COURT: Defense?

20 MR. FRICK: Yes, sir.

21 (The jury returned to the courtroom.)

22 THE COURT: Okay. Jurors, final phase of the trial.
23 I'm going to instruct you on the law and then you're going
24 to go back and decide whether the State has met its burden
25 of proof on these three indictments. Again, the indictments

JURY CHARGE

1 are not evidence, they just set forth the allegations, and
2 remember the State must prove each of the allegations beyond
3 a reasonable doubt before you can render a verdict of guilt.
4 And by saying that, of course I'm not suggesting that you
5 do, just only two forms of verdict you can find on the three
6 charges, either guilty or not guilty, not guilty or guilty.
7 There are only two ways to say that so obviously I intend no
8 inference on which one I say first. At the end of these
9 instructions I will send you back to the jury room and you
10 will have three separate verdict forms, but actually you can
11 strike through the verdict if you want to, it's three
12 verdicts and it's just not guilty or guilty, guilty or not
13 guilty, 12 jurors will have to agree unanimously and then,
14 Mr. Foreman, you alone would sign. And you have to make
15 independent determinations on the three charges, you either
16 underline or circle whichever form, whichever verdict you
17 reach in the three charges. Of course, Mr. Truesdale is
18 presumed innocent, he has absolutely no burden and had no
19 burden to prove he is not guilty. As I alluded to earlier
20 he did not testify, you can't consider his failure to
21 testify on proof because he doesn't have to prove anything.
22 The State has the entire burden of proof beyond a reasonable
23 doubt on these three charges. The indictments set forth the
24 charges on something called an indictment, I'm not sending
25 the indictments back to you, they have other writings on

JURY CHARGE

1 there and so forth so you will have the verdict forms, and
2 you can find him not guilty or guilty, guilty or not guilty
3 of murder, armed robbery, possession of a weapon while
4 committing a violent crime, those are the three things that
5 are submitted to you, and there are other charges
6 encompassed in the indictments. The first indictment
7 alleges that Heyward Rashard Truesdale did at 416 East
8 Church Street, Kershaw, South Carolina in Lancaster County
9 on or about September 21, 2011, feloniously, willfully and
10 of his malice aforethought kill and murder Harry Edward
11 Blakeney by shooting the victim numerous times with a small
12 caliber handgun, and the victim did die as a proximate
13 result thereof in violation of section 163-10 of the code of
14 laws in South Carolina, that is the allegations. As I will
15 explain to you later, allegations as stated, not what
16 happened in any of the evidence, we're talking about
17 accomplice liability which I will cover in a little bit, no
18 evidence that he actually pulled the trigger and shot as
19 alleged here. But hand of one, hand of all theory
20 encompasses that if you find that after I instruct you on
21 the law of the charge. The second indictment alleges that
22 while on that same date while armed with a deadly weapon, it
23 says he was armed with a deadly weapon, that's one reason
24 I'm not going to send it back, he was not armed with a
25 deadly weapon, you've heard all of the testimony -- while

JURY CHARGE

1 armed with a deadly weapon, specifically a handgun,
2 feloniously take and carried away from the person or
3 presence of Harry Edward Blakeney by means of force, threats
4 or intimidation, goods of Harry Edward Blakeney,
5 specifically cash, with the intent to deprive the owner
6 permanently of such property in violation of a certain
7 statute. And the third indictment alleges that on that
8 particular day that Heyward Rashard Truesdale did possess or
9 display a firearm, or knife during the commission of a
10 violent crime. Again, obviously from the testimony under
11 the allegations you would have to go under accomplice
12 liability and I will explain that to you, he was not the one
13 that possessed the gun directly. By saying that I'm not
14 suggesting that you find him not guilty of that, that's just
15 the allegations are not as alleged in here which is why I'm
16 not sending them back, they're saying he indirectly
17 controlled the weapon. And this possession or display of a
18 knife while the commission of a violent crime, the
19 legislature just did an add-on, just an add-on penalty for
20 someone who commits a violent crime, probably don't need it.
21 I don't question the legislator's intent on things when
22 you've got armed robbery because you can't commit armed
23 robbery unless you're armed and, you know, murder carries as
24 you already heard up to life. Anyway, you add on five but
25 there are many violent crimes where the penalty is much

JURY CHARGE

1 less, like some burglaries don't carry anything like armed
2 robbery and murder too, break in a house and commit a
3 burglary in the nighttime for instance, that's a crime of
4 violence that the legislature is satisfied that needs an
5 add-on penalty to that. But still, it's a valid charge if
6 you commit a violent crime, and I will tell you that armed
7 robbery and murder are both classified as violent crimes.
8 You can't -- while I've already said you can reach
9 independent verdicts, the verdict has to be consistent so
10 you couldn't just find him guilty of possession of the
11 weapon charge and not guilty of the others, you would have
12 to first find him guilty of one of the other charges before
13 you could find him guilty of that, it was just an add-on
14 penalty even though it was classified as separate crimes so
15 your verdicts do have to be consistent. Now, I have to tell
16 you who is charged with the commission of a crime, y'all
17 understand that, I just did it. Mr. Truesdale is charged,
18 he is presumed innocent, he has no burden of proof, but the
19 law that I'm going to instruct you is the law in the
20 abstract. Okay. I'm not getting into facts specific, this
21 is the law governing murder. You know, murder is the most
22 serious of the crimes you can commit and you would think
23 when the legislature codified it or enacted a statute you
24 would deal with a lot of specificity, but actually I'm just
25 going to read this one to you, I'm not going to read the

JURY CHARGE

1 armed robbery and the possession statute to you. This is
2 all it says, section 16-3-10, murder is the killing of any
3 person with malice aforethought either expressed or
4 inferred, period. Now, it takes a unanimous decision for
5 you 12 jurors to reach verdicts in this case. Mr. Foreman,
6 you preside over deliberations, your vote counts no more
7 than any other juror. It 12 takes jurors to agree on the
8 verdict. After the jury has agreed you will sign the
9 verdict form, just you, we don't need 12 signatures.
10 Alternate jurors, you need to pay attention even as I'm
11 speaking, a child might fall down at school, you get a call
12 and you've got to go to the hospital or something, hopefully
13 not. But when I conclude these remarks I'm going to ask the
14 jury to step out and when I do that if you would just stay
15 in the courtroom assuming the original 12 are still with us.
16 Okay. Don't worry, you've the option of getting, what was
17 it, lobster and steak? Whatever he ordered, it could be a
18 hot dog split 14 ways for all I know. Anyway, you will be
19 entitled to lunch, all right, but if the original 12 are
20 here you won't get to participate in the deliberations.
21 Now, Mr. Foreman, having done this 25 years as I said you
22 are spokesperson of the jury. If questions arise during
23 deliberations if you will write them down and be specific
24 about it, I will confer with the attorneys and see if I can
25 answer the questions. But just to forestall some questions,

JURY CHARGE

1 don't send back, "Is he guilty of anything?" That's what
2 y'all are here for. "Should we be believe this witness?"
3 That's what y'all are there for. "Can we recall a witness
4 and ask couple of more questions?" No. You have to decide
5 the case based upon the admitted evidence that's already
6 been admitted, there's nothing I can add to it or take from
7 it. Solicitor has indicated about 34 witnesses have
8 testified, gave you a list of 56, don't send back a question
9 saying, "We want to hear from the other 14." You've got to
10 decide the case based upon the witnesses that were
11 presented. It may be that you would, for instance, even
12 want a more specific report from one of those packages that
13 have been introduced, sorry, can't add anything to the
14 evidence. Okay. I believe everything that was illuded to
15 was introduced into evidence, a lot of sketches and drawings
16 and things, I don't know whether they were all entered or
17 not, photographs, the bottom line if you don't have it back
18 there it was not introduced into evidence. If you saw it
19 during the trial and there was no objection to it you can
20 consider it but I can't then send it back, you have enough
21 with you. I'm going to send back everything that was
22 introduced into evidence except two things, and if you want
23 them just send a note saying that and I will send them back.
24 One is the cash, not that y'all will dispute or take any,
25 it's just you saw it, you don't need it back there. The

JURY CHARGE

1 other is the gun. It's not loaded, I know none of y'all
2 have a shell on you but we aren't going to send the gun back
3 unless you want it. If you want to see the gun, you know,
4 that's the gun, you've seen it several times during the
5 trial, just not going to send it back unless you
6 specifically request it. I'm not trying to hide anything
7 from you, just not sending those things back. So I've told
8 you a couple of times and the attorneys have said the State
9 has the burden of proof beyond a reasonable doubt and you
10 say what is that? I will briefly define it for you. I'm
11 not going to define it any further for you if you send back
12 a question because they tell us, they being the higher
13 courts, not to give you anymore information then I'm about
14 to give you. A reasonable doubt is the kind of doubt that
15 would cause an ordinary person to hesitate to act, that's
16 all they say. You can say it's evidence that leaves you
17 firmly convinced of the guilt of the accused, beyond that I
18 don't comment on it. What would cause you to have a
19 reasonable doubt so y'all can decide is not something for me
20 to do because I can't get into deliberations, again, I give
21 you the law on the abstract. So you decide the case as to
22 whether or not the State has met its burden of proof beyond
23 a reasonable doubt based upon the admitted evidence and the
24 weight that you attribute to the admitted evidence. I'm
25 going to cover a couple of things for -- evidence is of two

JURY CHARGE

1 types really, direct and circumstantial. Direct evidence is
2 basically where somebody testifies to something he or she
3 has observed through their senses, might not be correct but
4 that's direct evidence. For instance if somebody came in
5 and said it's raining outside that would be direct evidence
6 that it's raining outside, it might not be raining outside.
7 If somebody opened the door and came in, although the deputy
8 back there is not going to let anybody in right now, but if
9 they did and they had to let down an umbrella and shook it
10 off, took off a rain coat and didn't say a word, you can
11 assume it was raining outside. They could have just been
12 having fun in the shower for all we know, but anyway, that
13 could be circumstantial evidence. Now, the law makes in
14 distinction between the weight and value to be given to
15 direct evidence or indirect evidence. Lots of things in the
16 case are circumstantial evidence. Circumstantial evidence,
17 or indirect evidence, is where you infer the existence of a
18 fact or facts from the establishment of admitted or
19 agreed-to facts. It's evidence which immediately
20 establishes collateral facts for which the main fact may be
21 inferred. Circumstantial evidence is based on inference,
22 not on personal knowledge or observations, that's the
23 difference between direct evidence and personal observation
24 and indirect, circumstantial evidence is based on inference.
25 And again, the case can be made or not made based upon a

JURY CHARGE

1 combination of direct evidence and circumstantial evidence,
2 or on circumstantial evidence or direct evidence, they're
3 given no particular weight, it's up to you jurors to decide.
4 Now, obviously things like fingerprints, DNA so forth is
5 circumstantial evidence. You are going to have to pass upon
6 the relative weight that you give to any admitted evidence,
7 either testimonial or documents that have been introduced.
8 Again, anything that has been introduced you have access to.
9 You can look through the things that are marked except for
10 the two things that I said I'm not sending back but you can
11 have them if you wanted them. Now, you pass upon the
12 credibility of the witnesses who have testified, and we had
13 over 30 witnesses who testified. I'm not directing these
14 remarks to any particular witness, they apply to everybody
15 that testified. This is what you do when you evaluate
16 testimony, first you take into account the appearance or the
17 demeanor of the witnesses and consider whether testimony
18 given by a witness is consistent or inconsistent. Obviously
19 the opportunity that the witness had to see, hear or observe
20 what the witness testifies to can be considered by you,
21 whether a witness is hesitant or forthright in answering
22 your questions can be considered. You can consider any
23 interest or bias that a witness has in the outcome of the
24 proceedings. You can consider the relationships between
25 parties in passing upon their credibility. You can consider

JURY CHARGE

1 if a particular person who also has pending charges has made
2 what we just call a deal with the solicitor to get a lesser
3 sentence, whether that impacts that person's testimony.
4 Again, I'm not suggesting any of these things do, it's just
5 things that you can take into account. Jurors, generally
6 speaking if a person has a criminal record and he testifies,
7 a prior criminal record, that could be brought out. That
8 does not mean you should disregard the testimony given from
9 the person who has a criminal record, that's just another
10 fact you can take into account when you are deciding whether
11 or not you are going to believe all or a portion of what a
12 witness testified to. Having said that you're not bound to
13 accept in its entirety the testimony of any particular
14 witness. You as jurors have the absolute right to pick and
15 choose which testimony you feel is believable and then the
16 relative weight that you attribute to believable testimony
17 is entirely up to you jurors. The same thing with the
18 combination of indirect evidence, documents and testimony,
19 you weigh it in talking about mentally because physically
20 you can't, any weight you give to the admitted evidence is,
21 of course, entirely up to you jurors. In addition we don't
22 count witnesses in a case, civil or criminal. You have the
23 right to believe one witness versus many or you can do the
24 other on it, that's up to you. Now, during this trial a
25 couple of individuals were qualified as experts. I don't

JURY CHARGE

1 vouch for them as experts, all that they have to do is
2 demonstrate through education, training or experience that a
3 person has acquired more knowledge in a particular field
4 than you and I have, and then they're entitled to give
5 opinions within their field. Before you can accept an
6 opinion given by an expert certainly you should consider the
7 underlying fact on which the opinion is based and you would
8 consider the education, background and training of the
9 witnesses, and before you can accept the opinion the witness
10 has to give that opinion to a reasonable degree of certainty
11 within that field of expertise. The reason they get
12 qualified is a lay person, that's someone who is not an
13 expert, is only entitled to in a trial in, civil or
14 criminal, can opinions but it's a very limited thing. Like
15 you can say that car was going too fast, really it's just
16 your guess or your opinion on it, you've got as much
17 experience in watching cars as anybody so you can do that.
18 In a case involving electricity for instance, I could
19 probably qualify an electrician, if you got into the theory
20 of electricity it might take a little more, might have to be
21 an electrical engineer. Some electricians ought to know if
22 an electric saw, if I plug it in it works, if it doesn't it
23 doesn't. If the electricity is on it does, if it is not
24 it's not, so on and so forth. But once a person is
25 qualified as an expert they're entitled to give opinions

JURY CHARGE

1 within the field of that expert. And they are also subject
2 to the general rules of your evaluation and your appearance
3 consistency and so forth. I mentioned whether testimony is
4 consistent or inconsistent, in criminal cases you have not
5 just inconsistent one liners, you have inconsistent
6 statements and it's up for you to decide which testimony
7 given by a person is believable, you can accept all or a
8 portion of the witness' testimony. Now, the charges in this
9 case -- that's how you're going to have to decide the case,
10 the weight that you attribute to the believable testimony,
11 the reasonable inferences drawn from the testimony and the
12 other documented evidence that has been introduced is
13 entirely up to you. Now, I read you the one line definition
14 of murder. The defendant, of course, is charged with
15 murder. The State must prove beyond a reasonable doubt and
16 must prove beyond a reasonable doubt the allegations of each
17 of the three charges, that the defendant killed another
18 person with malice aforethought. And I will explain to you
19 about accomplice liability, the hand of one, hand of all in
20 just a second. But malice, jurors, is hatred, ill will,
21 hostility toward another person. It's the intentional doing
22 of a wrongful act without just cause or excuse and with the
23 intent to inflict the injury or under the circumstances
24 which the law will infer an evil intent, malice
25 aforethought. It's not required that malice exists for any

JURY CHARGE

1 particular time prior to the pulling of the trigger to kill
2 someone but it can't come after the fact. It has to exist
3 either contemporaneous with or just a second before the
4 trigger is pulled before you can find that malice existed.
5 You are entitled to consider all circumstances surrounding a
6 killing of whether or not malice exists. I mentioned to you
7 malice can be expressed or inferred. I think you understand
8 express is when somebody says I hate you, I'm going to kill
9 you the next chance I get, the next chance they get to see
10 them they kill them, you don't have to get into a situation
11 of inferred malice at that point. Where a person is killed
12 during the commission of a felony, that's an evidentiary
13 fact that can lead you to conclude that malice existed but
14 it's just evidence in the case, it doesn't conclusively
15 conclude that malice existed, it's just an evidentiary fact.
16 You take the totality of the circumstances presented by the
17 State on the issue of whether malice exists. And, of
18 course, murder is an intentional act. Okay. There are
19 homicides without getting into all of them, you would
20 understand that if you were deer hunting and you shot at a
21 deer and hit a hunter and killed him you might be guilty of
22 something, maybe not, might have just been accidental, but
23 anyway, you might be guilty of involuntary or accidental
24 homicide or something. But anyway not getting into all of
25 the degrees of homicide, only talking about the highest form

JURY CHARGE

1 in this case which, of course, is murder. So intent is also
2 proved, unless somebody expresses intent it's proved as
3 stated by circumstantial evidence. Murder does require an
4 intent to kill, it has to be proved by the State beyond a
5 reasonable doubt. I'm going to have to instruct you in some
6 detail on what is called accomplice liability. A person who
7 is present at the scene of the crime intentionally or
8 through a common plan, aide, abetted or assisted in the
9 commission of that crime through some overt act is guilty as
10 an accomplice. To be liable as an accomplice the defendant
11 must have knowledge of the principle criminal conduct. Mere
12 presence at the scene of a crime is not sufficient to
13 establish guilt as an accomplice. Intentionally means
14 willfully, intending the result which actually occurs, not
15 accidentally or involuntary. Now, both attorney, prosecutor
16 and defense counsel alluded to that, that's the law of
17 accomplice liability in a nutshell. But for definition
18 purposes we refer to it the hand of one is the hand of all.
19 I generally as you say don't read things to you but they're
20 both going to object if I don't read verbatim and it has
21 been previously approved, so if a crime is committed by two
22 or more people who are acting together in committing a
23 crime, the act of one is the act of all. A person who joins
24 with another to accomplish an illegal purpose is criminally
25 responsible for everything done by the other person which

JURY CHARGE

1 occurs as a natural consequence of the acts done in carrying
2 out the common plan and purpose. If two or more people
3 acting together, assisting each other in committing a crime,
4 the act of one is the act of all, or as it sometimes said
5 the hand of one is the hand of all. Prior knowledge that a
6 crime is going to be committed without more is not
7 sufficient to make a person guilty of that crime. Mere
8 knowledge that another person is going to commit a crime
9 even if the defendant is present when a crime is committed
10 is not sufficient to convict the defendant as a principal.
11 Guilt as a principal is shown by actual or constructive
12 presence at the scene as a result of a prior arrangement,
13 therefore the finding of a prior arranged plan or common
14 scheme is necessary for the finding of guilt under the hand
15 of one is the hand of all theory. The State must prove
16 beyond a reasonable doubt by the competent evidence the
17 theory of the hand of one is the hand of all. A principal
18 in a crime is one who either actually commits the crime or
19 who is present aiding, abetting or assisting in committing a
20 crime. When the person does an act in the presence of and
21 with the assistance of the another, the act is done by both.
22 Mere presence at the scene of a crime is not sufficient to
23 convict one as a principal under the theory of aiding and
24 abetting. Intent is also a necessary element where there
25 must have been a common design or intent to commit the

JURY CHARGE

1 crime, the crime must have been committed pursuant thereto
2 with the person aiding and abetting by some overt act.
3 Intent means intending the result which actually occurs. I
4 recognize that there is some repetition in that, I didn't
5 prepare that, they do it. The State must prove all elements
6 that I mentioned to you under the hand of one, hand of all
7 theory beyond a reasonable doubt. Now, jurors, armed
8 robbery, I'm not going to read that statute to you, armed
9 robbery is what you would think of as stealing, stealing by
10 force or intimidation while armed with a deadly weapon. The
11 statute goes through a list of deadly weapons, you know,
12 everything from a sling shot to -- whatever that is to a
13 handgun and a knife and so forth. A deadly weapon is
14 anything that can cause severe harm or end up killing
15 another person. Armed robbery is the highest form of
16 larceny, and larceny is just stealing. The State must prove
17 in order to obtain a conviction of armed robbery that --
18 they must prove each of those beyond a reasonable doubt,
19 that the defendant either directly under the hand of one,
20 hand of all theory took personal properties from the
21 presence of another person, the property is in the presence
22 of the person if it's within the person's reach, inspection,
23 observation or control so that the person could if not
24 overcome with violence or prevented by fear keep possession
25 of the property. The State must further prove that the

JURY CHARGE

1 defendant carried away the property with the intent to
2 convert it to his use or deprive the owner of the property
3 forever. And then in order to obtain a conviction of armed
4 robbery the final element that the State must prove beyond a
5 reasonable doubt is that at the time that the robbery
6 occurred that the defendant was armed with a deadly weapon.
7 Now, the final statute just basically says that the
8 defendant possessed -- and this is again under the hand of
9 one, hand of all theory or under exercise and dominion or
10 control over or that he had the right to exercise dominion
11 and control or directed the use of the weapon at the time
12 that the violent crime was committed, and both murder and
13 armed robbery are classified as violent crimes. That's the
14 three charges which you will consider. Just to cover a
15 couple of things that you already know, I gave you the law
16 in the abstract except for the parties. Don't try to figure
17 out what the Judge said in the cases. I mean, one year over
18 in Richland I sentenced 82 homicides, they weren't all
19 murders, you know, I've been doing it for 25 years, I
20 haven't done that many every year but I do at least ten or
21 12 every year so there's lots of cases, so don't look at the
22 judge and say I wonder what he thinks. If they wanted to
23 waive the jury trial and had me decide the case they could
24 have done that, they didn't so don't do that. If you saw
25 any expression of mine at any point, I don't think so, I've

JURY CHARGE

1 got a pretty good used to call it poker face, but if you
2 thought you saw me saying something or doing something,
3 ignore it, you've got to decide it based on what weight you
4 attribute to the testimony given and evidence that's been
5 introduced. Same thing about arguments of counsel. You use
6 your recollection of what was said, I'm not even suggesting
7 that any attorney misspoke as to anything that was said or
8 testified to but the weight that they want you to draw from
9 the evidence that's presented are their opinions on that,
10 they weren't witnesses, they didn't testify. They just
11 prepared the case and you should carefully consider the
12 summations of attorneys and opening statements, again,
13 that's not evidence. Now, while you deliberate -- again you
14 will have with you everything that's been introduced except
15 the two things I mentioned, you can have those if you want
16 them, it just says circle whatever verdict, 12 jurors have
17 to agree on the three charges and then only one signature.
18 But each charge is entitled to an independent evaluation by
19 you with one exception, you cannot find Mr. Truesdale guilty
20 of possession of a weapon while committing a violent crime
21 without first finding him guilty of committing a violent
22 crime. And I'm not suggesting that you find him guilty of
23 that, I'm just saying you can't find him guilty of just
24 that. You can find him not guilty of all charges or not
25 guilty of armed robbery and not guilty -- but he is entitled

JURY CHARGE

1 to a separate, as is the State, an evaluation by all jurors
2 to all three charges. Now, it's a serious case as you
3 understand it so take as long as you need to deliberate and
4 make sure you are all in accord on it, alternate jurors stay
5 in here. I kept the instructions pretty short, although you
6 don't think they're short, if I bring you back in and
7 amplify and expand on something, I intend no inference on
8 it, the attorneys just thought I could be in a little bit
9 more detail. You could go on and on about armed robbery
10 but, you know, it's stealing from somebody while armed with
11 a weapon it's a violent crime, I could charge you on and on
12 on it. But don't start deliberating quit yet, but if you
13 would step back except for the two alternates.

14 (The jury left the courtroom.)

15 THE COURT: All right. State relatively happy?

16 MR. BARFIELD: Yes, sir?

17 THE COURT: Defense?

18 MR. FRICK: Yes, sir.

19 (The jury began deliberations.)

20 THE COURT: All right. I got the first note from the
21 jury, they want the definition of accomplice law. Here is
22 the problem with that, a third of my PCR's touched on hand
23 of one, hand of all because the client never understood the
24 theory, neither do juries. They want me to tell them
25 whether he was an accomplice, I can't do that, I can just

JURY CHARGE

1 read them basically what I read them before unless y'all
2 have got some other theory on that.

3 MR. BARFIELD: I think you just read them the law
4 again.

5 THE COURT: Then they want a copy of Douglas Lewis'
6 transcript. Well, we don't have transcripts like we see on
7 TV, we can play it.

8 (Break in proceedings.)

9 MR. BARFIELD: That's right.

10 (the jury return to the courtroom.)

11 THE COURT: All right jurors, here is how it breaks
12 down. Y'all remember what I told you about accomplice
13 liability, all I can do is tell it to you again, I can't
14 tell you whether you find it or not, that's what y'all have
15 to do. I can go over it. I'm not going to even read all of
16 that stuff I read before because it's a simple proposition.
17 Bottom line is a person who was present at the scene of the
18 crime and intentionally or through a common law aided,
19 abetted or assisted in the commission of that crime through
20 some overt act is guilty as an accomplice. To be liable as
21 an accomplice the defendant must have knowledge of the
22 principal's criminal conduct. Mere presence at the scene of
23 a crime is not sufficient to establish guilt as an
24 accomplice. Now, that's the law on accomplice liability
25 right there, that's all it is. To expand on it some, the

JURY CHARGE

1 hand of one is the hand of all. If a crime is committed by
2 two or more people who are acting together in committing a
3 crime, the act of one is the act of all. A person who joins
4 with another to accomplish an illegal purpose is criminally
5 responsible for everything done by the other person which
6 occurs as a natural consequence of the acts done in carrying
7 out a common plan and purpose. Prior knowledge that a crime
8 is going to be committed without more is not sufficient to
9 make a person guilty of that crime. Mere knowledge that
10 another person is going to commit a crime even if a
11 defendant is present when the crime is committed is not
12 sufficient to convict the defendant as a principal. Guilt
13 as a principal is shown by actual or constructive presence
14 at the scene or as a result of a prior arrangement.
15 Therefore a finding of a prior arranged plan or common
16 scheme is necessary in a finding of guilt as a principal.
17 The State must prove beyond a reasonable doubt the theory of
18 the hand of one is the hand of all. A principal in a crime
19 is one who either actually commits a crime or who is present
20 aiding, abetting or assisting in committing a crime. I
21 could go on and on reading it and it goes for pages but it's
22 the same thing over and over. Now, your other question is
23 not that simple, y'all watched too much TV, we don't have a
24 button we can press and it will print out testimony. We can
25 replay testimony, 52 minutes is how long that testimony

JURY CHARGE

1 took. If you've got some specific thing you want to hear
2 from his testimony you can write that down, we can probably
3 agree on it or pull that up and let you listen to that if
4 what you want to hear was said. Okay. Chances are it was
5 not. But anyway, that's it. But not saying you can't
6 listen to it, I'm just telling you if you want to hear it
7 we're talking 52 minutes and you're probably going to be no
8 better off than you were when you listen to it but that's up
9 to y'all. Y'all can go back at it.

10 (The jury left the courtroom and resumed
11 deliberations.

12 (The jury returned with a verdict.)

13 THE COURT: All right. The jury says they have
14 verdicts. Are y'all ready to receive them?

15 MR. BARFIELD: State is ready.

16 MR. FRICK: Defendant is ready.

17 (The defendant returned to the courtroom.)

18 THE COURT: Mr. Foreman, has the jury reached verdicts
19 on the three matters submitted to you?

20 THE JUROR: We have.

21 THE COURT: If you would hand the executed form to the
22 clerk. I know you've been back there practicing reading it
23 but that's not what we do, we let the clerk read them.

24 THE CLERK: We, the jury, as to indictment number
25 2011-GS-29-1425, murder, unanimously find the defendant,

JURY VERDICT

1 Heyward Rashard Truesdale, guilty. We, the jury, as to
2 indictment number 2011-GS-29-1426, armed robbery,
3 unanimously find the defendant, Heyward Rashard Truesdale,
4 guilty. We, the jury, as to indictment number
5 2011-GS-29-1427, possession of a firearm during the
6 commission of a violent crime, unanimously find the
7 defendant, Heyward Rashard Truesdale, guilty. Signed Robert
8 Smith, foreperson, dated May 16, 2013. Ladies and gentlemen
9 of the jury, if this be your verdict so say you all by the
10 raising of your right hands. Let the record reflect all
11 jurors raised their right hands.

12 THE COURT: Anything else from the State?

13 THE DEFENDANT: Nothing from the State.

14 MR. FRICK: Polling, Your Honor.

15 THE COURT: Okay. Jurors, Mr. Hammond is going to ask
16 you individually was that your verdict and is that your
17 verdict, he's talking about when you read it, not when you
18 went back to start deliberating. Okay.

19 THE CLERK: Mr. Foreman Robert Smith, was this your
20 verdict and is this still your verdict.

21 THE JUROR: Yes, sir.

22 THE CLERK: Crystal Beckham, was this your verdict and
23 is this still your verdict?

24 THE JUROR: Yes, sir.

25 THE COURT: James Little, was this your verdict and is

JURY VERDICT

1 this still your verdict?

2 THE JUROR: Yes, sir.

3 THE CLERK: Sherry Seward, was this your verdict and is

4 this still your verdict?

5 THE JUROR: Yes, sir.

6 THE CLERK: Lisa Naughton, was this your verdict and is

7 this still your verdict?

8 THE JUROR: Yes, sir.

9 THE CLERK: Patricia Hill, was this your verdict and is

10 this still your verdict?

11 THE JUROR: Yes, sir.

12 THE CLERK: Gregory Johnston, was this your verdict and

13 is this still your verdict?

14 THE JUROR: Yes, sir.

15 THE CLERK: April Mathis, was this your verdict and is

16 this still your verdict?

17 THE JUROR: Yes, sir.

18 THE CLERK: Veronica Johnson, was this your verdict and

19 is this still your verdict?

20 THE JUROR: Yes, sir.

21 THE CLERK: Michael Mills, was this your verdict and is

22 this still your verdict?

23 THE JUROR: Yes, sir.

24 THE CLERK: Elixzia Thompson, was this your verdict and

25 is this still your verdict?

JURY VERDICT

1 THE JUROR: Yes, sir.

2 THE CLERK: Heidi Cabatit, was this your verdict and is
3 this still your verdict?

4 THE JUROR: Yes, sir.

5 THE CLERK: Okay jurors. Next phase of the trial is I
6 sentence the gentleman, y'all can hang around and watch if
7 you would like, if you would like to leave you can leave so
8 no pressure on you to stay or no pressure on you to go.

9 MR. BARFIELD: Give me just one second, Your Honor.

10 THE COURT: Mr. Frick, you can make your motion.

11 MR. FRICK: Your Honor, at this time defense would move
12 for a new trial based on the denial of our request for
13 suppression for the identification and for the Court
14 allowing the hearsay evidence against my client and other
15 objections that I have made.

16 THE COURT: All right.

17 MR. FRICK: The other motion that I always make at this
18 point, and I'm still not clear whether it is truly
19 appropriate in criminal cases but I think it is, I ask the
20 Court to set aside the verdict based upon the 13th Juror
21 Doctrine. Don't think there was enough evidence for them to
22 reach the conclusion they reached and would ask you to rule
23 as the 13th juror.

24 THE COURT: Okay. All motions are denied, you can
25 appeal if you like.

SENTENCING HEARING

1 MR. BARFIELD: Your Honor, I'm ready to go forward.
2 I've got to complete sentence sheets but they will be to you
3 before you need them.

4 THE COURT: All right.

5 MR. BARFIELD: Your Honor, as to record I believe
6 Mr. Truesdale is 27 years old. His record is a 2003
7 possession of marijuana first offense, 2003 failure to stop
8 for police or failure to stop for a blue light, that might
9 have been a city or a county court charge, and also had a
10 trespassing in 2004. A breach of the peace in 2004, and
11 then in 2004 he had two counts of burglary second degree, a
12 forgery three counts, and two looks like in 2006, Mr. Frick
13 will correct me, I had the clerk's original records earlier,
14 but it looks like in 2006 he ended up with another burglary
15 second or burglary third and a grand larceny, then he had
16 his probation violated for the prior convictions. I know
17 that he has been convicted of burglaries for two separate
18 series of events.

19 MR. FRICK: And I'm not clear -- I think the solicitor
20 is correct but I'm not clear whether that other indication
21 on the NCIC report is actually a probation violation or
22 other charges, but we have the prior burglary.

23 MR. BARFIELD: If you need further clarification on
24 that I have it.

25 THE COURT: I don't need further clarification.

SENTENCING HEARING

1 MR. BARFIELD: Your Honor, again Mr. Blakeney's
2 brother, Reid and his son, Bob, are here. Mr. Douglas
3 Lewis -- this defendant was not convicted of a crime against
4 Douglas Lewis, Mr. Lewis is not here. I think both Misters
5 Blakeney would like to speak or one of them at least, I
6 would invite either one of them to speak and then I will say
7 some other things in a moment.

8 THE COURT: Okay.

9 MR. BARFIELD: State your name before you start.

10 THE WITNESS: Bob Blakeney, son of Edward Blakeney.
11 And Your Honor, we certainly appreciate this time to see
12 justice served, we ask for your consideration in this as it
13 effects the family and when you decide on your sentence and
14 we appreciate it.

15 THE COURT: Okay. Thanks.

16 THE WITNESS: My name is Reid Blakeney. I would like
17 to thank everyone, the jury, and everyone, the police
18 department, the things that have been done and it sounds
19 like -- or did like it was supposed to be done and I
20 appreciate everyone's participation in what they had to do
21 during this trial, and especially you, Judge. Thank you
22 very much.

23 MR. BARFIELD: Your Honor, Mr. Truesdale, he's 27, he's
24 not as young as others involved in this case. He doesn't
25 have a record of this kind of violence but he's got a record

SENTENCING HEARING

1 that to me just demonstrates he can't obey the law. I
2 understand that he was not the shooter in this case, I
3 understand equities might play into this in your sentence,
4 I'm asking you to give him a life sentence.

5 MR. FRICK: And, Your Honor, of course, I expect the
6 solicitor is going to ask something like that. But, of
7 course, he sought fit to make plea negotiations on the
8 person who admitted to be the shooter in this case and he
9 got a 30 year sentence. I would ask you to go towards the
10 minimum on this, I've explained to my client what that is
11 and I've explained to him that that sentence is a day for
12 day sentence. He also understands that should he get out at
13 some point he would be looking at community supervision,
14 these are strikes, I think it's going to be a total of one
15 on the two strike since they were all at the same time.
16 Your Honor, he is 27, he does have burglaries on his record
17 but I don't think there was anything to indicate that they
18 were violent. Now, one of them may have been statutorily
19 defined as violent but I think they're your common house
20 break-in types. I understand the jury has reached their
21 verdict, not arguing with that, that's not the time and
22 place for that but the evidence clearly shows and I know the
23 Court is aware that Mr. Truesdale is not the person who
24 fired the weapon, the rest of it's an argument for another
25 day so I will preserve that for him. Your Honor, I would

SENTENCING HEARING

1 just ask for whatever leniency and mercy you can show him.
2 He does have family here. I know he has got a brother here,
3 some other folks with him, I didn't know if they wanted to
4 address the Court but if someone would like to speak on
5 Mr. Truesdale's behalf now would be the time to do so.

6 THE WITNESS: My name is Raquel (phonetically)
7 Thompson. I'm speaking on behalf of him because I am his
8 older brother. I do understand that he do have some charges
9 and most of those charges were when he was real young, and
10 as the public defender said that they wasn't as violent.
11 And the solicitor just said he had life, I suggest that he's
12 never done like that to deserve life in prison. But Judge,
13 it's up to you and I understand that you have to do your job
14 and all I've got to say is ask you to do your job and do it
15 fair. Thank you, sir.

16 THE COURT: Okay.

17 MR. FRICK: Your Honor, the only other thing I would
18 tell you at this time is Mr. Truesdale has been in our
19 detention center for the last 605 days, I know he will be
20 credited appropriately on that, I would just ask you to note
21 that on the sentence sheet.

22 THE COURT: Okay. Mr. Truesdale, you have the right to
23 what we call colloquy you can say anything if you would
24 like.

25 MR. FRICK: Can I advise him real quick on that

SENTENCING HEARING

1 situation just for appellate purposes?

2 THE COURT: Yeah, sure.

3 THE DEFENDANT: I want to say, Your Honor, that I don't
4 feel like I am guilty of anything because I know that I
5 didn't do what they say I did. I just ask you to have mercy
6 on me.

7 THE COURT: Well, of course, you know, you have the
8 right not to testify, but if you testified you didn't do it
9 you have the better chance of them finding you not guilty if
10 you didn't do it chances are. Have we got the sentencing
11 sheets?

12 MR. BARFIELD: I'm finishing up the last one, still
13 completing the firearm charge.

14 THE COURT: What's your educational background,
15 Mr. Truesdale?

16 THE DEFENDANT: Eighth grade.

17 THE COURT: See, after all of the evidence was in the,
18 jury doesn't know that, they offered you to drop it down to
19 25 years, so with 34 witnesses testifying and not one grain
20 of evidence in your favor other than the arguments by
21 inference you've got no chance, and then you elect not to
22 testify, of course, it solidifies that. That's why I
23 wondered if you had any educational background at all. Of
24 course, 25 years at 85 percent is much better than a minimum
25 30 to life serving day for day. But I don't generally

SENTENCING HEARING

1 penalize people, it's a horrible crime but the shooter got
2 thirty years and he only had to serve 85 percent. I
3 sentence you to 30 years on those two charges, everything is
4 concurrent. You've got to serve it day for day. I don't
5 usually penalize people for going on to trial when they turn
6 down an offer less than but it's probably not equity. If
7 you pled you would have got 25, you go through trial to get
8 life is not quite fair when the person that shot Mr.
9 Blakeney six times only gets 30 and doesn't have to serve
10 that, so that's what I'll do. And, of course, the gun
11 charge doesn't really even matter, it's just five years
12 concurrent. We've even got a case that says you can't add
13 time to a murder charge such as carrying a weapon since it
14 carries up to life anyway. Have you got any questions?

15 THE DEFENDANT: No, sir.

16 THE COURT: What I don't understand, Mr. Blakeney would
17 have given all of the money to the community, he didn't have
18 to be killed, he would have bought radios or anything.

19 (End of trial proceedings.)

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1 I, the undersigned, Michael C. Watkins, Official Court
2 Reporter for the Sixth Judicial Circuit of the State of South
3 Carolina, do hereby certify that the foregoing is a true,
4 accurate and complete transcript of the proceedings had and
5 evidence introduced in the trial of the captioned case,
6 relative to appeal, in the Court of General Sessions for
7 Lancaster County, South Carolina, on the 13th-16th days of
8 May, 2013.

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

11

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September 1, 2013

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Michael C. Watkins
Court Reporter

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FORM 5

STATE OF SOUTH CAROLINA)

COUNTY OF Lancaster)Keyward Rashard Truesdale SCDC#313568)
Full name and prison number (if any) of Applicant.)

v.)

State of South Carolina)

IN THE COURT OF COMMON PLEAS

2014 CP 29 01639

APPLICATION FOR

POST-CONVICTION RELIEF

FILED
OFFICE OF CLERK
OF COURT
2014 DEC 10
CLERK OF COURT
LANCASTER, SC
12:42**INSTRUCTIONS - READ CAREFULLY**

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay fees and costs of the proceedings. When the application is completed the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Lee C.I
2. Name and location of Court which imposed sentence Lancaster
3. Name(s) of co-defendant(s) (if any) Shaun McCrorey, Jerel Davis, Prayon Truesdale
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2011-GS-29-1427
 - (b) 2011-GS-29-1426
 - (c) 2011-GS-29-1425
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) May 16, 2013 / 30 years (Murder)
 - (b) May 16, 2013 / (Armed Robbery) 30 years

Revised 3/2003

- (c) May 16, 2013 (Weapon) 5 years
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty N/A
- (b) after a plea of not guilty ✓
- (c) after a plea of nolo contendere N/A
7. Did you appeal from the judgment of conviction or the imposition of sentence?
Yes
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. S.C. Court of appeals
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. Dismissed
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. November 5, 2014
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. Opinion NO. 2014 - UR - 372
- ii. _____
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) N/A
- (b) _____
- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

- (a) See attachment to Pg. 3
- (b) _____
- (c) _____
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) See attachment to Pg. 3
- (b) _____
- (c) _____
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? NO
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? NO
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? NO
- (d) any other petitions, motions or applications in this or any other Court? NO
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- i. N/A
- ii. _____
- iii. _____
- iv. _____
- (b) the name and location of the Court in which each was filed:
- i. N/A
- ii. _____
- iii. _____
- iv. _____
- (c) the disposition thereof:
- i. N/A
- ii. _____
- iii. _____

- iv. _____
- (d) the date of each such disposition:
 - i. N/A
 - ii. _____
 - iii. _____
 - iv. _____
- (e) if known, citations of any written opinions or orders entered pursuant to each such disposition:
 - i. N/A
 - ii. _____
 - iii. _____
 - iv. _____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

NO

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

i. N/A

ii. _____

iii. _____

(b) the proceedings in which each ground was raised:

i. N/A

ii. _____

iii. _____

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

(a) N/A

(b) _____

(c) _____

17. Were you represented by an attorney at any time during the course of:

- (a) your arraignment and plea? Yes
- (b) your trial, if any? Yes
- (c) your sentencing? Yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? Yes
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? Yes
18. If you answered "yes" to one or more parts of (17), list:
- (a) the name and address of each attorney who represented you:
- i. William Frick - PO Box 1809 Lancaster, SC 29721
- ii. Wanda H. Carter - 1330 Lady St, Suite 401
- iii. Columbia, SC 29201
- (b) the proceedings at which each such attorney represented you:
- i. Trial and Sentencing
- ii. Direct appeal
- iii. _____
19. State clearly the relief you seek in filing this application:
New Trial
20. Are you now under sentence from any other court that you have not challenged?
NO

STATE OF SOUTH CAROLINA)

County of)

VERIFICATION

I, , being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Maynard Proctor

SWORN to and subscribed before me this 21
day of Nov, 2014.

Debra Sines (L.S.)
Notary Public

My Commission Expires: 11-4-2015

**APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

I, , hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Heyward M. M. M.

Applicant

SWORN or affirmed to and subscribed before me this

21 day of Nov, 2014.

Debra Jones
Notary Public

My Commission Expires: 11-4-2015

10. a) Ineffective assistance of Counsel
 b) Conflict of interest
 c) 14th amendment - Due Process and Equal Protection
11. a) Counsel was ineffective for failing to object to the Presiding of Judge Ernest Kinard.
 Counsel was ineffective for failing to request a Competency hearing.
 Counsel was ineffective for failing to present mitigating evidence related to defendant's social history and educational background.
 Counsel was ineffective for advising defendant to not testify ~~in~~ in his own behalf.
 Counsel was ineffective for not doing a proper investigation and not spending more time with client.
- b) A conflict of interest exists based on Judge's familiarity with victim and close relationship to the victim's family. Prejudice by Judge can be shown in denial of all of attorney's motions and objections. (Pg. 621 L. 12-23)
- c) Defendant's Due Process and equal protection rights were violated based on the fact that defendant was solely found guilty on the accomplice liability doctrine, but was charged with a higher violation (murder) than his co-defendant, who was the principal, and charged with the lesser violation of Voluntary manslaughter. It is a contradiction of law to claim or state that two people are acting in concert, and are thus guilty of the same crime, but to charge each with two separate and different offenses. The jury should have at least received the option of charging the defendant with the lesser offense of Voluntary manslaughter.

STATE OF SOUTH CAROLINA
COUNTY OF LANCASTER

IN THE COURT OF COMMON PLEAS
SIXTH JUDICIAL CIRCUIT

Heyward R. Truesdale, #313568,

2015-CP-29-1639

Applicant,

v.

RETURN

State of South Carolina,

Respondent.

In response to the post-conviction relief application filed on December 10, 2014, the Respondent would show this Court:

I.

The Applicant is incarcerated with the South Carolina Department of Corrections pursuant to the Lancaster County Clerk of Court's orders of commitment. The Applicant was indicted at the December 2011 term of the Lancaster County Grand Jury for murder (2011-GS-29-1425), armed robbery (2011-GS-29-1426), and possession or display of a firearm or knife during commission of a violent crime (2011-GS-29-1427). William Frick, Esquire, represented him.

Applicant proceeded to a jury trial pursuant to which he was found guilty as indicted. On May 16, 2013, the Honorable J. Ernest Kinard, Jr., sentenced the Applicant to concurrent terms of five years imprisonment for weapon possession and thirty years imprisonment for armed robbery and murder.

A notice of appeal was filed on Applicant's behalf and an appeal was perfected by Wanda H. Carer, Esquire. The South Carolina Court of Appeals affirmed the Applicant's conviction. State v. Truesdale. 2014-UP-1372 (filed November 5, 2014). The Remittitur was

issued on November 21, 2014.

II.

In his application for post-conviction relief the Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. Ineffective Assistance of Counsel
 - a. Failure to object to the presiding judge based on a conflict of interest.
 - b. Failure to request a competency hearing.
 - c. Due Process violations.

For the purpose of this Return, the Respondent incorporates the Clerk of Court records, and the South Carolina Department of Corrections' records, and the Record on Appeal. The Respondent reserves the right to amend this Return upon receipt of any relevant materials.

III.

The Respondent asserts that the Applicant's allegation of ineffective assistance of trial counsel is without merit. The Respondent also asserts that the Applicant's attorney rendered effective assistance well within the standard of reasonableness within professional norms for a criminal defense attorney.

A two-pronged test is used in evaluating allegations of ineffective assistance of counsel. First, the applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its reasonableness under professional norms. Cherry v. State, 300 S.C. at 117, 386 S.E.2d at 625, (citing Strickland v. Washington). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland v. Washington. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

Second, counsel's deficient performance must have prejudiced the Applicant such that there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different. Id. A reasonable probability is a probability sufficient to undermine confidence in the outcome of the trial. Johnson v. State, 325 S.C. 182, 480 S.E.2d 733 (1997). In other words, where ineffective assistance of counsel is alleged as a ground for relief, the Petitioner must prove that counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result. Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052, 2064 (1984); Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985).

The Respondent submits that the Applicant cannot satisfy either requirement of the Strickland v. Washington test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that cannot be conclusively refuted by the record. The Respondent requests an evidentiary hearing to fully resolve this issue. Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

Each and every allegation contained within the application not hereinbefore either expressly admitted, qualified or explained is hereby denied.

V.

WHEREFORE, the Respondent requests an evidentiary hearing solely for the purpose of determining whether the Applicant's trial counsel was ineffective and whether the Applicant's appellate counsel was ineffective.

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

KAREN C. RATIGAN
Senior Assistant Deputy Attorney General

J. CROOM HUNTER
Assistant Attorney General

By: 
ATTORNEYS FOR RESPONDENT

Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211
Telephone: (803) 734-3737

July 7th, 2015.

1 STATE OF SOUTH CAROLINA

2 -----x

3 HEYWARD R. TRUESDALE,

4 Petitioner,

5 Case No.

6 -against-

2014-CP-29-1639

7 STATE,

8 Respondent.

9 -----x

10 August 13, 2015

11 Lancaster, S.C.

12

13 B E F O R E:

14 HONORABLE R. KNOX MCMAHON, Judge.

15

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

17 NATHAN SHELDON, Esquire

18 Attorney for the Plaintiff

19

20 JUSTIN HUNTER, Esquire

21 Attorney for the Respondent

22

23 Aileen Butler

24 Official Court Reporter

25

1		<u>I N D E X.</u>			
2	WITNESS	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
3	H. Truesdale				
4	Mr. Sheldon	3			
5	Mr. Hunter		14		
6	W. Frick				
7	Mr. Sheldon	18		47	
8	Mr. Hunter		39		
9					
10					
11	Lynn West				
12	Mr. Bean	14		27	
13	Mr. Campbell			19	
14	Mr. Thigpin			24	
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EXHIBITSNO.DESCRIPTIONI.D.EVD.

NO EXHIBITS ENTERED

1 THE COURT: All right, Mr. Hunter.

2 MR. HUNTER: May it please the Court, this is case
3 number 2015-CP-29-1639, Heyward Truesdale, versus the
4 Stat3 of South Carolina. Mr. Truesdale is currently
5 incarcerated with SCDC pursuant to the Lancaster
6 County Clerk's orders. He was in indicted December
7 2011 term for murder, that was 2011-GS-29-1425, armed
8 robbery 2011-GS-29-1426 and possession or display of a
9 firearm or knife during the commission of a violent
10 crime, 2011-GS-29-1427.

11 He was represented by William Frick. Mr. Truesdale
12 proceed to a jury trial pursuant to which he was found
13 guilty. He was in indicted on May 16, 2013 the
14 Honorable J. Earnest Kinard Jr. sentenced Mr.
15 Truesdale to concurrent terms of five years
16 imprisonment for weapon and possession and thirty
17 years imprisonment for armed robbery and murder.

18 A Notice of Appeal was filed on Mr. Truesdale's
19 behalf Wanda Carver. The South Carolina Court of
20 Appeals affirms the convictions that was State v
21 Truesdale 2014-UP-1372 filed on November 5, 2014. The
22 remitter was sent on November 21, 2014. Mr. Truesdale
23 filed this application on December 10, 2014. He is
24 represented here today by Mr. Sheldon and the State is
25 ready to proceed.

1 THE COURT: Thank you. Thank you, Mr. Hunter.
2 Mr. Sheldon.

3 MR. SHELTON: Thank you, Your Honor. Please the
4 Court. Applicant is also ready to proceed. What you
5 heard from the Attorney General's office is an
6 accurate statement of the procedural history. Mr.
7 Truesdale is seeking a new trial today based on
8 ineffective assistance of counsel and if we are ready
9 to begin we would call Heyward Truesdale to the stand.

10 THE COURT: All right, Mr. Truesdale, if you come
11 around and be sworn.

12 HEYWARD TRUESDALE, called as a witness, having been
13 duly sworn by the clerk, was examined and testified as
14 follows:

15 DIRECT EXAMINATION

16 BY MR. SHELTON:

17 Q Mr. Truesdale are you ready to begin?

18 A Yes, sir.

19 Q Please state your name for the record?

20 A Heyward Truesdale.

21 Q And you're currently in South Carolina Department of
22 Corrections, is that right?

23 A Yes, sir.

24 Q You're serving time on several charges but most serious
25 of which would be that armed robbery and that murder, is that

1 right?

2 A Yes, sir.

3 Q And Judge Kinard sentenced you to thirty years on that
4 murder?

5 A Yes, sir.

6 Q You understand that today in court is your post
7 conviction relief hearing?

8 A Yes.

9 Q And you are alleging ineffective assistance of counsel
10 by Mr. Frick?

11 A Yes, sir.

12 Q And you understand that the remedy today should the
13 Court grant your PCR relief is that your convictions would
14 essentially be vacated and you would start this over basically
15 from the very beginning?

16 A Yes, sir.

17 Q Okay. That there is no sentence reduction possible or
18 anything like that?

19 A Yes, sir.

20 Q Mr. Truesdale, I want to begin talking to you today
21 about this case. When did this murder happen?

22 A September the 21, 2011.

23 Q And there was no allegations at trial, was there, that
24 you were the actual shooter in this case, right?

25 A No, sir.

1 Q So the State proceeded on essentially what is known as
2 the hand of one hand, the hand of all theory; is that right?

3 A Yes, sir.

4 Q When did Mr. Frick first get involved in this case?

5 A When I had got locked up.

6 Q And how quickly after you got locked up were you able
7 to meet with Mr. Frick?

8 A It been like a couple weeks or months.

9 Q Okay. How many times through the course -- when did
10 this case end going to trial?

11 A May the 16th. Something like that.

12 Q Of what year?

13 A Of 2013. 2013.

14 Q So approximately maybe 18 months or so after? A little
15 more than 18 months after the crime had happened?

16 A Yes, sir.

17 Q Were you incarcerated that entire time?

18 A Yes, sir.

19 Q In the Lancaster County Jail?

20 A Yes, sir.

21 Q How many times during that 19 months did you have
22 opportunity to meet with Mr. Frick and discuss your case?

23 A Twice. One or twice.

24 Q In the whole time you were there he only came over a
25 couple times?

1 A Yes, sir.

2 Q Did you send letters to him? Did you try to get in
3 touch with him?

4 A Yes, sir.

5 Q Did all those letters get answered or not really?

6 A Not really sir.

7 Q What kinds of things would you all discuss?

8 A We discussed about my time and my charges.

9 Q Okay, let's back up. What do you mean about your time?

10 A He had came to me and told me they offerred me 20 years
11 for armed robbery and a gun and they were going to dismiss the
12 murder charge because I didn't kill no one. I got the plea
13 sheet right with me to sir.

14 Q Did you tell him that you wanted to take take deal?

15 A I was going to plead to it, but he told me I didn't
16 need to take the plea because he could beat it in trial.

17 Q So, did you want to take the 20-year plea?

18 A Yes. Yes, sir.

19 Q And what conversation basically talked you out of that?
20 What was that conversation?

21 A Because they didn't have no evidence on. Mr. Frick
22 said he could beat the case. They didn't have nothing on me.

23 Q Did Mr. Frick go over all the evidence with you?

24 A Yes, sir.

25 Q Okay. So he showed you everything that the State had,

1 is that right?

2 A They didn't have nothing on me.

3 Q What kind of -- do you know what kind of investigation
4 was done? Was there an investigator hired on this case?

5 A No investigation was done. They didn't investigate me.
6 The only person I had talked to from the Lancaster County
7 Detention Center was Investigator -- Investigator Howell.
8 Howell something, that's the investigator I had talked to. It
9 was when I first got there when they locked me up that was the
10 only time. That was the only time.

11 Q So you didn't meet with any investigators from the
12 public defender's office?

13 A Oh, no. No, sir.

14 Q Did you and Mr. Frick discuss the difference -- what
15 would happen if you went to trial as opposed to a plea?

16 A Yes, sir.

17 Q At some point in time did the co-defendant, the actual
18 shooter in this case, I believe Mr. Davis, is that his name?

19 A Yes, sir.

20 Q And he ends up pleading to a voluntarily manslaughter
21 charge doesn't, he?

22 A Yes, sir.

23 Q Did Mr. Frick explain to you that even though the
24 shooter plead to voluntarily manslaughter that you could still
25 be convicted of murder?

1 A No, sir.

2 Q What was your understanding of what would happen if you
3 went to trial?

4 A He told me if I went to trial and they were to found me
5 guilty I would get thirty years.

6 Q But you did get thirty years?

7 A Yes, sir.

8 Q So, what did you think you were getting thirty years
9 too if you went to trial?

10 A When I went to trial I thought -- I thought that I was
11 going to beat the case because Frick said they didn't have
12 nothing on me so that is why I went to trial because he told me
13 that I could beat the case because they didn't have no evidence
14 on me but hearsay.

15 Q But when you went to trial you understood that you were
16 going to trial on a murder charge is that right?

17 A Yes, sir, I did not murder no one so how could they
18 find me guilty.

19 Q And we will get to the trial in a minute. What other
20 kinds of conversations did you all have pretrial you and Mr.
21 Frick before the trial began?

22 A The only thing we had had then.

23 Q Did you -- did you and Mr. Frick discuss potential
24 witnesses that you would call at trial?

25 A No, sir.

1 Q Did you want to call any witnesses at trial?

2 A No, sir. I didn't have no witness. The only witness
3 was it was the eye-witness. The eye-witness was already there
4 in the case so I didn't need no witness, because they told me I
5 had nothing to do with it.

6 Q How many co-defendants were in this case?

7 A It was me, Prayon Truesdale, Jeral Davis and Shaun
8 McCorey.

9 Q And do you know what each of those co-defendants was
10 charged with?

11 A Jerel Davis pleaded to murder armed, robbery and
12 attempted murder and some other charges, and they found me
13 guilty of the hand of one, hands of all.

14 Q I understands that.

15 A And Shaun McCrorey Mike pleaded to before and after the
16 fact of an armed robbery.

17 Q What was Shaun McCrorey originally charged with? Was
18 he charged with murder at some point?

19 A Yes, sir,

20 Q And what Prayon? Prayon is your sister?

21 A Everybody been charged with the same thing, sir.

22 Q So all three co-defendants were charged with murder as
23 well?

24 A Yes, sir.

25 Q Okay. But did any of the co-defendants actually end up

1 pleading guilty to murder?

2 A Yes, sir.

3 Q No, sir. To murder, not to manslaughter?

4 A Jerel Davis is the only one sir.

5 Q So did Prayon Truesdale get in any trouble in this
6 case?

7 A No, sir.

8 Q And how much time did Shawn McCrorey get?

9 A He got 15 years sir.

10 Q Let's talk about the trial. What -- did you want Judge
11 Kinard to be recused from this case?

12 A Yes, sir.

13 Q Did you explain that to Mr. Frick?

14 A Mr. Frick, he asked me what did I want to do and I told
15 him you're my lawyer sir. I don't have no degree in no law, no
16 law work.

17 Q But one your big grievances in this case is that Mr.
18 Frick was ineffective because he didn't have Judge Kinard
19 recused, right?

20 A Yes, sir.

21 MR. SHELDON: And judge, just note that the
22 transcript -- obviously at the very beginning of the
23 transcript there is some discussion over where Judge
24 Kinard offers to recuse himself if they choose too.
25 And I will just let the Court glance at that if he

1 wants to, but it is a fact that is not in dispute I
2 don't think that he offered to recuse himself.

3 Q Mr. Truesdale, so you left that decision completely up
4 to your attorney, is that right?

5 A Yes, sir.

6 Q But today you are saying to the Court that you think
7 that was an ineffective decision on his part?

8 A Yes, sir.

9 Q How come?

10 A Because he got the degree in law and he knew that man
11 was acquainted with the victim's family and the judge told him
12 that he can go ahead and object to this, but he didn't object to
13 it. If he would have objected to it I would never be here today
14 sir.

15 Q Okay, so you think that had Mr. Frick actually recused
16 Judge Kinard that the outcome of this case would have been
17 different?

18 A Yes, sir,

19 Q And Judge Kinard knew is it the victim's family?

20 A Yes, sir. I got it in black and white sir.

21 Q What else did Mr. Frick could have done differently at
22 trial during the course of the trial?

23 A He could have -- he could have performed more better
24 then what he did, sir.

25 Q What specific areas do you think he was deficient in

1 his performance?

2 A His performance was total ineffective because when the
3 judge told him to recuse himself he should have already did
4 that.

5 Q Okay. So moving past the recusal of the judge. During
6 the actual trial -- let me fast forward to the end of the trial.
7 Did you and Mr. Frick have a discussion over whether or not you
8 were going to testify in this case?

9 A No, sir. He told me I didn't need to testify because
10 that they would bring up my background history, but I don't have
11 no violent crimes on my record, sir.

12 Q Did he explain to you that the decision whether or not
13 to testify was your decision?

14 A No, sir.

15 Q What did he explain to you?

16 A He just told me that I don't need to testify. That's
17 what he told me. When the judge told me asked me do I want to
18 get on the stand and testify Mr. Frick said I didn't need too
19 because they will bring up all of my background records.

20 Q Where did that conversation take place?

21 A When the judge asked me do I want to get on the stand,
22 sir.

23 Q So if you were granted a new trial you believe that
24 your testimony would help this case?

25 A Yes, sir.

1 Q And the Court heard -- the jury heard from all three
2 co-defendants in this case?

3 A Yes, sir.

4 Q And they never -- the State never really was able to
5 prove that you had anything to do with shooting this man did
6 they?

7 A No, sir.

8 Q Did Mr. Frick explain to you prior to trial the concept
9 of hand of one hand of all and accomplice liability and things
10 like that?

11 A No, sir.

12 Q What was your understanding of what the State had to
13 prove in order to convict you of murder?

14 A I thought they got to have evidence that I committed
15 this crime, but they didn't have nothing so therefore I went to
16 trial.

17 Q So Mr. Frick and you never had a conversation that
18 people that are present at a scene can potentially be convicted
19 of murder?

20 A No, sir.

21 Q Okay. Had you known that under the theory of the hand
22 of one hand, hand of all that you could be convicted of murder
23 would you have gone to trial?

24 A No, sir.

25 Q Would you have taken the plea offer?

1 A Yeah. Yes, sir.

2 Q And you and Mr. Frick never discussed that, is that
3 right?

4 A No, sir.

5 Q Are there any other issues that you had with Mr. Frick
6 during the trial?

7 A No, sir.

8 Q Okay.

9 MR. SHELDON: Your Honor, I don't have any more
10 questions for this witness.

11 THE COURT: Thank you. Thank you, Mr. Sheldon.
12 Mr. Hunter.

13 MR. HUNTER: Thank you, Your Honor.

14 CROSS EXAMINATION

15 BY MR. HUNTER:

16 Q Good morning Mr. Truesdale.

17 A Good morning, sir.

18 Q I just want to clear this up. You are not denying that
19 you were present when Mr. Blakeney was shot, correct?

20 A No, sir. I was there.

21 Q Let's kind of hash this out a little bit. Did Mr.
22 Frick explain to you that you had the right to testify?

23 A No, sir, he told me I didn't have too.

24 Q Well, he told you he didn't have too, but did he tell
25 you you could testify if you wanted too?

1 A No, sir.

2 Q Did you tell him you wanted to testify?

3 A I didn't have a chance to tell him that sir when he
4 said that they are going to bring up my background history and I
5 had put everything in his hand because I am thinking that he was
6 going to protect all of my rights, sir, but he didn't do it.

7 Q So you didn't testify because you didn't want your
8 background brought up, correct?

9 A No. No, sir. He told me that they would bring it up
10 so I just let it be what he wanted it to be because he was my
11 lawyer, sir. I don't know nothing about law.

12 Q But you did have some background charges that could be
13 brought up, right?

14 A Yes, sir, they are not violent sir.

15 Q Are you sure about that?

16 A Yes, sir. Some burglaries and grand larceny and some
17 blue-light, sir.

18 Q Now, did you tell Mr. Frick that you had a problem with
19 Judge Kinard presiding over your case?

20 A No, sir. When he asked me he said what do you want to
21 do? I said, sir, you're my lawyer, sir. So why are you asking
22 me. You're my lawyer. You should know what to do. You got the
23 degree and the law work.

24 Q So you followed his advice?

25 A Yes, sir.

1 Q Okay. And you never told him that you did not want
2 Judge Kinard to be your judge?

3 A I didn't say nothing, sir.

4 Q And you say you didn't plead guilty to the 20-year plea
5 because Mr. Frick told you not too?

6 A Yes, sir.

7 Q He said you all can beat the charges?

8 A Yes, sir.

9 Q Now, did Mr. Frick explain to you that when you went to
10 trial that you would be facing murder and that the minimum
11 sentence of murder was thirty years?

12 A Yes, sir.

13 Q So you knew if you lost the trial you would face a
14 minimum of thirty years?

15 A Yes, sir.

16 Q Okay. And Mr. Frick never explain the hand of one,
17 hand of all to you?

18 A No, sir.

19 MR. HUNTER: No further questions. Thank you.

20 THE COURT: Redirect Mr. Sheldon?

21 MR. SHELDON: Judge, very briefly, Your Honor.

22 REDIRECT EXAMINATION

23 BY MR. SHELDON:

24 Q Mr. Truesdale, when did it become clear to you that
25 Judge Kinard had a potential conflict in the case? When did you

1 learn about that?

2 A You are talking about when that he was acquainted with
3 the family.

4 Q Yes.

5 A When I got the transcript and I was down the road and
6 couple of inmates were helping me with my case.

7 Q Let me back up. When did you and Mr. Frick first
8 discuss the potential that Judge Kinard may need to recuse
9 himself?

10 A The judge stated himself, sir.

11 Q Was that the first time you that had learned of that?

12 A Yes, sir.

13 Q And how long after that did you -- how long was the
14 discussion you with Mr. Frick regarding the recusal of the
15 judge?

16 A None.

17 MR. SHELDON: Your Honor, I do not have any more
18 questions.

19 THE COURT: Recross Mr. Hunter?

20 MR. HUNTER: Nothing, Your Honor.

21 THE COURT: Thank you. Thank you, very much Mr.
22 Truesdale.

23 MR. TRUESDALE: Can I present this to the Court?

24 MR. SHELDON: Judge can I approach the witness,
25 Your Honor?

1 THE COURT: Certainly.

2 MR. SHELDON: Your Honor, we would call William
3 Frick when the Court is ready.

4 THE COURT: All right. Have you resolved the
5 issue of what he wanted to present, Mr. Sheldon.

6 MR. SHELDON: Yes, Your Honor.

7 (WHEREUPON, the witness left the witness stand.)

8 THE COURT: All right, Mr. Frick.

9 WILLIAM FRICK, called as a witness, having been
10 duly sworn by the clerk, was examined and testified as
11 follows:

12 THE COURT: All right, Mr. Sheldon.

13 MR. SHELDON: Thank you, Your Honor. May it
14 please the Court.

15 DIRECT EXAMINATION

16 BY MR. SHELDON:

17 Q Mr. Frick, did you tried this case?

18 A I did.

19 Q How long did the trial last?

20 A Four days. It was a typical about a week long murder
21 trial. I think we went to about a Thursday. Started on Monday.

22 Q Typical Doug Barfield special where every witness --

23 A Typical Doug Barfield. Forty witnesses.

24 Q Everybody he knows gets called?

25 A And everybody that we intended to call too.

1 Q Okay. So you did in intend to call some witness, is
2 that right?

3 A Yes. Mr. Truesdale and I talked about he wanted to
4 make sure Prayon was there and the other people who were on the
5 scene.

6 Q Why did you -- why did you put something into evidence
7 if he called every witness that you wanted? What was so
8 important about the pictures that you put in to lose last
9 argument?

10 A To be perfectly honest right now I do not remember.

11 Q But you do acknowledge that you didn't get last
12 argument in this case?

13 A No. No, clearly if we entered evidence and of course --
14 I don't think like to loss the last argument so I would have had
15 to have some reason but unfortunately I can't tell you today
16 exactly what that was.

17 Q We are going to start with the trial and then back up
18 and talk about the pretrial stuff.

19 A Sure.

20 Q In the trial at the very beginning -- were you aware
21 that there was potential conflict in this case prior to the case
22 being called?

23 A I believe it was the Monday morning of trial. Judge
24 Kinard called me and the solicitor into to chambers to disclose
25 his potential conflict. I think he said he either knew the

1 victim or knew somebody from the victim's family. Might have
2 been the guy's brother, and that they had gone to Clemson and
3 gone to football games at some time.

4 Judge Kinard indicated that it didn't reflect on him,
5 but if we wanted to ask for a recusal he would take it under
6 consideration and may recuse himself. I don't recall if he said
7 he would have absolutely recused himself if we asked for it, but
8 he did make us aware of it. I talked to Mr. Truesdale and I
9 think he is correct. I think he asked me to use my judgement on
10 that. My judgement was if we were going to go to trial on
11 murder and lose Judge Kinard was going to be the judge in front
12 of. I had tried other cases with him and I thought he was going
13 to give us a fair of shake of any judge we could have been in
14 front of.

15 Q And in your opinion did you get a fair shake in this
16 case?

17 A I believe so.

18 Q Okay. So -- and would it be fair to say just because
19 the judge has a huge transcript there that I am sure he don't
20 want to read all of it, that this was solely a hand of one, hand
21 of all case?

22 A Absolutely. Absolutely. Heyward was there and
23 unfortunately standing beside the person that pulled the
24 trigger.

25 Q And is it also fair to say that this was a close case

1 in your mind as to whether there is mere presence or --

2 A Yes.

3 Q -- or murder essentially?

4 A Yes, and that was entirely what our conversations
5 revolved around, were hand of one, hand of all.

6 Q And in close cases wouldn't you agree that it's more
7 important that a lawyer get it right because there's a chance
8 that you could win?

9 A There is also a chance you can loss. But, yes, I mean
10 it is very important. There was no forensic evidence that tied
11 to Mr. Truesdale. There was nobody that said he had a gun at
12 the scene. Unfortunately there were witnesses who said that
13 this group of people were standing around prior to him passing a
14 gun around talking about getting a lick and some of them was
15 saying that it was Mr. Truesdale's idea.

16 Q And again though, the people who are saying it is Mr.
17 Truesdale's idea was co-defendants in this case?

18 A Absolutely correct.

19 Q And those co-defendants actually end up testifying
20 against Mr. Truesdale, right?

21 A That is, correct, and I cross examined them about what
22 their deal was and what the penalty was because that was one of
23 cases that --

24 Q And that's what I want to talk to you about next. You
25 say that you did that, but wouldn't you agree that the case that

1 has come out on that issue allows you a lot of latitude to go in
2 to what those penalties are?

3 A I haven't reviewed that case with you recently, but I'm
4 wouldn't disagree with you.

5 Q Isn't true that murder carries life? Isn't it true
6 that armed robbery carries thirty, things like that, right?

7 A Right.

8 Q And prior to that case it wasn't clear if that was
9 allowed, right?

10 A Right.

11 Q And so the Supreme Court essentially says it is allowed
12 and it's reversible error that you didn't allow it, right? So
13 that case gets remanded doesn't it?

14 A I don't recall the history of that particular case.

15 Q And so -- but in this trial your aware that you are
16 allowed to do that?

17 A It had been my practice in any case I had with
18 Solicitor Barfield we always discussed it before hand, if he had
19 testifying co-defendant that was charged with the same thing as
20 my client I would always go -- we'd always have a discussion.
21 We always had an understanding, that yes, I could discuss what
22 his testifying co-defendant was charged with and what the
23 penalty was.

24 Q Would you agree that the testimony of Shaub McCrorey,
25 your cross-examine essentially said -- your question is, "It's

1 the truth because the solicitor is offering you a deal, isn't
2 he?" And then he answers, "No, sir." And then you go on to say
3 "Do you know what you are facing with all these charges?" Do
4 you agree?

5 A You are reading from the transcript.

6 Q And Mr. McCrory (phonetics) is a co-defendant in this
7 case, right?

8 A Right.

9 Q And his answer is, "Yes, sir." and then you say, "And
10 the solicitor is giving you a 15-year deal?" and he says, "Yes,
11 sir." And then you say it's a lot less than what you are
12 facing, isn't it?" and he says, "Yes, sir."

13 But that's the extent of your examination into what he is
14 actually facing. So you say it has always been your practice to
15 do this but you really didn't do that with Mr. McCrorey, did
16 you?

17 A I would disagree with you. I think 12 people sitting
18 in that box have a pretty good idea what murder carries. I
19 didn't feel it was necessary to go into all the details. I
20 thought I done what I needed to do to discredited him for
21 getting a 15-year deal.

22 Q So you do not think it is more important to lay out the
23 actual sentences of everything he is charged with, is that
24 right?

25 A I think that is strategic issue by whatever attorney is

1 standing there asking the cross examination questions and that
2 is a strategic issue.

3 Q But if that's a strategic issue -- I mean, why -- why
4 is that reversible error in a different case, when it's not
5 allowed to do. So you think that even though it is allowed to
6 do and it's potentially reversible error if it's not -- if it's
7 not -- if the judge doesn't allow it that you don't have to do
8 it?

9 A I am not agreeing it's it reversible error. You are
10 telling me that is what the case says. I'm not on the bench.
11 They didn't asked me what I believe.

12 Q Okay let me ask you this. The Supreme Court obviously
13 found it problematic that attorneys were barred from doing that,
14 right?

15 A Right. And I was for the barred, I asked him.

16 Q But you don't think that getting into the specific
17 sentences in a close case with testifying co-defendants is --
18 you think that is just completely trial strategy?

19 A Yes.

20 Q And facing -- just simply saying it's a lot less than
21 what you are facing is sufficient?

22 A I felt that was all I needed to do in that case.

23 Q Then why later on in the transcript when Jerel Davis is
24 testifying do you go into the actual sentences that he's facing?

25 A Honestly I couldn't tell you what was in my mind at

1 that point, but I did it at that point I guess.

2 Q And Prayon Truesdale who I think if I understand
3 correctly ends up getting cut loose completely in this case?

4 A That is correct..

5 Q You don't get into what she was facing at all?

6 A I can't recall if she had the exact same charges. If
7 she did not I was under the impression that I could not talk
8 about that. I can only talk about co-defendants who had the
9 same charges.

10 I think she was charged as an accessory, but I am just going
11 on recollection there.

12 Q So your understanding of the law is that it's only if
13 they are facing the same charges?

14 A That is my understanding, yes.

15 Q But let me ask you this. Is your understanding of the
16 law is incorrect would that have changed your position on how to
17 cross-examine Miss Truesdale?

18 A Possibly.

19 Q There is another -- there is another player in this
20 case named -- I think another guy gets shot, is it Mr. Lewis?
21 Do you remember him?

22 A Yes.

23 Q So you cross-examine Mr. Lewis, right, and this is
24 essentially the attempted murder victim, right?

25 A Yes.

1 Q He ends up getting shot and taken to the hospital. I
2 think airlifted somewhere and then he gives a statement, is that
3 right?

4 A That's correct.

5 Q And during your cross examination you cross-examine him
6 about what happened at the scene and things like that, but in
7 closing argument you sort of shift the blame to him, don't you,
8 and say he's just as involved in this case as Mr. Truesdale?

9 A I thought that the State's presentation of the case
10 showed that he had just as much reason to be involved in a
11 robbery of the victim as anybody else the State was accusing.

12 Q And in your closing argument you basically lay that out
13 for them on a silver platter?

14 A I did that through cross-examination as well if you
15 look.

16 Q And I am not disagreeing with that. So the question is
17 then when the jury comes back with a question wanting to rehear
18 his testimony why do you not say a word when Judge Kinard says
19 basically you all don't need to rehear that?

20 A It had been my experience that when Judge Kinard says
21 he is going to rule there ain't a whole lot of need to argue
22 with him.

23 Q But Judge Kinard clearly says we can't send it back
24 with. We don't have that technology which is probably true, but
25 you can listen to this in the courtroom, right? And I believe

1 he said that the testimony was about 52 minutes long?

2 A Sounds right.

3 Q But then in the transcript without really any
4 recollection -- without really any clarity -- and again it's
5 Judge Kinard -- I understand -- of what's going on, it just
6 basically ends with, you all probably don't need to hear that.

7 A That sounds like what Judge Kinard would have said.

8 Q But basically, I mean -- and I don't know how long
9 before, but a few hours prior to the jury with this question,
10 you lay out for them a theory of the case that there is just as
11 much incentive for this man to essentially be present and part
12 of this as there is for Mr. Truesdale, right?

13 A Yes.

14 Q And you didn't think that it would be important to
15 maybe argue that a little on the record with Judge Kinard that
16 look, like I laid this out. They need to hear this.

17 A I never found argument about points of law with Judge
18 Kinard to be very fruitful at all.

19 Q But certainly the Circuit Court doesn't have the final
20 say in any of this though, right?

21 A He did that day.

22 Q And so -- so simply because you thought it was going to
23 go nowhere you chose not to do it at all?

24 A Yes.

25 Q Okay. But you made post trial motions, right?

1 A I always make post trial motions.

2 Q And you know they are going to be denied?

3 A Yes.

4 Q But you do it anyway?

5 A Yes.

6 Q Because you want the issue preserved, right?

7 A I believe that also may be reversible error if I do
8 not. Same reason I make a directed verdict motion in every case
9 even though I don't understand why I have too, but if I don't
10 then I didn't do my job.

11 Q What was your -- how many conversations did you have
12 with Mr. Truesdale pretrial?

13 A I can't tell you specifically, but it was well more
14 than two.

15 Q And you represented him this is a long time --

16 A Yes.

17 Q -- from offense?

18 A He is probably accurate. It probably took a good two,
19 three weeks, maybe four. In Lancaster you got somebody who goes
20 to the jail to screen everybody. I think we are familiar with
21 Mr. Truesdale. We get his application and then the cases get
22 assigned. We ask for Discovery and then we try to see if we can
23 get something before we go talk to folks.

24 Q And that's fine. I think you maybe misunderstood my
25 question. There was a long time between the arrest and the

1 trial?

2 A Yes.

3 Q Which is pretty much par for the course in Lancaster?

4 A Very much par for the course. In fact this one moved a
5 little bit quicker than most.

6 Q And so -- what conversation -- at what point did this
7 case get put into a trial posture?

8 A The conversations that Mr. Truesdale and I -- and I
9 hope this answers your question -- but the conversations we had,
10 he was constantly questioning how the State was charging him
11 with murder when they said in their own evidence that he's not
12 the one who shot the victim. We talked about accomplice
13 liability, which is always a difficult concept, as you well
14 know, to try and explain to clients.

15 Q Well, let me stop you there for a minute and kind of
16 get off track a little bit.

17 A Sure.

18 Q What is your normal practice on the explanation of an
19 accomplice liability and the act of one act of all?

20 A In a trial in Lancaster I would look at my client's and
21 say, let me tell you what the solicitor is going to do. He is
22 going to stand in front of that jury and he is going to say I
23 don't care if you're the one that pulled the trigger or not. If
24 you were there you were involved. That means under the law
25 you're just as guilty. That is what the solicitor's

1 presentation is going to be. Hand of one, hand of all is where
2 you are involved in either planning it or the execution of it or
3 afterwards. That's what I try to explain.

4 Q Do you explain -- do you explain that with the concept
5 of mere presence?

6 A Yes, yes, and that is is what we talked about and I did
7 not disagree with Mr. Truesdale's assessment about him being
8 merely present. Unfortunately he was standing beside the person
9 who pulled the trigger. He did leave the scene with with the
10 other people involved. The weapon was in the car. The money
11 was in the car and you had this co-defendant -- testifying
12 co-defendants who blame him for planning it.

13 Q So was it your opinion that essentially this case
14 hinged on the believability of the co-defendants?

15 A Yes, I do.

16 Q So when do you guys -- tell me about the plea
17 discussions in this case?

18 A Plea discussions Mr. Truesdale mentioned. We get a
19 sheet or we get a sheet with a plea offer that says this is what
20 you are charged with. This is what we will allow you to plea
21 too and here is the offer. It's always stapled on the inside of
22 my folder unless I have given it to a client. I think I -- I
23 must have. I believe I gave it to Mr. Truesdale. One, because
24 he testified he had it, but two, I don't have it in my folder.
25 What I do have though is a letter where there was an offer of 20

1 years and I do believe the offer was plead to the armed robbery
2 and the other charge, dismiss the murder case. And Mr.
3 Truesdale empathically told me he was not going to plead to that
4 charge. I do have a letter where he said he would take ten, but
5 he was not taking 20.

6 Q And just to be clear is this --

7 MR. SHELDON: Judge, can I approach the witness?

8 THE COURT: Yes, sir.

9 Q Is that the letter you typically would receive?

10 A Yes, this is the plea offer sheet we would get from the
11 solicitor.

12 Q You mentioned a letter from Mr. Truesdale. What is the
13 date of the letter from Mr. Truesdale that you have?

14 A The one I am specifically talking about is from August
15 28th where he specifically told me wanted to put 12 in the box.
16 Wasn't going to take 20. I'm paraphrasing. He used some
17 colorful language. And then in another, hey, this is Truesdale,
18 I'm not pleading to 20 years. No damn way. And then advised me
19 if I could get a ten-year deal. I would be glad to plead to
20 that. Unfortunately I could not convince Solicitor Barfield.

21 Q So the plea sheet that I just handed you, that white
22 piece of paper, that is the offer from the Lancaster County
23 Solicitor's Office?

24 A And it is dated from August 13th of 12. It has
25 expiration date of September 10th of 2012. I can tell you that

1 offer was probably still available well after that date.

2 Q And so, so that they send the offer on August 13th. He
3 essentially sends you a letter on August 27th. So we are
4 talking literally two weeks later?

5 A Two weeks.

6 Q Saying, you know, a lot of foul language in the letter,
7 but basically saying I don't want the 20 years?

8 A Right.

9 Q And so -- but this case doesn't really go to trial for
10 another year and month after that?

11 A It's August. It goes to trial in May of the next year
12 I believe so.

13 Q So this goes to trial about seven -- I'm sorry. About
14 seven or eight months later, is that right?

15 A Right.

16 Q So even though he doesn't want the 20 years at the
17 outset -- two weeks after receiving the offer -- there's still
18 eight, nine-month gap in between that and when he actually goes
19 to trial?

20 A That's correct, but at no time did Mr. Truesdale tell
21 me he was interested in any 20-year deal.

22 Q So he never mentioned that he would take 20 years?

23 A He empathically said he would not take 20 years. As I
24 recall, despite the expiration date on here, it is my
25 recollection that the solicitor would have taken a plea. Now it

1 might have changed to voluntary. I don't know particularly what
2 the charges were. But if he had been interested if taking the
3 20 years I probably could have gotten it even right up until
4 trial.

5 Q Okay. So the case is put in a trial posture some time
6 in-- well, really from the outset?

7 A Starts in August.

8 Q What investigation did you do in the case?

9 A I would have reviewed the case. This was not --
10 understanding it is a murder case, it was not the most complex
11 fact pattern. I have been doing this for quite a while. Not my
12 first murder case. I did not feel it was necessary to hire an
13 investigator and our office does not have an investigator. We
14 essentially agreed with many of the facts. Mr. Truesdale was
15 present. Someone else shot the victim. These other folks tried
16 to blame him. We were arguing mere presence from the very
17 beginning.

18 Q Tell me about your discussions with him about
19 testifying at trial?

20 A I know we talked about it. I can't remember
21 specifically when we talked about it. It was probably during
22 the trial. It's usually when I have that conversation, and we
23 talked about that he did have the right to testify, did not have
24 to testify. If he didn't testify the jury would be told they
25 couldn't use that against him. I always make it practice in my

1 closing to emphasis the defendant doesn't have to testify. I
2 can't specifically say what I said in this trial. That is my
3 practice, and make sure it is clear the State has the burden.

4 We did have those discussions in Court. It is my
5 recollection that Mr. Truesdale did not feel he needed to
6 testify and I didn't disagree with his assessment. I thought
7 that would be pretty good because on what he had on his record I
8 believe that there was stuff that could have been used again. I
9 think it fit within 609. I can't recall specifically the
10 timeframe but I did believe it fit within 609 and it could have
11 been used to impeach him.

12 Q So you give your opinion as to whether or not he should
13 testify, right? You give your legal opinion?

14 A I think that is part of my job, but it's my client's
15 decision.

16 Q And did he leave that decision up to you?

17 A I would say no, because I don't make that decision.
18 That is my client's decision. They always ask me what do you
19 think I should do, or most. Some are very firm. Mr. Truesdale
20 wanted to know my opinion I told him my opinion I'm sure.

21 Q And we went over this this morning in the transcript.
22 Essentially the State rests late in the day on day three or four
23 or whatever it is, and the judge actually gives you all a night
24 to think about whether or not to testify, is that right?

25 A That's what the transcript states.

1 Q And so -- but you come back the next day and there is
2 really -- you say he is not going to testify, but there is
3 really no examination by the judge, right?

4 A And I don't recall and I'm not going to tell you that
5 there was. I have no idea. The transcript shows whatever
6 occurred. I can't dispute that.

7 Q Well, lets talk about -- you said this isn't your first
8 rodeo and you tried a bunch of murder cases. What's typically,
9 what procedure is followed essentially in camera with no jury
10 present regarding the testimony of a defendant?

11 A Typically, what I always like to do is have the judge
12 ask the State what convictions they intend to use against my
13 client and so we have a review of that.

14 Q But that wasn't done in this case was it?

15 A It appears it is not on the record if we did do it and
16 I don't. It may not have occurred.

17 Q But you wouldn't disagree that it is not in the
18 transcript?

19 A I don't see it in the transcript, no, sir.

20 Q Okay.

21 A And then in front the jury -- well, not in front of the
22 jury, obviously. Bu then my client would be asked by the judge
23 the typical questions of; you are aware this is decision and
24 your decision alone and is this your decision and asked whether
25 you are going to testify or not.

1 Q And you wouldn't disagree that there is none of that in
2 the transcript either, right?

3 A I don't see it in there.

4 Q So basically you have two essentially -- two separate
5 things that you like to have on the record regarding a defendant
6 testifying at trial. One from the prosecutor and one from the
7 defendant himself, right?

8 A Yes.

9 Q And that's because the defendant himself is ultimately
10 the one who has to do the time. Has to make the decision?

11 A That's right, and I want it clear -- if I have my
12 druthers. I want it clear what the State intends to use and
13 have that clarified and have it clear that it's my client's
14 decision and not mine.

15 Q Then why in this case, if that's your general practice
16 and that's what you like, why in this case was none of that
17 done? The State didn't do that. The defendant didn't do that.

18 A I don't know what happened in that situation.
19 Honestly, I don't recall what happened in that situation. It
20 was clear, I will say this, I know it is not on the record is
21 what you are getting at. It was clear there was no doubt in my
22 mind that Mr. Truesdale was not intending to testify.

23 Q But it ought to be on the record don't you agree?

24 A I would prefer it to be on the record.

25 Q Okay. And so -- and going in to you saying it's is

1 clear would you -- it's more clear when it is put on the record,
2 right?

3 A Absolutely. Absolutely.

4 Q And does that go back to you not wanting to argue
5 against Hudge Kinard or was it something that slipped your mind?
6 Is it something that didn't get recorded that was said in open
7 Court?

8 A Honestly, I have no idea. It could have been either of
9 of those. I have no recollection of why it didn't occur if it's
10 not on the record. I do know, again, I do know I had no inkling
11 that Mr. Truesdale was going to testify. Essentially there was
12 no reason for him to was our assessment.

13 Q If there was no reason for him to testify why in
14 sentencing does Judge Kinard state specifically to the defendant
15 -- paraphrasing -- you should have testified?

16 A I can tell you exactly what he said because I remember
17 like it was yesterday and I hung my head when he said it because
18 I know I would be sitting on this stand with this very question.
19 He looked at Mr. Truesdale -- I believe the jury was still
20 sitting in the box, and said you didn't testify. Don't stand a
21 chance if you don't testify. I don't know why he said it. I
22 wish he hadn't.

23 Q So if that's the judges position --

24 THE COURT: Doesn't the Supreme Court say that in
25 State versus Maninng. Wasn't the first Manning case

1 reversed because the late Honorable Tony Harris in
2 advising a defendant says, you don't have to testify.
3 I will tell the jury if you don't testify they can't
4 hold it against you, but you know they are going too.
5 Isn't that what the first Manning case stands for, and
6 a realize you are talking about sentencing with the
7 late Honorable Judge Kinard.

8 MR. SHELDON: Yeah, and I think the Manning case
9 does, but the problem is and I am sure this was raised
10 on appeal. The problem is at sentencing it is neither
11 here nor there at that point.

12 Q But you agree that statement wasn't made actually
13 during the trial, right?

14 A Not during the trial.

15 Q Or to the defendant during the trial?

16 A No.

17 Q But if -- if the -- did you explain to Mr. Truesdale
18 that if the jury doesn't hear from him that while they are going
19 to be instructed that they can't hold it against him that they
20 most likely will?

21 A No. I never tell a client that because I had cases,
22 many cases, where my client didn't testify where my client was
23 acquitted. In fact one of them was a murder in front of Judge
24 Kinard.

25 MR. SHELDON: Judge, could I have just one moment?

1 THE COURT: Of course. Yes, sir.

2 Q And Mr. Frick, just to be clear -- just very briefly.
3 Going back to the discussions about plea versus trial, did Mr.
4 Truesdale ever change his mind about taking 20?

5 A No. He never told me if he did.

6 Q So there is no letters or anything, or conversations
7 where he says I want 20. I don't want to go to trial?

8 A I never saw a single one, and Mr. Truesdale was not one
9 that held his tongue. So if he was interested I have no doubt
10 he would have told me.

11 MR. SHELDON: Thank you. Judge.

12 THE COURT: Thank you. Mr. Hunter.

13 MR. HUNTER: If it please the Court. Mr. Frick if
14 you would bare with me I am going to jump around a lot
15 because of what I was going to cover has already been
16 covered.

17 CROSS EXAMINATION

18 BY MR. HUNTER:

19 Q How long have been practicing law?

20 A About 14 years.

21 Q And in that time how many murder cases have you tried?

22 A At least defended at less half a dozen. I prosecuted
23 the others one. And that's to trial. I am sorry, as far as
24 handling through plea negotiations I have no idea.

25 Q Okay. How did you become involved in this case?

1 A Mr. Truesdale was appointed to me.

2 Q Because you worked at the public defender's office?

3 A That's correct.

4 Q Did you file Rule 5 or Brady motion?

5 A I did.

6 Q Did you have any trouble getting Discovery from the
7 Solicitor?

8 A Absolutely not. In fact he probably gave me two copies.

9 Q Did you review the Discovery materials with Mr.
10 Truesdale?

11 A We did and I provided them to him.

12 Q Did he have any questions about anything?

13 A He had plenty of questions about it.

14 Q Did you explain everything to him?

15 A I did my best. Mr. Truesdale would write a lot of
16 letters. He would inquire about points of law. He was very
17 interested in whether his case had actually been indicted.
18 Tried to do my best to give him everything he wanted.

19 Q You say you met with Mr. Truesdale numerous times?

20 A And I can't put an exact number on it. It was well
21 more than two, but I'm not going to say it was every month.

22 Q Fair amount? Enough?

23 A Enough that I had no issues representing him at trial.

24 Q Did you ever have any concerns that he didn't
25 understand -- or let me rephrase that. Did you have any concerns

1 about his mental capacity as far as understanding?

2 A No, absolutely not.

3 Q And aside from the 20-year plea offer from Solicitor
4 Barfield there were no other offers?

5 A That was the only offer we got. We continued to get to
6 what Mr. Truesdale would have found acceptable, but we had no
7 traction in that.

8 Q Okay. Could you kind of briefly just go over the
9 State's evidence against Mr. Truesdale?

10 A Essentially what they had was the -- Mr. Truesdale
11 being on the scene. I believe literally standing beside the
12 person who pulled out the gun and shot the victim. They had no
13 evidence that Mr. Truesdale had the gun at the time or possessed
14 the gun at that time. Looking back over the DNA this morning
15 there was no DNA that could match anything that was on the gun.
16 No fingerprints as well.

17 Mr. Truesdale was found in the vehicle -- for lack of a
18 better term fled the scene. He was pulled over in Heath Springs
19 in front of a gas station with the other co-defendants. There
20 was some evidence of the crime in the car. I believe a jacket
21 that contained a firearm that I believe is the firearm that was
22 confirmed by SLED testing to be the one that fired the shots.
23 There was cash found in the car, and of course the co-defendants
24 were in the car. And it was this vehicle that was seen leaving
25 the scene. There were statements from these co-defendants that

1 said there had been prior conversation that day about quote
2 hitting a lick, and that Mr. Truesdale was one of the people who
3 kept saying he needed to hit that lick and that indicated that
4 this robbery of the man in Kershaw. That essentially was the
5 State's evidence.

6 Q Okay. And so is it safe to say that you basically
7 based your entire trial strategy on the mere presence defense?

8 A Until we got in to trial and I felt that I could adjust
9 my strategy to try to point the finger at somewhat to the other
10 person who was standing in the driveway because I felt like the
11 way the State had presented their case, they -- they -- that
12 could inject reasonable doubt because he was there. Did the
13 same thing Mr. Truesdale did.

14 Q So is it fair to say that your trial strategy evolved
15 throughout the trial?

16 A As it does in probably every trial, sir.

17 Q Okay. Let's talk about this potential conflict of
18 interest for a minute. Did you after Judge Kinard called you
19 and Doug Barfield into chambers and said that he might be
20 willing to recuse himself, did you discuss that with Mr.
21 Truesdale?

22 A I did.

23 Q And I believe you testified that you thought based on
24 your experience with Judge Kinard that if you were going to try
25 a murder case in front of somebody he was just as good as

1 anybody else to do it?

2 A Yes, and he indicated that while there was a connection
3 it was not significant enough for him to feel either way about
4 the case.

5 Q Is it fair to say he might have known of the victim or
6 the victim's family but there was no close relationship?

7 A They knew each other, but I think he said he had not
8 seen each other for a very long time too. But again, it's just
9 one of those situations where if I am going to try this case --
10 well, we don't want to talk about judge shopping -- this might
11 have been the right judge to be in front of.

12 Q I believe you touched on this, but it was definitely
13 Mr. Truesdale's choice to go to trial? He was not forced?

14 A No. He was the one that adamantly told me that we
15 wanted were going pick 12.

16 Q And you explained to him if he was convicted of murder
17 he would not get less than thirty years?

18 A That is correct, and in fact we went to trial and lost
19 and he got the minimum.

20 Q All right, I believe you testified that you did intend
21 to call some witnesses but then the State called?

22 A That is correct. What we had talked about is all the
23 folks on the scene that we were aware of or at least the folks
24 who had given statements. I think Mr. Truesdale's sister. Some
25 other folks who were all as is typical in a trial with Solicitor

1 Barfield he subpoenaed those folks and I did not have too.

2 Q So it is fair to say with a Solicitor Barfield trial
3 anybody who had anything to do with it would be there?

4 A Whether they were good or bad for the State he would
5 call them.

6 MR. HUNTER: I beg the Court's indulgence.

7 THE COURT: Yes, sir.

8 Q Is it fair to say that your cross-examination of the
9 co-defendants strategy there was to try and poke holes in their
10 story?

11 A Poke holes in the story but more to discredit them by
12 talking about the fact that they had been made plea offers when
13 I could do so. Again Ms. Prayon Truesdale I can't recall
14 specifically what she was charged with. If I didn't ask her
15 about the charges it is because I felt I couldn't.

16 Q Do you recall Solicitor Barfield actually telling Judge
17 Kinard that he -- and judge this is on page 470 -- that he
18 didn't believe he had enough to prove that Prayon actually had
19 anything to do with the crime?

20 A I do recall that.

21 Q Now let's see. Whether or not the defendants -- or Mr.
22 Truesdale's intention to testify is on the record, did you have
23 any doubt in your mind that he intended not to testify?

24 A No.

25 Q And I believe he said that he told you -- let me

1 rephrase that. I believe Mr. Truesdale testified earlier that
2 you told him not to plead. Did you ever tell him not to take
3 the plea?

4 A No, I probably did quite the opposite. I have grave
5 concerns when I have hand of one, hand of all. Particularly
6 when the offer is to dismiss the murder charge. So I am sure we
7 had some rather spirited conversations.

8 Mr. Truesdale could hold his own in a discussion and I know
9 that we would have some good discussions at the detention
10 center.

11 Q And in fact the plea offer was for manslaughter,
12 correct?

13 A The initial plea offer was for armed robbery and
14 possession of weapon during the crime of violence and to dismiss
15 the murder charge. I think it as it evolved along as we got
16 past that date that I don't know if it was really just a drop
17 deadline, it seems like the solicitor wanted to get a little bit
18 more out of it, but it still would have been 20.

19 Q And I may have misspoke about the manslaughter. I
20 believe you testified there was no need for a private
21 investigator. The facts were pretty straight forward?

22 A I didn't feel because in review of the case like I said
23 it's a murder case, but it was not a factually complicated case.
24 Mr. Truesdale just unfortunately was standing in the wrong spot
25 at the wrong time.

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

2 THE COURT: Yes, sir.

3 Q I may have already asked, but you did explain hand of
4 one, hand of all numerous times to Mr. Truesdale?

5 A That is the bulk of the conversations that we had and
6 the letters that he wrote me.

7 Q I believe Mr. Sheldon asked you about putting in a
8 couple of pictures into evidence and losing the final argument.
9 Is it fair to say that at the time you did that that was part of
10 your trial strategy?

11 A It would have to be, but I do not recall what those
12 pictures were today.

13 Q But at the time you had a reason that you thought was
14 sufficient?

15 A I very grudgingly give up final argument. So if I did
16 that there was a significance reason why we needed to get those
17 pictures in and the solicitor who had gotten use to my strategy
18 let him do the bulk of my evidence, left those pictures out.

19 Q And as far as cross-examining the co-defendants about
20 the potential time they were facing, didn't Solicitor Barfield
21 actually bring out, you know, the charges were being dropped and
22 what the plea negotiations were for the co-defendants?

23 A It was usually his practice to be very thorough in what
24 his offer was. Sometimes he would actually go in to what the
25 charges carried. I don't recall what he specifically did in

1 this case, but I have no doubt that he was thorough in
2 discussing on direct what his offer was and what he was giving
3 the testifying co-defendants.

4 Q So, it's fair to say that the jury was aware that the
5 co-defendants were also facing time? Significant time?

6 A I don't think there was any doubt.

7 Q And just a final question. With regard to the jury
8 question about the audio of -- I can't remember which witness's
9 testimony to be played -- I believe Mr. Lewis. I believe you
10 testified that you didn't feel there was any benefit in arguing
11 with judge Kinard at that point?

12 A And I can't recall specifically what transpired at that
13 point, but no. I generally found a decision had been made.
14 There wasn't a whole lot of need to discuss it. I don't
15 specifically recall in that case.

16 I do believe if the jury said they wanted to hear it it
17 would have gotten played, but I don't know what happened in this
18 situation.

19 MR. HUNTER: .no further questions.

20 THE COURT: Thank you. Redirect.

21 MR. SHELDON: Just very briefly.

22 REDIRECT EXAMINATION

23 BY MR. SHELDON:

24 Q Mr. Frick, you testified that you had reviewed in I
25 think in your summation of the generic facts in the case that

1 you had reviewed the DNA evidence this morning?

2 A I did.

3 Q At trial in addition to all these -- essentially the
4 co-defendant's statements or testimony, there is also one piece
5 of maybe touch DNA or mixed DNA where Mr. Truesdale's DNA is
6 found on a cigarette butt?

7 A That's correct.

8 Q I want to say the odds were one in five hundred
9 thousand or one in five hundred and seventy thousand.

10 A It is still comported with our case. He was merely
11 present. It was a cigarette butt that was found in the
12 driveway. Was never denied that Mr. Truesdale was there.

13 Q Did you think that may be it would have been beneficial
14 to the jury to hire an expert to explain more about the DNA
15 issues and about how touch DNA works and things like that?

16 A No, because it was not a DNA case.

17 Q Okay. And just going back briefly to the recusal
18 issue, was -- Judge Kinard put a pretty significant amount of
19 things on the record regarding his relationship with the
20 victim's brother and each one of those things was that the
21 victim's brother wife was -- worked for an caterer in Camden and
22 was good friends with Judge Kinard's wife.

23 Did that nod -- did you have the opportunity to go over all
24 of these things in detail with Mr. Truesdale after that was put
25 on the record?

1 A I don't think we did after that was put on the record.
2 Our conversation was about what Judge Kinard had told us.

3 Q And so basically would it be correct to say that you
4 and Mr. Barfield go in chambers and Judge Kinard lays this all
5 out?

6 A Yes.

7 Q And then you go and discuss with your client?

8 A Yes.

9 Q And what was layed out in chambers was everything that
10 was put on the record?

11 A Yes.

12 Q And so it's your position that Mr. Truesdale had all of
13 this information and left the decision up to you?

14 A Yes.

15 MR. SHELDON: Your Honor, I don't have any more
16 questions.

17 THE COURT: Recross Mr. Hunter?

18 MR. HUNTER: Nothing further, Your Honor.

19 THE COURT: Thank you. Thank you Mr. Frick.

20 MR. SHELDON: Your Honor, that's Mr. Truesdale's
21 case. We obviously -- he has filed a petition for
22 PCR. We want to -- for ineffective assistance of
23 counsel asking that you vacate the convictions and
24 grant a new trial.

25 If the Court wants me to make arguments on the

1 record I can. If not we can simply, you know, prepare
2 orders and make arguments that way. But you heard the
3 testimony. You have the transcript. There are a few
4 issues in this case that I think are pivotal;
5 essentially the recusal of the judge issue, the
6 testimony of the co-defendants issues, along with the
7 complete lack of advisement of rights on the record,
8 any mention whatsoever on the record regarding the
9 defendant being able to testify in his own defense.
10 The record is simply absent of any of that.

11 In addition to that, and a few other issues that we
12 discussed regarding pretrial issues, Your Honor. So
13 we think that all of that in accumulation is
14 ineffective assistance of counsel. That had Mr. Frick
15 done a few things differently in trial, a few
16 significant things in trial then the outcome would
17 have been different.

18 THE COURT: Thank you, Mr. Sheldon. Do you have
19 have any witnesses or testimony?

20 MR. HUNTER: No, Your Honor, the State doesn't
21 have any witnesses to present.

22 THE COURT: Anything you like to say in response?

23 MR. HUNTER: Just very briefly, Your Honor. I
24 don't think Mr. Truesdale had met any of the prongs of
25 Stricklin. I don't think he has presented enough

1 evidence that shows Mr. Frick was ineffective and
2 certainly nothing showing prejudice. With regard --
3 just briefly I will touch on the conflict of interest
4 with Judge Kinard. I think you can review the record.
5 It was a very well-tried case. I don't think there is
6 anything that jumps out showing that Judge Kinard had
7 any particular bias against the defendant. In fact
8 Mr. Truesdale was given the minimum sentence, so I
9 certainly don't think there is any prejudice there by
10 having Judge Kinard oversee the case.

11 As far as anything else I think Mr. Frick's
12 testimony is that he reviewed everything with his
13 client and went over it with him and Mr. Truesdale
14 decided to roll the dice and ended up getting
15 convicted. I think Mr. Frick testified he did the
16 best he could. He had strategic reasons for
17 everything, so the State would just ask that you deny
18 the PCR.

19 THE COURT: Thank you.

20 THE COURT: Thirty days Mr. Sheldon, Mr. Hunter on
21 proposed Order. Email them simultaneously to each
22 other and to me.

23 MR. SHELDON: Sure.

24 THE COURT: Thank you. Thank you, very much.

25 END OF TRANSCRIPT

C E R T I F I C A T E

I, the undersigned Aileen Butler, Official Court Reporter for the 16TH Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings in the captioned case, in the Family Court for Spartanburg County, South Carolina, on the 20th day of January, 2011

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

February 29, 2016

Aileen Butler

STATE OF SOUTH CAROLINA
COUNTY OF LANCASTER

Heyward R. Truesdale, #313568,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE SIXTH JUDICIAL CIRCUIT

Case No. 2014-CP-29-1639

ORDER OF DISMISSAL

This matter comes before the Court by way of a post-conviction relief (PCR) application filed on December 10, 2014. Respondent made its return on July 7, 2015. An evidentiary hearing into the matter was convened on August 13, 2015, at the Fairfield County Courthouse. Applicant was present at the hearing and was represented by Nathan Sheldon, Esquire. Respondent was represented by Assistant Attorney General J. Croom Hunter of the South Carolina Attorney General's Office.

PROCEDURAL HISTORY

The Applicant is incarcerated with the South Carolina Department of Corrections pursuant to the Lancaster County Clerk of Court's orders of commitment. The Applicant was indicted at the December 2011 term of the Lancaster County Grand Jury for murder (2011-GS-29-1425), armed robbery (2011-GS-29-1426), and possession or display of a firearm or knife during commission of a violent crime (2011-GS-29-1427). William Frick, Esquire, represented him.

Applicant proceeded to a jury trial pursuant to which he was found guilty as indicted. On May 16, 2013, the Honorable J. Ernest Kinard, Jr., sentenced the Applicant to concurrent terms

of five years imprisonment for weapon possession and thirty years imprisonment for armed robbery and murder.

A notice of appeal was filed on Applicant's behalf and an appeal was perfected by Wanda H. Carer, Esquire. The South Carolina Court of Appeals affirmed the Applicant's conviction. State v. Truesdale, 2014-UP-1372 (filed November 5, 2014). The Remittitur was issued on November 21, 2014.

ALLEGATIONS

At the post-conviction relief hearing, Applicant proceeded to argue his confinement is unlawful based upon the following grounds:

1. Ineffective assistance of counsel.
 - a. Failure to object to a conflict of interest with the presiding judge.
 - b. Failure to request a competency evaluation.
 - c. Due Process violations.

SUMMARY OF TESTIMONY PRESENTED

At the evidentiary hearing, Applicant testified on his own behalf. William P. Frick, Esquire (Counsel) also testified. This Court also had before it a copy of the trial transcript, the Lancaster County Clerk of Court records, the Applicant's South Carolina Department of Corrections records, the PCR application, the appellate records, and the return.

During the evidentiary hearing, Applicant testified that he was represented at trial by William P. Frick (Counsel). Applicant testified he is serving 30 years after being convicted of murder. Applicant testified that he was denied bond and Counsel met with him once or twice in the Lancaster County jail. Applicant testified he sent many letters to Counsel, but Counsel only answered a few. Applicant testified that the solicitor offered him a 20 year plea to armed robbery but Counsel told him not to plead guilty because he could beat the charge. Applicant testified his

codefendant pled guilty to voluntary manslaughter. Applicant testified he did not have any witnesses to testify at his trial. Applicant testified he wanted Judge Kinard to recuse himself from the trial because of Judge Kinard's relationship with the victim's family. However, at the PCR hearing, Applicant admitted that he did not tell Counsel he wanted the trial judge to recuse himself. Applicant claimed Counsel did not go over his right to testify; however, Applicant testified he did not tell Counsel he wanted to testify at his trial. Applicant testified that Counsel never discussed accomplice liability with him. Applicant testified he would not have gone to trial had Counsel explained the hand of one, hand of all. Applicant did not deny that he was present when the victim was shot.

Applicant called Counsel to testify at PCR hearing. Counsel testified the trial lasted 4 days. Counsel testified there were a number of witnesses he intended to call; however, the solicitor called those witnesses during his case in chief. Counsel testified he could not recall the specific reasoning for admitting certain pictures into evidence, which caused him to lose the last argument. However, Counsel did testify that he does not like to lose the last argument, so he had a valid reason for doing what he did at the time. Counsel testified that prior to the trial, Judge Kinard indicated that he would consider recusing himself if the Applicant asked him to do so, based on his knowledge of some members of the victim's family. Counsel testified that Applicant asked him to use his best judgment in deciding whether or not to ask the judge to recuse himself. Counsel testified he believed Judge Kinard was the best judge to try murder cases in front of, so his recusal would likely result in Applicant going to trial before a judge who was known to give harsher sentences and make less favorable rulings. Counsel testified he believed the judge tried the case in a fair and just manner. Counsel testified he believed Applicant had a chance to win at trial because this was a close case. Counsel noted that Applicant was present at



the scene and standing next to the shooter when the victim was killed, but he thought there was a chance of successfully arguing Applicant was merely present. Counsel testified there was no forensic evidence linking Applicant to the murder weapon. However, Counsel testified that he and Applicant had multiple conversations regarding the hand of one, hand of all, so Applicant was well aware of the potential consequences of going to trial. Counsel further testified that Applicant's codefendants testified at trial that it was Applicant's idea to rob and kill the victim. Counsel testified that he cross-examined Applicant's codefendants regarding any potential deals and the sentences they were facing. Counsel testified he believed he did a thorough job of making the jury aware that Applicant's codefendants were likely receiving assistance for their testimony. With regard to his cross-examination of Douglas Lewis, counsel testified he thought that the State's presentation on direct showed that Lewis had just as much reason to rob the victim as Applicant did. Counsel testified that he made objections when he thought they were necessary, but in his experience it was not beneficial to argue with Judge Kinard once he decided to rule. Counsel testified he made a directed verdict motion at the close of the State's case, and he made the appropriate post-trial motions. Counsel testified that he met with Applicant well more than twice. Counsel testified that he explained to Applicant that the solicitor would proceed to trial under a theory of accomplice liability. Counsel reiterated that he explained to Applicant that accomplice liability could mean that Applicant was involved in the planning, execution, or aftermath of the crime. Counsel testified that he had no question Applicant was involved in some way in the victim's murder because of the evidence produced by the State. Counsel testified that he believed the outcome of the trial hinged on the credibility of Applicant's codefendants. Counsel testified that the solicitor did offer Applicant a 20 year plea deal, but Applicant rejected the offer. Counsel testified the offer was dated August 13, 2012, and Applicant sent Counsel a

letter on August 28, 2012, in which he expressed his unwillingness to take the deal. Counsel testified the solicitor likely still would have accepted Applicant's plea up until the trial began. Counsel testified that he felt no reason existed to hire an investigator in this case because his strategy from the beginning was to argue mere presence, which he explained to Applicant. Counsel testified he discussed with Applicant his right to testify, but that Applicant did not feel it was necessary for him to take the stand. Counsel testified Applicant made the decision, and that it was not Counsel's decision to make. Counsel testified that although the trial transcript does not reflect the trial judge advised Applicant of his right to testify, Counsel did go over those rights with Applicant. Counsel testified it was clear to him that Applicant had no intention of taking the stand at any point. Counsel testified that in his professional judgment there was no reason for Applicant to testify, and that the trial judge's comments at Applicant's sentencing regarding his decision not to testify were irrelevant. Furthermore, Counsel noted that in a previous, unrelated murder he tried before Judge Kinard, Counsel succeeded in convincing the jury to acquit his client when that client did not testify at trial.

On cross-examination by Respondent, Counsel testified he has been practicing for 14 years. Counsel testified that he has prosecuted and defended over a half dozen murder trials. Counsel testified he filed Rule 5 and Brady motions, and that he went over discovery with Applicant. Counsel testified he did his best to explain anything that Applicant had a question about, and it did not appear that Applicant had any trouble understanding him. Counsel testified he saw no reason to have Applicant evaluated for any type of mental condition or defect. Counsel testified he could not recall the exact number of times he met with Applicant prior to trial, but he felt he met enough to be prepared for trial. Counsel testified he tried to get Applicant a ten year plea offer, but the only offer ever extended by the solicitor was for twenty years.



Counsel testified that initially his strategy at trial was to argue Applicant's mere presence at the scene; however, as the trial progressed counsel adjusted his strategy to attempt to raise some suspicion in the jury's mind that Douglas Lewis may have been involved, based on his testimony at trial. Counsel reiterated his belief that if Applicant was going to go to trial on the murder charge, it was best to do so in front of Judge Kinard, regardless of his familiarity with some members of the victim's family. Counsel testified that he explained to Applicant that if he was convicted at trial he would face a minimum of 30 years in prison, and that Applicant still wished to proceed, rather than to accept the solicitor's plea offer. Finally, Counsel reiterated that his strategy in cross-examining Applicant's codefendants was to discredit their testimony by making the jury aware that they were likely receiving favorable plea offers based on their testimony.

INEFFECTIVE ASSISTANCE OF COUNSEL

In a post-conviction relief action, the Applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 334 S.E.2d 813.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. 668. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989). The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea



counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, the Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed. 2d 203 (1985).

This Court finds Applicant failed to demonstrate that Counsel's performance was deficient in any way. This Court further finds that Applicant presented no evidence to show any prejudice resulting from Counsel's representation. This Court finds that Counsel met with Applicant an adequate number of times prior to the guilty plea. This Court further finds Counsel obtained discovery from the solicitor and went over it with Applicant. This Court further finds that Counsel thoroughly investigated and prepared Applicant's case. This Court finds Counsel was prepared to present testimony from numerous witnesses, but they were called during the State's case in chief, and Counsel did a satisfactory job cross-examining them.

This Court finds that Applicant waived his allegation that counsel was ineffective for failing to have his mental competency evaluated because Applicant did not present any testimony regarding this allegation at the PCR hearing. However, this Court finds Counsel's testimony credible where he indicated he did not believe there was any need to have Applicant evaluated. See Jeter v. State, 308 S.C. 230, 417 S.E.2d 594 (1992) (counsel may reasonably rely on his own perceptions in deciding if a client is competent to stand trial).



With regard to Applicant's claim that Counsel was ineffective for failing to ask the trial judge to recuse himself, this Court finds Applicant has presented no evidence that a conflict of interest existed, or that the trial judge acted inappropriately or unfairly at any point during Applicant's trial. Additionally, this Court notes that Applicant's testimony reflects he never asked Counsel to move for the trial judge's recusal. This Court notes that Applicant's testimony that he believes the outcome would have been different had the trial judge recused himself is merely speculative.

Despite Applicant's testimony to the contrary, which this Court finds not credible, this Court finds Counsel fully explained the consequences Applicant faced if he was convicted at trial, and that Counsel fully explained accomplice liability to Applicant prior to trial. Furthermore, this Court finds it difficult to believe Applicant's testimony where he claimed Counsel told him not to plead guilty; rather to proceed to trial. This Court finds such testimony not credible. Counsel's testimony clearly reflects that he presented the plea offer to Applicant, and that Applicant wholeheartedly rejected the offer and chose to proceed to trial on his own accord. Additionally, based upon the testimony of Counsel, this court finds Applicant was fully informed of his right to testify, and that he made an informed decision not to take the stand.

This Court finds that Counsel pursued a valid trial strategy in attempting to discredit Applicant's codefendants, as well as attempting to raise some question of whether or not Douglas Lewis was involved in the victim's shooting. This Court notes that just because Counsel's strategy was unsuccessful, it does not mean the strategy was not valid, or that Counsel was ineffective. Strickland requires that trial counsel be given leeway to make reasonable strategic decisions. Where counsel articulates a valid reason for employing certain strategy, such conduct will not be deemed ineffective assistance of counsel. See Roseboro v. State, 308 S.C.



546, 419 S.E.2d 778 (1992).

This Court notes that Applicant was fully aware of the evidence against him, and the State's intention to convict him based on a theory of accomplice liability; however, Applicant made a fully informed decision to roll the dice and proceed to trial. This Court finds Counsel's representation of Applicant and handling of the case were well within the standards required for effective representation, and Applicant's obvious regret that he did not accept the State's plea offer is not sufficient to warrant success on his PCR application.

Accordingly, this Court finds Applicant did not demonstrate any deficiencies in Counsel's representation. This Court finds that because Counsel's representation was well within the range of competence required in criminal cases, Applicant has further failed to make any showing that but for Counsel's alleged deficiencies, the result of Applicant's case would have been any different. Furthermore, this Court finds that even if counsel's performance was shown to be deficient, which Applicant has failed to do, the overwhelming evidence of Applicant's guilt precludes a finding of any prejudice. See Mincey v. State, 314 S.C. 355, 444 S.E.2d 510 (1994).

ALL OTHER ALLEGATIONS

As to any and all allegations that were raised in the application or at the hearing in this matter and not specifically addressed in this order, the Court finds Applicant failed to present sufficient evidence regarding such allegations. Accordingly, the Court finds Applicant has abandoned any such allegations.

CONCLUSION

Based on the foregoing, the Court finds and concludes Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application.

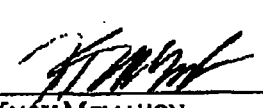
Plea counsel rendered effective assistance in regard to the claims raised by Applicant. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

The Court notes Applicant must file and serve a notice of appeal within thirty (30) days from PCR counsel's receipt of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991), Applicant has a right to appellate counsel's assistance in seeking review of the denial of post-conviction relief. Rule 71.1(g), SCRCP, provides that if Applicant wishes to seek appellate review, PCR counsel must serve and file a notice of appeal on Applicant's behalf. Applicant is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. That the Application for Post-Conviction Relief must be denied and dismissed with prejudice; and
2. The Applicant must be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 10 day of DEC, 2015.

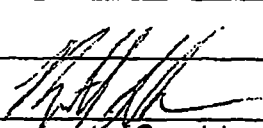


R. KNOX MCMAHON
Presiding Judge
Sixth Judicial Circuit


_____, South Carolina

Frick
DOCKET NO. 2011-GS-29- 1425**The State of South Carolina**
County of Lancaster**COURT OF GENERAL SESSIONS****DECEMBER TERM 2011****ARREST WARRANT NUMBER/DOA**

M741797 (DOA-9-22-11)

ACTION OF GRAND JURY
Foreperson of Grand Jury
Date:

DEC 8 2011

VERDICT**TRUE BILL**Foreperson of Petit Jury
Date:**THE STATE**
vs.**Heyward Rashard Truesdale** 1425-27

J. Davis 1334-36

S. McHenry 1382-84

P. Truesdale 1430-31

Indictment for**Murder**SC Code: §16-3-10
CDR Code: 0116
Class: Felony, EXM

STATE OF SOUTH CAROLINA)

INDICTMENT

COUNTY OF LANCASTER)

At a Court of General Sessions, convened on December 8, 2011, the Grand Jurors of Lancaster County present upon their oath:

MURDER

That Heyward Rashard Truesdale did at [REDACTED] in Lancaster County on or about September 21, 2011, feloniously, willfully, and of his malice aforethought kill and murder Harry Edward Blakeney by shooting the victim numerous times with a small caliber hand gun and the victim did die as the proximate cause thereof then and there, in violation of Section 16-3-10 of the *Code of Laws of South Carolina*.

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



Douglas A. Barfield, Jr., SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF

LANCASTER

STATE

VS.

Heyward Rashard Truesdale

AKA:

Race: B Sex: M Age: 27

DOB: [REDACTED]/85 SS#: [REDACTED]

Address:

City, State, Zip: Kershaw, SC 29067

DL#

SID#

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was TO: Murder

INDICTMENT/CASE#: 2011GS-29-1425

A/W#:

M741797

Date of Offense:

9/21/11

S.C. Code §:

16-3-10

CDR Code #:

0116

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

In violation of § 16-3-10 of the S.C. Code of Laws, bearing CDR Code # 0116

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45(CSC w/minor 1st or Lewd Act)The charge is: ☒ As indicted, ☐ Lesser Included Offense,☐ Defendant Waives Presentment to Grand Jury,

(def.'s initials)

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

ATTEST:

514

Solicitor

SC Bar #

Defendant

Attorney for Defendant

SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center, for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment of \$ _____; plus costs and assessments as applicable; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP _____

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

Payment Terms: _____

Obtain GED ☐☐ Set by SCDPPPS

Attend Voc. Rehab. Or Job Corp. _____

Recipient: _____

May serve W/E beginning

Substance Abuse Counseling ☐

*Fine:

§14-1-206 (Assessments 107.5%)	\$	
§14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$
§14-1-211 (A)(2)(DUI Surcharge)	\$100	\$
§56-5-2995 (DUI Assessment)	\$12	\$
§56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§14-1-212 (Law Enforce. Funding)	\$25	\$
§14-1-213 (Drug Court Surcharge)	\$150	\$
§50-21-114 (BUI Breath Test Fee)	\$50	\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$
3% to County (if paid in installments)	\$	\$
TOTAL	\$	\$

Random Drug/Alcohol Testing ☐

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$ _____ Beginning

\$ _____ Paid to Public Defender Fund

Other: _____

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

Clerk of Court/Deputy Clerk

Court Reporter:

Presiding Judge

Judge Code:

Sentence Date:

708

ARREST WARRANT

M-741797

STATE OF SOUTH CAROLINA

☒ County/☐ Municipality of

Lancaster

THE STATE

11-31064

against

Heyward Rashard Truesdale

Address:

Kershaw, SC 29067-1615

Phone:

SSN:

Sex: M Race: B Height: 6 Weight: 180

DL State: SC DL #:

DOB: /1985 Agency ORI #: SC0290000

Prosecuting Agency: Lancaster County Sheriff

Prosecuting Officer: Clark Crump - 0006

Offense: Murder / Murder

Offense Code: 0116

Code/Ordinance Sec: 16-03-0010, 0020

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

The accused

is to be arrested and brought before me to be
dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to
defendant on Heyward R. Truesdale
9-22-11

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Lancaster County Magistrate
761 Lancaster Bypass East
Lancaster, SC 29720

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/☐ Municipality of

Lancaster

AFFIDAVIT

Personally appeared before me the affiant Clark Crumpbeing duly sworn deposes and says that defendant Heyward Rashard Truesdale
did within this county and state on or about 09/22/2011State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of La
in the following particulars:

DESCRIPTION OF OFFENSE Murder / Murder

I further state that there is probable cause to believe that the defendant
the crime set forth and that probable cause is based on the following facts:THE DEFENDANT, ALONG WITH A CO-DEFENDANT HEYWARD RASHARD T
MALICE AFORETHOUGHT CAUSE THE DEATH OF THE VICTIM, HARRY EDV
VICTIM NUMEROUS TIME WITH A SMALL CALIBER HAND GUN AT
THE VICTIM WAS KILLED DURING AN ARMED ROBE
INVESTIGATORS HAVE OBTAINED A DEFENDANT, CO-DEFENDANT AND W
FROM A DEFENDANT VEHICLE AS WELL AS PHYSICAL EVIDENCE TO CORF
FACTS.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/☐ Municipality of

Lancaster

Affiant's Address 1941 Pageland HLancaster, SC 2972Affiant's Telephone (803)283-3388

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONST

It appearing from the above affidavit that there ar

on or about 9/22/2011 defendant Heyward Rashard Trues

did violate the criminal laws of the State of South Carolina (or ordinance of

☒ County/ ☐ Municipality of Lancaster

DESCRIPTION OF OFFENSE: Murder / Murder

Having found probable cause and the above affiant having sworn before me, you are empowered and di
her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be deliver
soon thereafter as is practicable
Sworn to and subscribed before meon 09/22/2011Signature of Issuing Judge
Jacqueline M. (S.)
Lancaster Central CourtJudge Code: 5974Judge's Address 761 Lancaster ByLancaster, SC 297Judge's Telephone (803)283-3983Issuing Court: ☒ Magistrate

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WITNESSES

Crump - LCSO #11-31064

DOCKET NO. 2011-GS-29-1426

The State of South Carolina

County of Lancaster

COURT OF GENERAL SESSIONS

DECEMBER TERM 2011

ARREST WARRANT NUMBER/DOA

M741796 (DOA 9-22-11)

THE STATE
vs.

ACTION OF GRAND JURY

Heyward Rashard Truesdale 1425-27

J. Davis

1334-36

S. McCrorey

1382-34

P Truesdale

1430-31

Foreperson of Grand Jury

DEC 8 2011

Date:

VERDICT

TRUE BILL

Indictment for

Armed Robbery

SC Code: §16-11-0330(A)

CDR Code: 0139

Class: Felony, A

Foreperson of Petit Jury

Date:

STATE OF SOUTH CAROLINA)
)
COUNTY OF LANCASTER)

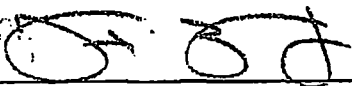
INDICTMENT

At a Court of General Sessions, convened on December 8, 2011, the Grand Jurors of Lancaster County present upon their oath:

ARMED ROBBERY

That Heyward Rashard Truesdale did in Lancaster County on or about September 21, 2011, while armed with a deadly weapon, to wit: a handgun feloniously take and carry away from the person or presence of Harry Edward Blakeney by means of force, threats or intimidation goods or money of Harry Edward Blakeney such goods or monies being described as follows: cash, with the intent to deprive the owner permanently of such property, in violation of § 16-11-0330(A), *Code of Laws of South Carolina, (1976), as amended.*

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



Douglas A. Barfield, Jr., SOLICITOR

371 DEC -8 11 11:00

ARREST WARRANT

M-741796

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Lancaster

THE STATE

11-31064

against

Heyward Rashard Truesdale

Address:

Kershaw, SC 29067-1615

Phone: _____ SSN: _____
 Sex: M Race: B Height: 6 Weight: 180
 DL State: SC DL #: _____
 DOB: 1985 Agency ORI #: SC0290000

Prosecuting Agency: Lancaster County Sheriff

Prosecuting Officer: Clark Crump - 0006

Offense: Robbery / Armed Robbery, robbery while armed
or allegedly armed with a deadly weapon

Offense Code: 0139
 Code/Ordinance Sec: 16-11-0330(A)

This warrant is CERTIFIED FOR SERVICE in the
☐ County/ ☐ Municipality of

The accused

is to be arrested and brought before me to be
 dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to
 defendant Heyward Rashard Truesdale
 on 9/22/2011

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Lancaster County Magistrate
 761 Lancaster Bypass East
 Lancaster, SC 29720

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Lancaster

AFFIDAVIT

Personally appeared before me the affiant Clark Crumpbeing duly sworn deposes and says that defendant Heyward Rashard Truesdale
did within this county and state on or about 09/22/2011State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of L
in the following particulars:

DESCRIPTION OF OFFENSE Robbery / Armed Robbery, robbery while armed or allege

I further state that there is probable cause to believe that the defendant
 the crime set forth and that probable cause is based on the following facts:

THE DEFENDANT, HEYWARD RASHARD TRUESDALE, DID ON 09-22-11 TAKE
 INTENT TO DEPRIVE AN UNDETERMINED AMOUNT OF CASH FROM THE V
 WHILE AT _____ THE DI
 CALIBER HAND GUN AND DEMAND CASH FROM THE VICTIM, WHO WAS F
 ROBBERY AT THE VICTIM'S RESIDENCE. INVESTIGATORS HAVE OBTAIN
 AND WITNESS STATEMENTS, A HAND GUN FROM A DEFENDANT VEHICLE
 TO CORROBORATE THE ABOVE STATED FACTS.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Lancaster

Affiant's Address 1941 Pageland H
Lancaster, SC 297
 Affiant's Telephone (803)283-3388

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONST
 It appearing from the above affidavit that there a

on or about 9/22/2011 defendant Heyward Rashard True
 did violate the criminal laws of the State of South Carolina (or ordinance of
☒ County/ ☐ Municipality of Lancaster

DESCRIPTION OF OFFENSE: Robbery / Armed Robbery, robbery while armed or allege

Having found probable cause and the above affiant having sworn before me, you are empowered and d
 her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be deliver
 soon thereafter as is practicable
 Sworn to and subscribed before me

on 09/22/2011

Jeanelle M. [Signature]
 Signature of Issuing Judge
 Lancaster Central Court

Judge Code: 5974

Judge's Address 761 Lancaster By
Lancaster, SC 297

Judge's Telephone (803)283-3983Issuing Court: ☒ Magistrate

ORIGINAL

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WITNESSES

Crump - LCSO #11-31064

DOCKET NO. 2011-GS-29- 1427

The State of South Carolina**County of Lancaster****COURT OF GENERAL SESSIONS****DECEMBER TERM 2011****ARREST WARRANT NUMBER/DOA**

M741798 (DOA-9-22-11)

THE STATE**vs.****ACTION OF GRAND JURY****Heyward Rashard Truesdale** 1425-27

J. Davis

1384-36

S. McCrory

1382-34

P. Truesdale

1430-31

Foreperson of Grand Jury

Date:

DEC 8 2011**VERDICT****TRUE BILL**

Foreperson of Petit Jury

Date:

Indictment for**Possession or Display of Firearm or
Knife During Commission of a Violent
Crime**

SC Code: § 16-23-490

CDR Code: 0549

Class: Felony, F

STATE OF SOUTH CAROLINA)

INDICTMENT

COUNTY OF LANCASTER)

At a Court of General Sessions, convened on December 8, 2011, the Grand Jurors of Lancaster County present upon their oath:

**POSSESSION OR DISPLAY OF FIREARM OR KNIFE DURING COMMISSION OF A
VIOLENT CRIME**

That Heyward Rashard Truesdale did in Lancaster County on or about September 21, 2011, possess or visibly display a firearm or knife, to wit: a firearm during his/her commission of a violent crime, to wit: Murder and Armed Robbery of Harry Edward Blakeney, in violation of §16-23-490, *Code of Laws of South Carolina, (1976), as amended.*

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



Douglas A. Barfield, Jr., SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF

LANCASTER

STATE

VS.

Heyward Rashard Truesdale

AKA:

Race:

B

Sex:

M

Age:

27

DOB:

/85

SS#:

Address:

City, State, Zip: Kershaw, SC 29067

DL#

SID#

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

INDICTMENT/CASE#: 2011GS-29-1421

A/W#:

M741798

Date of Offense:

9/2/11

S.C. Code §:

16-23-490

CDR Code #:

0549

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS

TO: Possession of Firearm During Commission of Violent Crime

In violation of § 16-23-490 of the S.C. Code of Laws, bearing CDR Code # 0549

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45(CSC w/minor 1st or Lewd Act)The charge is: ☒ As Indicted, ☐ Lesser Included Offense,☐ Defendant Waives Presentation to Grand Jury.

(def.'s initials)

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

ATTEST:

514

Solicitor

SC Bar #

Defendant

Attorney for Defendant

SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center, for a determinate term of 3 ~~days~~ months/years or ☐ under the Youthful Offender Act not to exceed 3 years and/or to pay a fine of \$ 514; provided that upon the service of 3 days/months/years and or payment of \$ 514; plus costs and assessments as applicable; the balance is suspended with probation for 3 months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUPTotal: \$ 514 plus 20% fee: \$ 102.80 0 days/hours Public Service EmploymentPayment Terms: 0☐ Set by SCDPPPSRecipient: 0

*Fine: \$ 514
 §14-1-206 (Assessments 107.5%) \$ 514
 §14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100
 §14-1-211 (A)(2)(DUI Surcharge) \$100 \$ 100
 §56-5-2995 (DUI Assessment) \$12 \$ 12
 §56-1-286 (DUI Breath Test) \$25 \$ 25
 Proviso 47.9 (Public Def/Prob) \$500 \$ 500
 §14-1-212 (Law Enforce. Funding) \$25 \$ 25
 §14-1-213 (Drug Court Surcharge) \$150 \$ 150
 §50-21-114 (BUI Breath Test Fee) \$50 \$ 50
 §56-5-2942(J) (Vehicle Assessment) \$40/ea \$ 40
 Proviso 90.5 (SCJA Surcharge) \$5 \$ 5
 3% to County (if paid in installments) \$ 15.42
 TOTAL \$ 1251.92

Clerk of Court/Deputy Clerk
Court Reporter: Shirley WalkerObtain GED ☐Attend Voc. Rehab. Or Job Corp. 0

May serve W/E beginning

Substance Abuse Counseling ☐Random Drug/Alcohol Testing ☐

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$ 0 Beginning 0\$ 0 Paid to Public Defender FundOther: 0

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

Presiding Judge

Judge Code: 2017Sentence Date 5-16-13

ARREST WARRANT

M-741798

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Lancaster

THE STATE

11-31064

against

Heyward Rashard Truesdale

Address:

Kershaw, SC 29067-1615

Phone: SSN: [REDACTED]
Sex: M Race: B Height: 6 Weight: 180

DL State: SC DL #: [REDACTED]

DOB: 1985 Agency ORI #: SC0290000

Prosecuting Agency: Lancaster County Sheriff

Prosecuting Officer: Clark Crump - 0006

Offense: Weapons / Poss. weapon during violent crime, if
not also sentenced to life without parole or death

Offense Code: 0549

Code/Ordinance Sec: 16-23-0490

This warrant is CERTIFIED FOR SERVICE in the
☐ County/ ☐ Municipality ofThe accused
is to be arrested and brought before me to be
dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to
defendant Heyward Rashard Truesdale
on 9/22/11

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Lancaster County Magistrate
761 Lancaster Bypass East
Lancaster, SC 29720

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Lancaster

AFFIDAVIT

Personally appeared before me the affiant Clark Crumpbeing duly sworn deposes and says that defendant Heyward Rashard Truesdaledid within this county and state on or about 09/22/2011State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of L
in the following particulars:

DESCRIPTION OF OFFENSE Weapons / Poss. weapon during violent crime, if not also

I further state that there is probable cause to believe that the defendant
the crime set forth and that probable cause is based on the following facts:THE DEFENDANT, HEYWARD RASHARD TRUESDALE DID ON 09-22-11 POS
WHEN HE DID WITH MALICE AFORETHOUGHT CAUSE THE DEATH OF THE
BY SHOOTING THE VICTIM NUMEROUS TIME WITH THE SMALL CALIBER
[REDACTED] THE VICTIM WAS KILLED DURING AN A
RESIDENCE. INVESTIGATORS HAVE OBTAINED A DEFENDANT, CO-DEFEN
HAND GUN FROM A DEFENDANT VEHICLE AS WELL AS PHYSICAL EVIDEN
STATED FACTS.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Lancaster

Affiant's Address 1941 Pageland H

Lancaster, SC 297

Affiant's Telephone (803)283-3388

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONST

It appearing from the above affidavit that there a

on or about 9/22/2011 defendant Heyward Rashard True

did violate the criminal laws of the State of South Carolina (or ordinance of

☒ County/ ☐ Municipality of Lancaster

DESCRIPTION OF OFFENSE: Weapons / Poss. weapon during violent crime, if not also :

Having found probable cause and the above affiant having sworn before me, you are empowered and di
her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be deliver
soon thereafter as is practicable
Sworn to and subscribed before meon 09/22/2011Signature of Issuing Judge
Lancaster Central Court

Judge Code: 5974

Judge's Address 761 Lancaster By
Lancaster, SC 297

Judge's Telephone (803)283-3983

Issuing Court: ☒ Magistrate

ORIGINAL

ORIGINAL