

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM LAURENS COUNTY
Court of General Sessions
Edward W. Miller, Circuit Court Judge

Court of Appeals Case No. 2015-001199

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SC Court of Appeals

The State, ... Respondent

v.

Preston Shands, Jr., ... Appellant.

Record on Appeal

E. Charles Grose, Jr.
S.C. Bar Number 66063
The Grose Law Firm, LLC
404 Main Street
Greenwood, SC 29646
(864) 538-4466

Attorney for Appellant

Alan Wilson
Attorney General

David Spencer
Senior Assistant Attorney General

David M. Stumbo
Solicitor, Eighth Judicial Circuit

S.C. Attorney General's
Office
PO Box 11549
Columbia, SC 29211

Attorneys for Respondent

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State of South Carolina)
County of Laurens) Court of General Sessions
 2014-GS-30-1477-1482

State of South Carolina)
 vs.) Transcript of Record
Preston Shands, Jr.)
 Defendant)

May 26, 2015
Laurens, South Carolina

B E F O R E:

Honorable Edward W. Miller, Judge

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

Warren Mowry, Deputy Solicitor
Elizabeth White, Senior Assistant Solicitor
Attorney for the State

E. Charles Grose, Jr.
Attorney for the Defendant

Joy E. Holston
Official Court Reporter

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(DW) - Denotes Defense Witness
(SW) - Denotes State's Witness

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1 (Whereupon, State's Exhibits 1-40 were marked for
2 identification only.)

3 THE COURT: Are y'all ready to go?

4 MR. MOWRY: Yes, sir.

5 THE COURT: You all have been qualified now generally
6 to serve as jurors for a week. And this, I don't know
7 that I told you but you probably already know that I am
8 holding the term, General Sessions Court, that is how we,
9 term of art for criminal court. Okay. So, we are going
10 to move into the process now to select, qualifying a jury
11 to serve on this particular case. And then we will move
12 into the selection process. We will get to that in just a
13 few minutes. Before I do anything else I want to
14 introduce the case to you. And I will tell you that this
15 is a, I have got five indictments and I am going to
16 announce those to you or publish them to you. The first
17 indictment which is 14-GS-1482 is an indictment for
18 kidnapping. This indictment alleges that Preston Shands,
19 Jr. did on or about July 20th, 2014 in Laurens County
20 willfully and unlawfully with criminal intent seized,
21 confined, inveigled, deploy, kidnap, abduct or carry away
22 Sharon Shands without authority of law in violation of the
23 laws and statutes of our State.

24 The next indictment is GS-1481, it is an indictment
25 for burglary. This indictment alleges that Preston Shands

1 did on or about July 20, 2014 in Laurens County willfully
2 and unlawfully enter a dwelling without consent with
3 intent to commit a crime therein when in effecting entry
4 or while in immediate flight therefrom he or another
5 participant in the crime was armed with a deadly weapon or
6 explosive or caused physical injury to a person who is not
7 a participant in the crime or used or threatened the use
8 of a dangerous instrument or displayed what was or
9 appeared to be a knife, pistol, revolver, rifle, shotgun,
10 machine gun or other firearm or the entering or remaining
11 occurred in the nighttime, the same dwelling being owned,
12 and/or occupied by Clarence Koon all in violation of the
13 statutes and laws of our State.

14 The next indictment is GS-1479, it is an indictment
15 for assault and battery. This indictment alleges that
16 Preston Shands, Jr. did on or about July 20th, 2014 in
17 Laurens County willfully and unlawfully injure another
18 person, that is Travious Copeland and the act occurred
19 during the commission of a robbery, burglary, kidnapping
20 or theft or he did offer or attempt, injure another person
21 with the present ability to do so and the act was
22 accomplished by means likely to produce death or great
23 bodily injury or occurred during the commission of a
24 robbery, burglary, kidnapping or theft in violation of the
25 statutes and laws of our State.

1 The next indictment, GS-1478, an indictment for
2 possession of a weapon during a violent crime. And this
3 alleges that Preston Shands, Jr., did on or about July
4 20th, 2014 in Laurens County possess a firearm or visibly
5 displayed what appeared to be a firearm or visibly
6 displayed a knife during the commission of a violent
7 offense, that is attempted murder, kidnapping, and/or
8 first degree burglary or any lessor included violent
9 offense in violation of the statutes and laws of our
10 State.

11 And finally the last indictment is GS-1477. This is
12 an indictment for attempted murder. And this indictment
13 alleges that Preston Shands, Jr., did on or about July
14 20th, 2014 in Laurens County willfully and unlawfully with
15 the intent to kill and with malice aforethought attempt to
16 kill Sharon Shands in violation of our statutes and laws.

17 Now, ladies and gentlemen, to these indictments Mr.
18 Shands has plead not guilty. And that, when that happens
19 certain rights attach which belong to each and every
20 person in the Country and that is that anyone who is
21 charged with a crime is presumed to be innocent unless and
22 until the charging body, in this case, the State of South
23 Carolina, can prove to a jury beyond any reasonable doubt
24 each and every element of each offense that that person is
25 charged with. Please keep that in mind throughout the

1 course of these proceedings. I would also tell you that
2 these documents which I published to you, just read them
3 to you, are just what they appear to be, they are just
4 pieces of paper. And you should take no inference or make
5 any presumption from the fact that these documents exist
6 and issue with respect to the guilt or innocence of the
7 Defendant in this case because they are just the formal
8 documents which allow this case to wind its way through
9 out criminal justice system, arrive here in court for a
10 resolution. And with resolution of the case should be
11 determined solely from the evidence presented in this
12 courtroom and the law as I will give it to the jury. So
13 please keep that in mind through the course of these
14 proceedings. Now, before I go any farther and begin the
15 qualifications, would ask the lawyers to stand and
16 introduce themselves and their clients. All right.

17 MS. WHITE: Good morning, ladies and gentlemen, my
18 name is Elizabeth White and I am the Assistant Solicitor
19 for the Eighth Judicial Circuit. I am handling most of
20 the violent crimes. This is Deputy Solicitor Warren Mowry
21 who is trying the case with me. Also at our table we have
22 your elected Solicitor, David Stumbo, Investigator Wendy
23 Chappell and Investigator Walter Bentley.

24 MR. GROSE: Good morning. My name is Charles Grose,
25 I am a lawyer here in the area and throughout this

1 circuit. This is Preston Shands and is my client.

2 THE COURT: Thank you, very much. Ladies and
3 gentlemen of the jury, is there any member of the jury
4 panel who is related by blood or marriage or who has a
5 business, personal or social relationship with any of the
6 lawyers involved in this case or any member of the Eighth
7 Circuit Solicitors office. If so, please stand.

8 (No response.)

9 THE COURT: Is there any member of the jury panel
10 related by blood or marriage to Mr. Preston Shands, Jr.
11 If so, please stand.

12 (No response.)

13 THE COURT: I am going to read a list of potential
14 witnesses so please pay attention. I will need to know
15 the same about these folks. Sharon Shands, Travious
16 Copeland, Jalen Shands, Clarence Koon, Martha Koon,
17 Sergeant Michael Gainey with the Laurens Police
18 Department, Officer Simmons with the Laurens Police
19 Department, Officer Kanipe with the Laurens Police
20 Department, Detective Tony Lynch with the Laurens Police
21 Department, John Stankus with the Laurens Police
22 Department, Andrew Heiney with the Laurens EMS, Dr. John
23 Rinkliff, Joey Avery, Jimmy McBeth, David Brewer with the
24 Laurens Police Department, Tony Lynch with the Laurens
25 Police Department, Steven Sweat formally with the Laurens

1 Police Department and currently with the Laurens Sheriffs
2 Office, Hedi Blackstock with the Laurens County Police
3 Department, Erin King with EMS, Julie Medlin with EMS. Is
4 there any member of the jury panel related by blood or
5 marriage or who has a business, personal or social
6 relationship with any of those potential witnesses whose
7 names I have just read, if so please stand. All right,
8 yes sir, your name and number.

9 JUROR: Larry Penland, II; I am 122.

10 THE COURT: Yes sir, who is it that you are familiar
11 with?

12 JUROR: Joey Avery, first cousin.

13 THE COURT: First cousin. Okay. Would the fact that
14 you have that relationship impair your ability to be fair
15 and impartial in this case?

16 JUROR: No, sir.

17 THE COURT: Could you follow the law under your oath
18 and judge this case solely on the merits of the evidence
19 and the testimony presented?

20 JUROR: Yes, sir.

21 THE COURT: Okay. Thank you very much. Yes ma'am,
22 your name and number.

23 JUROR: Tammy Owens, 118.

24 THE COURT: Who is it you know?

25 JUROR: David Brewer is a former client of mine.

1 THE COURT: And the fact that you have that
2 relationship with him, would that impair your ability to
3 be fair and impartial in this case either to the State or
4 the Defense?

5 JUROR: No, sir.

6 THE COURT: Could you judge this matter solely on the
7 merits of the evidence and the law as you would hear it in
8 the courtroom?

9 JUROR: Yes, sir.

10 THE COURT: Be fair and impartial?

11 JUROR: Yes, sir.

12 THE COURT: Thank you very much. Is there any member
13 of the jury panel who has any knowledge about the events
14 that are alleged in these indictments. If so please
15 stand.

16 (No response.)

17 THE COURT: Is there any member of the jury panel, a
18 family member or a close friend who has ever been a victim
19 of or charged with any of these types of offenses. If so
20 please stand.

21 (No response.)

22 THE COURT: Is there any member of the jury panel who
23 is aware of any biased or prejudice towards either the
24 State or the Defense. If so please stand.

25 (No response.)

1 THE COURT: Is there any member of the jury panel who
2 is a member of or a contributor to a group whose primary
3 concern is the promotion of law enforcement or victims
4 rights. Examples would be MADD, SADD, CAVE or No More
5 Lies or Bruises. If so please stand.

6 (No response.)

7 THE COURT: Is there any member of the jury panel who
8 knows of any reason whatsoever why you shouldn't serve in
9 this case with particular emphasis on your ability to be
10 fair and impartial for both the State and the Defense and
11 to follow the law as I would give it to you. If you can't
12 do those things please stand.

13 (No response.)

14 THE COURT: Anything further from the State?

15 MS. WHITE: No, sir.

16 THE COURT: From the Defense?

17 MR. GROSE: None other than what was handed up, Your
18 Honor.

19 THE COURT: All right. This is my opportunity for
20 song and dance. Y'all have to sit and wait while we begin
21 the selection process. What happens, a couple of these
22 people look like they are old enough to remember when a
23 jury was selected by putting your names in these little
24 capsules. I have one somewhere in my stuff. You know, a
25 piece of paper and put it into a bingo thing and they turn

1 it around and the clerk will reach in and pull it out and
2 unscrew the cap and read the name. We have come a long
3 way, haven't we. So, anyway, your names are flying around
4 in cyberspace right now. So if you feel a little dizzy or
5 anything like that that is what is going on. We have a
6 certified program which randomly mixes your names up and
7 then prints out a list. And that is what is going on
8 right now. That wasn't enough of a song and dance, I
9 don't think it is ready now. I guess I can ask if anybody
10 remembers when this was a shopping mall. I would just
11 tell you the Court House downtown on the square is
12 beautiful and we have a number of Court Houses like that
13 around the State that just are elegant old buildings and I
14 like the history and all of that. But they are not
15 functional really as Court Houses much any more. So, we
16 have moved into these more modern facilities which better
17 accommodate your needs and the Court House staff and all
18 of their needs. But it is sad to lose some of those old
19 buildings. Okay, we are ready.

20 CLERK OF COURT: When I call your name if you will
21 come forward. Juror number 85, Courtney M. Johnson. What
22 says the State.

23 MS. WHITE: Please present Ms. Johnson.

24 CLERK OF COURT: What says the Defense?

25 MR. GROSE: Please excuse this juror from this case.

1 CLERK OF COURT: You may be seated. Juror number
2 157, Chris A. Skinner. What says the State?

3 MS. WHITE: Please present Mr. Skinner.

4 CLERK OF COURT: What says the Defense?

5 MR. GROSE: Please excuse this juror from this case.

6 CLERK OF COURT: Juror number 1, Katina A. Alexander.
7 What says the State?

8 MS. WHITE: Please present Ms. Alexander.

9 CLERK OF COURT: What says the Defense?

10 MR. GROSE: Please excuse this juror from this case.

11 CLERK OF COURT: Juror number 17, India A. Brock.
12 What says the State?

13 MS. WHITE: Please present Ms. Brock.

14 CLERK OF COURT: What says the Defense?

15 MR. GROSE: Please seat Ms. Brock.

16 CLERK OF COURT: Juror number 126, Coco S. Pulley.
17 What says the State?

18 MS. WHITE: Please excuse Ms. Pulley from the trial
19 of this case.

20 CLERK OF COURT: Juror number 162, Eric S. Spradling.
21 What says the State?

22 MS. WHITE: Please present Mr. Spradling.

23 CLERK OF COURT: What says the Defense?

24 MR. GROSE: Please seat Mr. Spradling.

25 CLERK OF COURT: Juror number 15, Relois Briggs.

1 What says the State?

2 MS. WHITE: Please present Ms. Briggs.

3 CLERK OF COURT: What says the Defense?

4 MR. GROSE: Please seat Ms. Briggs.

5 CLERK OF COURT: Juror number 118, Tammy G. Owens.

6 What says the State?

7 MS. WHITE: Please present Ms. Owens.

8 CLERK OF COURT: What says the Defense?

9 MR. GROSE: Please excuse this juror from this case.

10 CLERK OF COURT: Juror number 36, Lynzie M. Coffey.

11 What says the State?

12 MS. WHITE: Please present Ms. Coffey.

13 CLERK OF COURT: What says the Defense?

14 MR. GROSE: Please seat Ms. Coffey.

15 CLERK OF COURT: Juror number 125, Todd J. Priestley.

16 What says the State?

17 MS. WHITE: Please excuse Mr. Priestley.

18 CLERK OF COURT: Juror number 108, Kaherine E.

19 Mcclellion. What says the State?

20 MS. WHITE: Please present Ms. Mcclellion.

21 CLERK OF COURT: What says the Defense?

22 MR. GROSE: Please seat Ms. Mcclellion.

23 CLERK OF COURT: Juror number 54, Kimberly A. Dial.

24 What says the State?

25 MS. WHITE: Please present Ms. Dial.

1 CLERK OF COURT: What says the Defense?

2 MR. GROSE: Please seat Ms. Dial.

3 CLERK OF COURT: Juror number 182, Sara B. Watts.

4 What says the State?

5 MS. WHITE: Please seat Ms. Watts.

6 CLERK OF COURT: What says the Defense?

7 MR. GROSE: Please excuse this juror from this case.

8 CLERK OF COURT: Juror number 91, Kenneth J. Kern,

9 Jr. What says the State?

10 MS. WHITE: Please present Mr. Kern.

11 CLERK OF COURT: What says the Defense?

12 MR. GROSE: Please excuse this juror from this case.

13 CLERK OF COURT: Juror number 5, Bridget B. Ashley.

14 What says the State?

15 MS. WHITE: Please present Ms. Ashley.

16 CLERK OF COURT: What says the Defense?

17 MR. GROSE: Please seat Ms. Ashley.

18 CLERK OF COURT: Juror number 115, George D. Nolin.

19 What says the State?

20 MS. WHITE: Please excuse Mr. Nolin from the trial of
21 this case.

22 CLERK OF COURT: Juror number 114, Mary C. Morton.

23 What says the State?

24 MS. WHITE: Please present Ms. Morton.

25 CLERK OF COURT: What says the Defense?

1 MR. GROSE: Please excuse this juror from this case.

2 CLERK OF COURT: Juror number 156, Robin L. Simpson.

3 What says the State?

4 MS. WHITE: Please excuse Mr. Simpson from the trial
5 of this case.

6 CLERK OF COURT: Juror number 82, Suzanne B.

7 Hutchins. What says the State?

8 MS. WHITE: Please present Ms. Hutchins.

9 CLERK OF COURT: What says the Defense?

10 MR. GROSE: Please seat Ms. Hutchins.

11 CLERK OF COURT: Juror number 53, Tavon L. Dendy.

12 What says the State?

13 MS. WHITE: Please present Mr. Dendy.

14 CLERK OF COURT: What says the Defense?

15 MR. GROSE: Please seat Mr. Dendy.

16 CLERK OF COURT: Juror number 69, Chad D. Gregory.

17 What says the State?

18 MR. GROSE: Please present Mr. Gregory.

19 CLERK OF COURT: What says the Defense?

20 MR. GROSE: Please seat Mr. Gregory.

21 CLERK OF COURT: Juror number 121, Lisa M. Pearson.

22 What says the State?

23 MS. WHITE: Please present Ms. Pearson.

24 CLERK OF COURT: What says the Defense?

25 MR. GROSE: Please excuse this juror from this case.

1 CLERK OF COURT: Juror number 170, Shamica M.
2 Thompson. What says the State?

3 MS. WHITE: Please present Ms. Thompson.

4 CLERK OF COURT: What says the Defense?

5 MR. GROSE: Please seat Ms. Thompson.

6 CLERK OF COURT: Juror number 44, Thomas A. Cox, Jr.
7 What says the State?

8 MS. WHITE: Please present Mr. Cox.

9 CLERK OF COURT: What says the Defense?

10 MR. GROSE: Please excuse this juror from this case.

11 CLERK OF COURT: Juror number 68, Marilyn M.
12 Grayson. What says the State?

13 MS. WHITE: Please present Ms. Grayson.

14 CLERK OF COURT: What says the Defense?

15 MR. GROSE: Please seat Ms. Grayson.

16 THE COURT: One alternate, one and two.

17 CLERK OF COURT: Juror number 99, Kimberly B. Leroy.
18 What says the State?

19 MS. WHITE: Please present Ms. Leroy.

20 CLERK OF COURT: What says the Defense?

21 MR. GROSE: Please excuse this juror from this case.

22 CLERK OF COURT: Juror number 127, Susan H. Putnam.
23 What says the State?

24 MS. WHITE: Please present Ms. Putnam.

25 CLERK OF COURT: What says the Defense?

1 MR. GROSE: Please seat Ms. Putnam.

2 THE COURT: Any exceptions or objections to the jury
3 as a panel pursuant to Batson or Capps?

4 MS. WHITE: Nothing from the State, Your Honor.

5 MR. GROSE: Yes sir, Your Honor.

6 THE COURT: All right. Well, y'all approach for a
7 second.

8 (Whereupon, a bench conference was held in the
9 presence of the jury panel but out of the hearing of
10 the jury panel.)

11 THE COURT: Okay, ladies and gentlemen of the jury,
12 we are going to take a break and ask y'all, this group to
13 be back in fifteen minutes. Thank you.

14 (Whereupon, the jury panel was excused from open
15 court for a break.)

16 THE COURT: Okay, take the jury here to the jury
17 room.

18 (Whereupon, the jury picked for the trial of the case
19 was excused from open court to their jury room for a
20 break.)

21 THE COURT: Okay, Mr. Grose, please state your
22 objection for the jury that has been picked.

23 MR. GROSE: Your Honor, when we were at the bench I
24 challenged, pursuant to Batson's, State's strikes numbers
25 2, 3 and 4. Their second strike was number 25, I am

1 sorry, 125, a black male. Their third strike was 115, a
2 white male. Their fourth strike was number 156, a white
3 male. And I challenge them based on gender.

4 THE COURT: All right.

5 MS. WHITE: Your Honor, with regards to juror number
6 125, that was Mr. Priestly, he had a CDV conviction. This
7 is a case involving allegations of domestic violence.
8 Juror 115, he had a number of different convictions for
9 lottery law violations. It looks like the same law he
10 violated, off the top of my head, it was four different
11 years, respected violations, the same law. And then juror
12 number 156 also had a CDV conviction. And in regards to,
13 we did seat other jurors who had contact with law
14 enforcement, that was number 5, Ms. Ashley. She had a
15 false info, that there was no disposition on for 2004.
16 And also Ms. Dial, I believe her name is, her number 54,
17 fraudulent check in 2003. Both of those, Your Honor, one
18 time incidents multiple years ago, 11, 12 years ago. Also
19 we seated number 53, Mr. Dendy, he has a pending simple
20 possession, has not been convicted of that yet. And we
21 seated 170 who has an unlawful neglect from 2006 that was
22 nolle prossed and a simple possession. It looks like it
23 was a one time, the main charge of that was dismissed.
24 MR. GROSE: It just happens, Your Honor, that all
25 three of the ones that have their's resolved somehow

1 happen to be women. And the ones that we challenged are
2 men. And in particular, there is really no way to
3 separate juror number 54 who was the sixth juror set who
4 is a black female who does have a conviction for
5 fraudulent check. So that's, you know, an actual
6 conviction. If you are going to use criminal record as a
7 reason to strike somebody then you have got to be
8 consistent otherwise, you know, I don't think they
9 overcome their burden of showing that it was not gender
10 neutral.

11 MS. WHITE: Your Honor, I don't think--

12 THE COURT: Well, I was going to say, you objected to
13 them striking the male jurors. She is a female.

14 MR. GROSE: Right, that is my point, Your Honor.
15 There is a similar situated female. There are three parts
16 to Batson, one--

17 THE COURT: I am aware of them.

18 MR. GROSE: Okay. Well, I am under the part of
19 Batson where I am trying to show that they sat a similarly
20 situated female. And I think that, you look confused.

21 THE COURT: No, I am not confused. But you made an
22 objection based on gender and you objected to males.

23 MR. GROSE: Right. And so now it is incumbent to me
24 to show that there was a similarly situated female that
25 was sat and I have done that. There is a similarly

1 situated female that had a record that was sat. I think
2 that shows that there are three strikes of males--

3 MS. WHITE: -- Your Honor, there is a big difference
4 between someone who accidentally overdrew their bank
5 account and someone who struck a household member,
6 threatened to strike a household member. They are not
7 similarly situated.

8 THE COURT: No problem with number 125, number 146.
9 My problem is you objected based on gender and you
10 objected to them striking males.

11 MR. GROSE: Right.

12 THE COURT: And now you are raising female.

13 MR. GROSE: Right. That they sat a female. The fact
14 that they sat a female on the jury that is similarly
15 situated, that is the third prong of Batson. I am sorry,
16 I can't explain any better.

17 THE COURT: Thank you. Thank you for that, Mr.
18 Grose. Well, I am going to find that it is gender neutral
19 and anything else you need to put on the record to protect
20 you.

21 MR. GROSE: I would just say that an element of
22 fraudulent check is that they have to prove that it was
23 done with fraud. That is just not overdrawing a bank
24 account, overdrawing a bank account by mistake would be a
25 Defense. People do it all the time and correct it. So I

1 believe that fraudulent check and lottery are similarly
2 situated. They are all misdemeanors, they are all
3 magistrate court cases, Your Honor.

4 THE COURT: Okay. Anything else before we bring the
5 jury back and swear them. I would suggest that we,
6 assuming there is nothing else to talk about, we go ahead
7 and swear them.

8 MR. GROSE: Well, I have a motion to quash the
9 indictment, Your Honor.

10 THE COURT: Go ahead.

11 MR. GROSE: And depending upon what they are willing
12 to concede about their Grand Jury process we may have to
13 take testimony. If you were wanting to excuse them I
14 would propose not to swear them and bring them back later.

15 THE COURT: Well, give me a synopsis of what it is
16 you seek.

17 MR. GROSE: As I understand the Grand Jury process
18 here in Laurens County, what they do is they have an
19 Administrative Assistant that prepares an indictment. The
20 indictment then goes to a Solicitor for review and in this
21 case, I believe, it was Mr. Mowry who is here in the
22 courtroom. They signed the indictment. When the Grand
23 Jury meets, well, let me back up. The name of the people
24 that are put as the witness on the indictment are the
25 names of the officers that appear as the advocate on the

1 warrant. When the times comes for the Grand Jury to
2 testify somebody from the Agency, who they keep no record
3 of, is typically a designated person but could be somebody
4 else. Somebody from the Agency comes and picks up the
5 indictments and goes and testifies in front of the Grand
6 Jury. The instruction that Grand Jurors are given at the
7 beginning of the year is that only witnesses that are
8 listed on the indictment are allowed to testify. There is
9 law that suggest that it should be somebody who has
10 personal knowledge of the case. And if a witness who is
11 not listed on the indictment testified the Grand Jurors
12 are instructed to report that to the Court as an
13 unauthorized intent to influence the Grand Jury. This
14 motion, my motion is based on, the arguments and motion
15 are based on a petition that is currently pending before
16 the South Carolina Supreme Court out of Florence County
17 dealing with some aspects of this same issue. I backed
18 into this issue before. I tried to take it up and when I
19 got to the Supreme Court I got hammered for not getting a
20 record of what the exact procedures are. So, unless the
21 State can stipulate it then I need to call some witnesses
22 from the Solicitor's office, just what I was accused of
23 not doing in the other case that was argued last year.

24 MR. MOWRY: Essentially, Your Honor, since Solicitor
25 Stumbo has come into office, each individual assistant

1 will, as he is assigned cases, there is a template for the
2 indictment that is electronically produced and put in our
3 electronic record system. We will go in, we will tailor
4 the indictment to the facts that we have and then those
5 are presented out, each individual assistant or deputy
6 will then sign the indictments. But, essentially, yes,
7 the individual agencies are notified the Grand Jury is
8 coming, they will send a representative and one
9 representative from each department will present all
10 indictments from that individual department. That has
11 been pretty much standard since I started in 1982.

12 THE COURT: Does that satisfy your evidentiary
13 concerns?

14 MR. GROSE: I believe so. But just for the record,
15 neither of the two people who are listed on these
16 indictments, in front of the Grand Jury.

17 MR. MOWRY: And I could not tell you, Your Honor.

18 MR. GROSE: I understand that because y'all have no
19 records of who actually testified.

20 MR. MOWRY: That's correct. We notify the
21 departments, an individual will show up from the
22 department to take the cases before the Grand Jury. That
23 is how that operates.

24 THE COURT: Okay. Anything else?

25 MR. GROSE: Well, just the argument. I mean our

1 position would be, if you look at the line of cases that
2 started with Chief Justice Lewis dissent in Capps and
3 these are cited in our memorandum. It appears that our
4 Courts want somebody who has a personal knowledge, even if
5 it is an investigative officer, should be an investigative
6 officer who has personal knowledge. Our Supreme Court, by
7 the jury instruction that they give the Circuit Court
8 Judges in charge wants the witness or the witnesses listed
9 on the indictment and they consider it to be improper and
10 those are not the ones that testify. And, yes, this is
11 probably the way it has been done for a long time but that
12 is actually exactly what they said after Capps when they
13 wanted Solicitors to stop testifying in front of the Grand
14 Jury, was the next case where they outlaw that practice.
15 The Defense was, said we can't do it, or you didn't say
16 you can't do it, you said you shouldn't do it. But as
17 long as you don't prohibit it we are going to continue to
18 do it. And we think that an indictment is more than just
19 a piece of paper, it is more than just a piece of paper to
20 put somebody on notice. If it was just those two things
21 the Grand Jury wouldn't be involved in the process.
22 Constitutionally there is something significant to the
23 presentment. The probable cause determination has to be
24 made, it should not be based entirely on hearsay, it
25 should be based on somebody with personal knowledge. And

1 there should be a record of, you know, who it is that
2 testifies. And, in fact, Thrift talks about how we have
3 an equal protection due process problem in South Carolina.
4 I have only had the honor to be appointed in one State
5 Grand Jury case. And in those cases you get Grand Jury
6 testimony. And if the Thrift case, they said they were
7 able to review the indictment because you had testimony
8 that was transcribed and determined whether or not the
9 probable cause determination was made. People like Mr.
10 Shands who were indicted in State Court, in County Courts
11 by the Grand Jury do not have that same fortune of being
12 able to have access to the testimony that was presented.
13 Here the minimal record that was made is not accurate.
14 These indictments are just bare boned allegations. We
15 don't know exactly what supporting testimony was
16 presented. So, yes, I do think that the procedure that is
17 followed in Laurens County is unconstitutional and we
18 would ask that Your Honor quash the indictments, require a
19 meaningful Grand Jury process, require that the testimony
20 be recorded so that we will have a record of it and
21 required that any exculpatory evidence is noted to the
22 State and be presented.

23 THE COURT: Okay.

24 MR. MOWRY: Two things, Your Honor. I can assure you
25 that no Assistant Solicitor or anybody else from the

1 Solicitor's office appeared in front of the Grand Jury.
2 So we did not violate any Supreme Court case on that line.
3 And also we don't know what was said in front of the Grand
4 Jury either. The entire process is designed to be secret.
5 So, none of that is public record.

6 THE COURT: Okay.

7 MR. GROSE: And just a response to that. I am not
8 saying that the Solicitor testified. When you look at the
9 cases, Capps talks about the Solicitor or other State
10 Agency and the distinction that has been made in the case
11 law is between an investigator that had actual knowledge
12 whereas here they don't follow that procedure. And the
13 Supreme Court does want some kind of record which we don't
14 have in this case and that is the identity of the person
15 who testified.

16 THE COURT: If I understand correct you are arguing
17 against precedent to encourage me to rule with Justice
18 Lewis' dissent. Is that right?

19 MR. GROSE: Well, that is not entirely correct. If
20 you jump forward, I forget if it is Anderson or Williams,
21 Justice Lewis' dissent was adopted. And we may be
22 extending it a little bit as far as not presenting
23 hearsay. But there is a case cited in the brief where the
24 language about another agent of the State other than a
25 prosecutor testified was found to be okay in that case

1 because the person had actual knowledge. I don't think I
2 am asking you to step beyond precedent.

3 THE COURT: Okay. Well, I am going to deny your
4 motion. I think you are protected on the record and I
5 will let higher authority make the decision. Okay.

6 MS. WHITE: Your Honor, just for scheduling purposes.
7 My first witness, we have got to call to get here so it
8 might be a good time to break for lunch.

9 THE COURT: Any reason not to swear this jury?

10 MS. WHITE: None from the State, Your Honor.

11 MR. GROSE: Just subject to our two objections, our
12 Batson objection and our motion to quash.

13 THE COURT: You want to let that group back in and we
14 will cut them loose.

15 MR. STUMBO: Your Honor, if I may address them for
16 one minute before you cut them loose, the jury pool. I
17 would just like to thank them for their service.

18 THE COURT: Well, I will do that.

19 MR. STUMBO: Okay, that is fine. Thank you, Judge.

20 (Whereupon, the jury panel entered the courtroom at
21 approximately 11:15 a.m.)

22 THE COURT: Ladies and gentlemen, I am sorry I had to
23 excuse you and couldn't let you go and ask you to come
24 back. The good news is I can excuse you now to go about
25 your business and ask you to call back on the number that

1 has been provided to you after 6:00 o'clock tonight to
2 determine when you need to report back or call back.
3 Thank you for your service, appreciate the sacrifices you
4 have made, I know each and every one of you is anxious and
5 willing to get seated on a jury and I hope you get that
6 opportunity, if not this week some other time. Thank you
7 very much. Call back after 6:00.

8 (Whereupon, the jury panel was excused from open
9 court.)

10 THE COURT: Yes, sir.

11 MR. GROSE: Real quick, this may not be necessary but
12 I don't want you discharging the panel to operate as a
13 wavier of my two objections. I agree with you, that seems
14 a little technical. But I guarantee you the Attorney
15 Generals office would argue that. So I would just renew
16 the Batson motion and the motion to quash.

17 THE COURT: Okay. You are covered on that. All
18 right, what I would propose is we bring them back, swear
19 them, do some opening statements, get those out of the way
20 and cut them loose for lunch and let you get your witness
21 up here. Let's bring them back.

22 (Whereupon, the jury came into open court at
23 approximately 11:59 a.m.)

24 THE COURT: Ladies and gentlemen, I guess you are
25 looking out there wondering where all of your friends and

1 fellow jurors are. They are gone. They will call back
2 later tonight to determine what their next move shall be.
3 I want to thank y'all for serving. And I want to tell you
4 that we have a dispute about the facts in the case that
5 can't be resolve in any way other than to select a jury, a
6 fair and impartial jury to hear the facts, the evidence
7 and the law and to render a decision that will resolve
8 that dispute. Now, I don't know what I did with the
9 indictments but remember that they are not evidence.
10 Okay. Just the fact that they have issued, they are just
11 documents. Okay. Evidence will be presented in the
12 courtroom either through testimony or physical documents
13 and that is what you all will use to make your decision.
14 I also tell you that to remember that everyone charged
15 with a crime is presumed to be innocent unless and until
16 the State can prove them guilty beyond any reasonable
17 doubt of each and every element of each offense that they
18 are charged with. So each offense stands on its own and
19 must be proved individually. Just keep that in mind
20 throughout the course of the trial. Now, I break a trial
21 into five parts. You can break it into as many parts as
22 you want. If you read some of these books or you watch
23 some of the TV shows they break it into minute little
24 parts. But I like to give you all sort of a roadmap so
25 you know where you are and where you are going to be next.

1 It is very simple and I will tell you that the parts are
2 not of equal length. The first part, I guess we are
3 engaging in now, and that would be the opening comments to
4 you but I am really referring to the opening statements to
5 you which will be made by the attorneys in this case. And
6 those are brief and non-argumentative statements about the
7 case. Second part of the trial is the meat and potatoes
8 in every case and that will be the presentation of the
9 testimony and the evidence in the case. The third part of
10 the trial will be when all of the evidence has been
11 presented, the attorneys will get up and make their
12 closing arguments to you. So you notice it is an opening
13 statement and it is a closing argument. And in their
14 closing arguments they advocate their position and urge
15 you to resolve the dispute for their particular side. The
16 fourth part of the trial will be when I give you the
17 charge on the law. And I will tell you what the law is as
18 it relates to all of these indictments. And throughout
19 the course of the trial I may give you some instructions.
20 And the fourth part of the trial will be when I tell you
21 what the law is. And then the fifth part of the trial
22 will be when you all retire to your jury room to
23 deliberate the case and resolve the dispute. And as I
24 said, the parts are not of equal length but at least you
25 know the order in which they are going to come, what you

1 can expect next. I will ask you to do probably a number
2 of things throughout the course of the trial but there are
3 three main things I ask you to do. The first is to keep
4 an open mind, we go through all of that questioning and
5 all of the qualification an impartial jury who doesn't
6 come into court with their mind made up one way or
7 another. A fair and impartial jury that would base their
8 decision based on the testimony and the evidence presented
9 in the case. The second thing I ask you to do is pretty
10 simple but vital. And that is to pay attention, please
11 don't let your mind wonder off during the course of the
12 trial and not watch a particular witness or not listen
13 carefully, you might miss a way a witness reacts on the
14 witness stand to a question. And that is what we call a
15 witness' demeanor. And if you weren't paying attention
16 you would put yourself at a disadvantage at the fifth
17 state of the trial with your fellow jurors to deliberate.
18 The third vital thing that I ask you today and I instruct
19 you to do is not to discuss this case with anyone until
20 you are free to deliberate at the end of the trial. I
21 will tell you this case is going to take longer than
22 today. I am not sure how long but it will last more than
23 today. So we are going to break for lunch after the
24 opening statements. And you may go to lunch with a family
25 member or a friend. You can't talk about the case now,

1 because even a comment from someone who you like and trust
2 or even someone who you don't like might have an impact on
3 your state of mind. And it wouldn't be fair to these
4 parties involved in this case, it wouldn't be fair to your
5 fellow jurors and most importantly it wouldn't be fair to
6 yourself to allow someone who is not making the sacrifices
7 that each of you are making, to have any influence in the
8 outcome of this trial. Those people outside of this case
9 are not watching the witnesses, they are not listening to
10 the evidence, they don't have anything at stake in here
11 and they are not making the sacrifices that each of you
12 are making. So, follow that instruction and it is a
13 little bit more than just not talking to somebody. Don't
14 go visit the scene or some place that you may hear about
15 in the course of the testimony. Don't do research on the
16 internet which is so easy to do, don't do it. Everything
17 you are going to need to learn and know and make the
18 decision in this case in a fair and impartial way
19 according to your constitutional requirements you will
20 hear in this courtroom. So, don't talk about it. A huge
21 play in my mind is all of this social media. Don't get on
22 social media and talk about it with your friends. We have
23 had cases where we have to throw the case out and start
24 over because somebody got on Facebook. And I will tell
25 you this, you all are the sole judges of the facts. The

1 law does not allow the trial Judge to have an opinion
2 about the facts in the case. So don't think about
3 anything I say or do throughout the course of the trial
4 that I have such an opinion. The law does not allow it.
5 You all are the sole judges of the facts and you will get
6 to determine, you will determine who to believe, who not
7 to believe and what is true and what is not true. That
8 same law makes me the same sole Judge of the law. So, you
9 have some idea about what you think the law is or what the
10 law should be and it differs from what I tell you the law
11 is throughout the trial and at the end of the case and you
12 are going to swear an oath in just a second to set aside
13 your own opinion and apply the law precisely as I state it
14 to you. The reason for that is, we want everyone in this
15 Country to be tried pursuant to the same law so we don't
16 have a different type of law being applied in every case.
17 A couple of things, maybe you saw me speak with the
18 lawyers up here. We call that a bench conference and I
19 ask y'all to leave so we can put some stuff on the record.
20 We are not trying to deceive you in any way, but we might
21 be trying to keep something from you that we need to talk
22 about a piece of evidence that is disputed and should not
23 be admitted and you all can understand why you all
24 shouldn't hear it. Okay. We want to keep y'all fair and
25 impartial. And hear only what is proper and

1 constitutionally protected. And the other thing I want to
2 tell you is when we break and we come back from lunch I am
3 going to ask you all to decide, from the first twelve
4 folks, alternate is not allowed to serve as a foreperson,
5 if you all can decide who you would like to be your
6 foreperson. And the foreperson is, you don't get a raise
7 in pay for it, sorry. But that foreperson would be the
8 jury spokesperson in the courtroom should that become
9 necessary and would be the moderator of the discussions
10 during your deliberations. So, when you come back from
11 lunch y'all take a few minutes and see if you can decide
12 who you want to be the foreperson. With that I am going
13 to ask y'all to stand, I am going to ask your outstanding
14 Clerk of Court to administer the oath to you.

15 (Whereupon, the jury was sworn at approximately 12:10
16 p.m.)

17 THE COURT: Thank you very much. All right, we begin
18 with our opening statements.

19 MR. MOWRY: Your Honor, may I have the indictments.

20 THE COURT: Yes.

21 MR. MOWRY: Thank you, Your Honor. Good morning,
22 ladies and gentlemen or afternoon, however. My name is
23 Warren Mowry, as you heard a little while ago I am the
24 Deputy Solicitor, the prosecutor here in Laurens County.
25 And along with Senior Assistant Solicitor, Elizabeth White

1 we will present the case for the State in this matter that
2 is coming before you. Every criminal case that is brought
3 in South Carolina is brought in the name of the people of
4 the State and that is why you always see cases entitled
5 the State versus whomever. This case is the State versus
6 Preston Shands, Jr. Mr. Shands is charged with a number
7 of offenses as His Honor laid out before you. He is
8 charged with attempted murder, he is charged with
9 possession of a weapon during the commission of a violent
10 crime. He is charged with assault and battery. He is
11 charged with burglary and he is charged with kidnapping.
12 All of these offenses, ladies and gentlemen, arise out of
13 one incident that occurred last year, July the 20th of
14 2014 in Laurens County, actually in the city limits of
15 Laurens. This is, for lack of a better term, a case of
16 domestic abuse. The victim in this case is Sharon Shands,
17 she is seated on the front row there. This case arose
18 from a disagreement or an argument, however you want to
19 put it and escalated into a case of near murder.
20 Witnesses will testify, ladies and gentlemen, that Mr.
21 Shands essentially became enraged in their home and he
22 tried and in fact succeeded in stabbing his wife with
23 several inputs. She and their two sons, one who I believe
24 was seven at the time, is eight now, and the other one who
25 is a teenager, fled from the home. They ran across the

1 street to the home of Mr. Clarence Koon, they begged him
2 to open the door, he did, he let them in. But Mr. Shands
3 didn't stop there, he proceeded across the street and
4 demanded to speak with his wife. Mr. Koon finally got him
5 out of the house but that still didn't satisfy Mr. Shands.
6 Mr. Shands went back to his house, he retrieved a hammer,
7 he came across the road, shattered the front window of Mr.
8 Koon's house, couldn't gain entry so he went around the
9 back. He broke out a sliding glass door, went in the
10 house, got one of Mr. Koon's own knives and began to try
11 to stab Sharon Shands yet again. Needless to say, ladies
12 and gentlemen, law enforcement were called. During this
13 time, during this event Travious, Travious Copeland, the
14 teenage son attempted to protect his mother and was
15 slashed by Mr. Shands. Law enforcement arrived at the
16 scene. You will hear from Sergeant Gainey with the City
17 Police Department who will tell you that he had arrived
18 there looking at the Shands home not realizing that the
19 incident was now extending across the road. Yet when he
20 looked over and heard the commotion and looked over here
21 came Sharon Shands running out of the house, her clothing
22 ripped, covered with blood, injured to the extent she had
23 to be airlifted to Greenville Memorial for treatment. Out
24 of the house also, after her, came Preston Shands wheeling
25 a knife, a knife still in his hand with their eight year

1 old in the other hand. Only when Sergeant Gainey ordered
2 him to drop the knife, did he do so, and he was secured.
3 Those are the facts that you will hear from witnesses.
4 Let me go through these charges very quickly here, ladies
5 and gentlemen. Attempted murder, attempted murder in
6 essence is a murder where the victim did not die, that is
7 the only difference. Murder is an unlawful killing of a
8 human being with malice aforethought either expressed or
9 implied. Let me just quickly go through those elements.
10 There are times when it is legal for one human being to
11 kill another. A soldier in wartime, somebody acting in
12 self Defense, state sponsored execution, those are legal
13 killings, those are called justifiable killings.
14 Sometimes a tragic accident where there really isn't a
15 criminal mindset, that is excusable authority of the law.
16 But when a killing or an attempt to kill somebody is
17 neither justified nor excused and I submit to you that
18 this is an example, a prime example, then that is a
19 criminal act. An unlawful killing then or attempt to kill
20 a human being with malice, what is malice. It is
21 meaningless, it is wickedness. There is a Court opinion
22 that talks about malice being a heart bent fatally in
23 mischief. But setting out in your mind to kill somebody,
24 having the time to reflect on it, that is exactly what we
25 are talking about here. Unlawful killing of a human being

1 with malice aforethought. What is malice aforethought.
2 We hear that term a lot. Aforethought means
3 premeditation. Now a lot of times when you hear the word,
4 premeditation you think, okay, somebody who is lying in
5 wait, somebody who has planned out every step of an act,
6 like an assassin or something like that. That is not what
7 the law requires in South Carolina. Malice aforethought
8 means that there is some amount of time that the person
9 has had to reflect on what he has done, it can be like
10 that, it can be very, very fast. And yet he does it
11 anyway. It is not just having it happen and seeing red.
12 It is having time to reflect on what you are doing. It is
13 not a hotblooded crime, it is a coldblooded crime. That
14 is what we had with Preston Shands. He had the time when
15 his wife fled the house, we would submit to you, to
16 reflect on what he did. He had the time. Once he was
17 ejected essentially from Mr. Koon's house to reflect on
18 what he did he went back, got a hammer, broke into Mr.
19 Koon's house and continued the assault. This is nothing
20 short of an attempted murder, ladies and gentlemen.
21 Again, a lot of time you hear kidnapping. What do you
22 think of, kidnapping for ransom, kidnapping something,
23 holding a child for example for ransom. Again, that is
24 not what South Carolina requires. But you hold or contain
25 somebody or even move on a short distance against their

1 will and that is kidnapping and you will hear facts in
2 this case that we submit will justify a conviction on that
3 crime. Assault and battery. As I told you, during this
4 entire incident Trey, or Travious Copeland, Sharon Shands'
5 son, tried to help his mother and received the swipe of a
6 knife, a slash of a knife from Preston Shands, Jr., in
7 response. That is where the assault and battery comes
8 from. Possession of a weapon during a violent crime. His
9 Honor will instruct you at the end of the case, ladies and
10 gentlemen, there are two violent crimes in this matter.
11 The burglary and the attempted murder. In each of those
12 this Defendant was in possession of a knife. Our State
13 law makes that criminal, if you are committing a violent
14 crime and are in possession of a deadly weapon that in and
15 of itself is a separate criminal offense. And finally,
16 ladies and gentlemen, the burglary. If I come home
17 tonight and I find my backdoor kicked in and I find my
18 stereo has been moved out or my TV has been taken across
19 the room or something like that, most of us are probably
20 going to say, I've been robbed. That is not robbery
21 though, it is a burglary. Burglary is an unlawful entry
22 without consent into the home of another with the intent
23 to commit a crime inside. What we will show, ladies and
24 gentlemen, is that Mr. Shands was not welcome in Clarence
25 Koon's house yet he took that hammer, he shattered that

1 backdoor and went inside and he retrieved a knife, Mr.
2 Koon's own knife and used that knife to continue the
3 assault on Ms. Shands. Those are the crimes that we will
4 present to you, ladies and gentlemen. Now in every
5 criminal case the State carries the burden of proving the
6 case which is as it should be, we accept that burden. And
7 we must do so beyond a reasonable doubt, probably heard
8 that term before. Let me just go into that a little bit.
9 My mother was an English teacher and she would probably
10 reach down and smack me across the head for using a term
11 to define the term but there is probably no better way of
12 describing a reasonable doubt than to use the term, it is
13 a doubt for which you can give a reason. It is not a
14 whimsical doubt, it is not some fanciful doubt. If we
15 prove this case to you beyond a reasonable doubt, ladies
16 and gentlemen, what that means is is that you are left
17 firmly convinced of the guilt of Preston Shands, Jr. You
18 know, I have never been to Russia, don't really have any
19 desire to go quite frankly. But since I have never been
20 there how can I be sure it exist. But if I believe it did
21 not exist I would have to disbelieve all of the history
22 books, and all of the geography books and maps and frankly
23 the newspapers and all of the news media that talk about
24 events in Russia. So even though I have never been there
25 I am still firmly convinced that Russia exist. That is

1 what I wanted you to remember in this case. Now, in each
2 case I argue in front of a jury I always like to ask a
3 jury to do three things, some of which are going to be an
4 extension of what Judge Miller instructed you a few
5 minutes ago. First, let's listen very carefully to the
6 testimony that comes off this witness stand because it is
7 from here and whatever exhibits might be admitted to you,
8 physical exhibits, pictures, those sorts of things, that
9 you are to render your verdict. Nothing I am saying right
10 now is evidence, nothing that Mr. Grose may say or Ms.
11 White would say, only people that get up on the witness
12 stand and testify to you, that is your evidence. We are
13 going to essentially boil this down to people who know,
14 for people who can give you direct or other evidence of
15 what happened. So listen very carefully as His Honor
16 said, listen very carefully, you are the fact finders, you
17 determine what the truth is, but it is based on what comes
18 off of that list. That is number one. Number two is
19 going to come at the close of the trial when His Honor
20 instructs you in the law in the case. Just as you are the
21 fact finders in the case His Honor is the lawgiver. He
22 will instruct you on what the law is on all of these
23 matters. It may not be the law as you think it is and
24 sometimes it may not be the law as you think it ought to
25 be but it is the law that you have to take with you back

1 to the jury room when you render your verdict. The third
2 thing I want to ask you to do, each and every one of
3 y'all, you come from Laurens County but you have got
4 different backgrounds, different jobs, perhaps different
5 lifestyles. But each and everyone of you have at least
6 one thing in common, that is common sense. I ask you to
7 use that common sense when you are listening to the
8 evidence that is coming off the witness stand, use that
9 common sense at the close of the trial when you are
10 applying the law as His Honor is giving you to the facts
11 as you have found them to be. If you do all of those
12 three things, ladies and gentlemen, I am confident you are
13 going to come back with a just and fair and a true
14 verdict. Thank you very much.

15 THE COURT: Mr. Grose.

16 MR. GROSE: Thank you, Your Honor. May it please the
17 Court.

18 THE COURT: Yes, sir.

19 MR. GROSE: The prosecutor started off talking about
20 how the case was brought in the name of the people and it
21 is the State versus an individual and in this case my
22 client, Preston Shands. That is a really important
23 concept that I would like for y'all to focus on for a
24 minute and focus on throughout the trial. Because when we
25 are talking about the State we are not just talking about

1 these prosecutors that are here in this courtroom but we
2 are talking about the witnesses from the police department
3 that they are going to call as witnesses to try to explain
4 to you what happened that night. And this is important
5 because sometimes things aren't always what they appear to
6 be. Things are not always what they appear to be and I
7 suggest to you that some of that is going on in this case
8 because you are probably sitting there after listening to
9 that opening statement saying why would somebody do
10 something like that, why would something like this ever
11 happen. Well, it is the police, the State, the ones with
12 the resources who do the investigation that are suppose to
13 determine that. Because you have already heard a couple
14 of times talk about the standard being proof beyond a
15 reasonable doubt. You have heard it from the Judge, you
16 have heard it from them, and you have heard it from me
17 again now. And it is not just proving the actions, it is
18 not just proving the elements of the crime. There is an
19 important concept that you have heard several times right
20 now, when Judge Miller first read the indictment to you,
21 more than once he talked about with criminal intent. The
22 prosecutor talked about a criminal's mindset and
23 absolutely every single case the State has to prove a
24 criminal intent, they have to prove a criminal mindset and
25 sometimes with individual elements of the crime like they

1 do in this case, they have to prove a state of the mind.
2 And I submit to you that what happened was is when Officer
3 Gainey and the other police officers showed up on that
4 night in July of last year, they rushed to judgment and
5 they jumped to some conclusions. They thought they saw a
6 certain set of facts and that is what went forward until
7 this day. When we question them and you have an
8 opportunity to look at it, what I want to look at and I
9 want you to pay attention is were there things that the
10 State, that law enforcement in the name of the people, you
11 and me and Preston Shands, could have done differently,
12 better, or thoroughly to understand what happened and how
13 it came about. Because at the end of the case it is not
14 your jobs to figure out what happened here, we are nine or
15 ten months removed from that incident now, we don't have
16 the resources that they had to do the investigation. We
17 don't have the time to go out there and go through it step
18 by step methodically and try to figure it out. What we
19 can do in this courtroom, the only thing that we can do as
20 the people, also in the name of the people is to hold the
21 State to their burden of proof, not only do they have to
22 prove facts, not only do they have to prove the elements
23 of the crime but they also have to prove criminal mindset
24 or criminal intent. I want you to listen to all of the
25 evidence, we all agree on that, I want you to listen to

1 all of the evidence. And the importance of that is, there
2 is orders that we go in and our time doesn't come until
3 later. And so I ask that you listen to everything.
4 Listen to both sides of the story, both sides of the coin,
5 so to speak. The other thing that I ask for is your
6 individual attention and judgment. Because Judge Miller
7 has already told you if you go to lunch with a friend or
8 family member you are not allowed to talk about this case.
9 And that may be a little bit of a burden because I like to
10 go home and talk about what I have done today and hear
11 what my wife has done during the day. But because of your
12 jobs as jurors in this case it requires your individual
13 attention. Each and every one of you is entitled to
14 listen to this evidence, view the evidence, consider the
15 evidence and come to your own informed, individual
16 judgment of the evidence. And then when it gets to that
17 last stage, the fifth stage so to speak when Judge Miller
18 talked about, when it comes time for deliberations, to
19 express that individual judgment, to listen to other
20 people's judgments and then alternately make the
21 determinations of whether or not the State has met their
22 burden, not just on the facts, not just on the elements
23 but whether or not they have proven criminal intent. And
24 at the end of this case, when I get my last chance to
25 speak with you, I am going to explain to you why we

1 believe that there is reasonable doubt in this case and
2 not guilty is the appropriate verdict in this case.

3 THE COURT: All right. Okay, ladies and gentlemen,
4 now is a good time to break for lunch. You are free to go
5 where ever you choose. Have a great lunch and ask you to
6 be back at 1:30. Don't discuss the case. Thank you.

7 (Whereupon, the jury was excused from open court for
8 a lunch break.)

9 THE COURT: Anything before we break?

10 MS. WHITE: No, sir.

11 (Whereupon, a lunch break was taken.)

12 THE COURT: Let's bring the jury in, please.

13 (Whereupon, the jury came into open court at
14 approximately 1:40 p.m.)

15 THE COURT: Ms. Briggs?

16 FOREPERSON: Here.

17 THE COURT: I understand you have agreed to serve as
18 the Foreperson?

19 FOREPERSON: Yes.

20 THE COURT: Did you leave the room when they took the
21 vote or something?

22 FOREPERSON: No.

23 THE COURT: Thank you very much for you agreeing to
24 serve, we appreciate that. At this time I will turn it
25 over to the State and to call their first witness.

1 MS. WHITE: Thank you, Your Honor, the State calls
2 Joey Avery.

3 JOEY AVERY, being
4 first duly sworn, testified as follows:

5 DIRECT EXAMINATION

6 By Ms. White:

7 Q State your name, please.

8 A My full name is Joseph Samuel Avery, Jr.

9 Q And where do you work, Mr. Avery?

10 A I work for Laurens County 911 as a Director.

11 Q How long have you been at Laurens 911?

12 A Roughly twenty-six and a half years.

13 Q All right. As part of the course of business at
14 Laurens 911 do y'all keep a record of the calls that come
15 in?

16 A Yes ma'am, we do.

17 Q Do you keep an actual recording of the phone calls?

18 A Yes ma'am, we do.

19 Q Do you have or were you asked to retrieve a phone
20 call from July the 20th of 2014 at Eden Street?

21 A I was.

22 MS. WHITE: May I approach the witness?

23 THE COURT: Yes.

24 Q I am handing you what has been marked for State's
25 exhibit number 1. Can you identify that for me.

1 A Yes ma'am, this is the copy of the recording that
2 came from my office identified by my initials in the
3 left-hand corner.

4 Q Is that a true and accurate copy of the call that
5 night?

6 A It is.

7 Q And we are talking about a call from what location?

8 A 105 Eden Street in Laurens.

9 MS. WHITE: Your Honor, the State moves exhibit 1
10 into evidence at this time.

11 MR. GROSE: No objection.

12 THE COURT: Without objection.

13 (Whereupon, State's Exhibit 1 was admitted into
14 evidence.)

15 MS. WHITE: Permission to publish, Your Honor?

16 THE COURT: Yes.

17 (Whereupon, 911 tape played for the jury.)

18 MS. WHITE: No further questions, Your Honor.

19 THE COURT: Cross.

20 CROSS-EXAMINATION

21 By Mr. Grose:

22 Q As I understand it your role here was just as a
23 records custodian. Your role in this case is to bring
24 that tape to trial?

25 A That is correct, sir.

1 Q So you didn't go on that call that night?

2 A I did not, no sir.

3 Q And it is not your voice on there?

4 A No, sir. That is night shift supervisor that works
5 directly for me.

6 Q And are you aware that EMS actually sent out two
7 units that night?

8 A They would be listed in the report here, sir, the
9 actual units that went.

10 Q One for Ms. Shands and one for Mr. Shands?

11 A I don't have the names for the individuals as far as
12 the EMS responded to.

13 Q But it does, without going into what it says, because
14 it is hearsay, but it does talk about a second transport?

15 A Let me look here, sir. We did have an initial medic
16 unit that was dispatched that, on 7/20 at 21:09 which
17 would be 9:09 p.m, we also had another medic unit
18 dispatched on 7/20 at 21:10 which would be 9:10 p.m.

19 Q So there were two?

20 A Yes, sir.

21 Q Thank you, sir.

22 THE COURT: Thank you, you can step down. Call your
23 next witness.

24 MS. WHITE: The State calls Sharon Shands.

25 SHARON SHANDS, being

1 first duly sworn, testified as follows:

2 DIRECT EXAMINATION

3 By Ms. White:

4 Q State your name for the record?

5 A Sharon Copeland Shands.

6 Q How old are you, Ms Shands?

7 A 38.

8 Q And where do you work?

9 A For Laurens County Disability Special Needs Board.

10 Q Are you nervous today, Ms. Shands?

11 A Yes.

12 Q You said you work for Laurens County Disability and
13 Special Needs?

14 A Yes.

15 Q And are you married?

16 A Yes.

17 Q Who are you married to?

18 A Preston Shands, Jr.

19 Q Is Mr. Shands in the courtroom today?

20 A Yes.

21 Q Where is he sitting?

22 A To the left.

23 Q Is that him over there in the dark suit and the red
24 tie?

25 A Yes.

1 MS. WHITE: Your Honor, let the record reflect that
2 she pointed out the Defendant.

3 THE COURT: Okay.

4 Q How long have you and Mr. Shands been married?

5 A A little over nine years.

6 Q Do you have any children?

7 A Yes.

8 Q Who are your children?

9 A Jalen Shands.

10 Q And how old is he?

11 A Eight.

12 Q And he is your child with Mr. Shands?

13 A Yes.

14 Q And do you have any other children?

15 A Yes.

16 Q And who is that?

17 A Travious Copeland.

18 Q How old is Travious?

19 A 16.

20 Q You said you and Mr. Shands have been married about
21 ten years. Where do y'all live.

22 A 104 Eden Street in Laurens.

23 Q Is that in the City of Laurens?

24 A Yes.

25 Q Maybe about five minutes from the Court House?

1 A Yes.

2 Q How long have you lived there?

3 A Around eight years.

4 Q Turning to the evening of July 20th of 2014. Do you
5 remember that day?

6 A Vaguely.

7 Q What day of the week was it?

8 A Sunday.

9 Q And what had you been doing that day?

10 A I was at church.

11 Q Were you at church all day?

12 A Yes, I got home around 6:30.

13 Q All right. Do you know where Mr. Shands was that
14 day?

15 A At home.

16 Q Where were your children?

17 A With him.

18 Q So you went to church and they were all home?

19 A Yes.

20 Q You say you got home around 6:00?

21 A Yes.

22 Q What happened when you got home?

23 A I changed clothes, I redone my hair, started watching
24 TV. And he started asking me why I didn't talk to him.

25 Q Did he, what was his demeanor at first?

1 A Quiet.

2 Q Did you smell any alcohol or did he seem to be
3 intoxicated to you?

4 A No.

5 Q You said he started asking why you wouldn't talk to
6 him. What happened after that?

7 A He started cursing at me.

8 Q And where were y'all when that happened?

9 A I was in the bedroom and he was in the hallway of the
10 house.

11 Q When he started cursing at you what happened after
12 that?

13 A I told him I was going to leave.

14 Q And then what did you do?

15 A I told the kids to come on and I tried to get in the
16 car and somebody kicked the door on my leg or something.
17 I don't remember everything, I remember seeing him on top
18 of Trey in the garage. We tried to get out of the garage.
19 It was halfway so we couldn't get out.

20 Q When you say it was halfway, are you talking about
21 the garage door?

22 A Yes.

23 Q Was it like a powered garage door opener?

24 A Yes.

25 Q And you say it was halfway. The door itself was

1 halfway up?

2 A Yes.

3 Q And where was everybody. You said you were trying to
4 leave. Where was everybody at that point?

5 A Trey had done made it back in the house. Jalen, he
6 was in the garage and at that time I remember him pulling
7 me by my hair to try to get me in the backdoor. And I
8 told him to go to Bill's house and call the police. And
9 when he got back, I don't know exactly what happened but
10 he told me to run. So me and Jalen went up under the
11 garage door. And I don't know how I got to Bill's house.
12 But somehow I got there.

13 Q What is the next thing you remember?

14 A Being on the floor. I remember glass shattering. I
15 was trying to block him from cutting me again. Trying to
16 get out of Bill's bedroom window.

17 Q When you say, let me stop you right there, when you
18 say block him from cutting you again. Had he already cut
19 you?

20 A Oh my hand, my left hand.

21 Q Had he stabbed you anywhere?

22 A I don't remember.

23 Q Do you have wounds, did you have any marks that
24 night?

25 A Yes.

1 Q You said you remember trying to block him from
2 stabbing you again. What else do you remember then?

3 A I remember going to a police cruiser. Everything is
4 vague.

5 Q Before he attacked you did you threaten him in any
6 way?

7 A No.

8 Q Did you have any weapons on you?

9 A No.

10 Q I am going to hand you what has been marked as
11 State's 2, 3 and 4, actually let's do 2 and 3 first. Can
12 you identify those for me?

13 A That is my front yard and my garage.

14 Q And State's 4, can you identify that for me?

15 A That is my neighbor's house.

16 Q And that is Mr. Koon's house?

17 A Yes.

18 Q Is that the house that you ended up running to?

19 A Yes.

20 Q You called your neighbor, Bill, is that what he goes
21 by?

22 A Yes.

23 Q Do you know his real name?

24 A No.

25 Q Do you know his last name?

1 A Yes.

2 Q What is his last name?

3 A Koon.

4 MS. WHITE: Your Honor, the State moves exhibits 2, 3
5 and 4 into evidence.

6 MR. GROSE: No objection.

7 THE COURT: Okay.

8 (Whereupon, State's Exhibits 2, 3 and 4 were admitted
9 into evidence.)

10 Q This is State's exhibit 2. Do you see that?

11 A Yes.

12 Q What was that again?

13 A That is my front yard.

14 Q And is this your garage right here?

15 A Yes.

16 Q And is that, sort of where the altercation started?

17 A Yes.

18 Q State's exhibit 3. What is behind this door right
19 here?

20 A My kitchen.

21 Q And you said State's exhibit 4, that is your
22 neighbor's house?

23 A Yes.

24 Q Do you remember which door you went in at your
25 neighbor's house?

1 A The front.

2 Q This door right here on the porch?

3 A Yes.

4 Q I am going to hand you what has been marked as
5 State's exhibit 5 through State's exhibit 13 for
6 identification. Can you thumb through those and I will
7 have some questions for you.

8 A Okay.

9 Q And what are those all pictures of?

10 A The wounds I received.

11 Q Was that taken right after or a few weeks after?

12 A A few weeks after.

13 Q And are those accurate pictures of the scars that you
14 have?

15 A Yes.

16 MS. WHITE: State moves exhibits 5 through 13 into
17 evidence, Your Honor.

18 MR. GROSE: No objection.

19 THE COURT: Okay.

20 (Whereupon, State's Exhibits 5 through 13 were
21 admitted into evidence.)

22 Q Looking at State's exhibit 5. Can you see that one?

23 A Yes.

24 Q What is that we are looking at?

25 A That is my left side.

1 Q And did you have that before Mr. Shands attacked you?

2 A No.

3 Q State's exhibit 6. What are we looking at there?

4 A That is my head, left side behind my ear.

5 Q State's exhibit 7.

6 A That is my left arm.

7 Q And you can't really, it is not showing up very well.

8 But you have a scar down by your elbow, is that right?

9 A A little above.

10 Q And then there is some more scars farther up your
11 arm?

12 A Yes.

13 Q And State's exhibit 8. What is that?

14 A My left shoulder.

15 Q That is another scar on your left shoulder?

16 A Yes.

17 Q And did you have any of these injuries before that
18 night?

19 A No.

20 Q State's exhibit 9. What is that?

21 A That is my finger.

22 Q Where on your finger is this scar?

23 A Like on that tip.

24 Q Right up here?

25 A Yes.

1 Q State's exhibit 10, what is that?

2 A That is a scar right above my heart, my chest.

3 Q And that is another one you received that night?

4 A Yes.

5 Q State's exhibit 11, what is that?

6 A That is a bite mark on my left eye.

7 Q Who bit you?

8 A Preston.

9 Q And that was that night?

10 A Yes.

11 Q State's exhibit 12, what is that?

12 A That is above, right by my ribs is at on the left
13 side.

14 Q Kind of up in this region on your left side?

15 A Yes.

16 Q And State's 13?

17 A My left arm.

18 Q That is a scar right there?

19 A Yes.

20 Q Is that another one right there?

21 A Yes.

22 Q Do you know how many times you were stabbed that
23 night?

24 A No.

25 Q Do you know how many stitches you received?

1 A No.

2 Q Was it a lot?

3 A I guess 40 to 50.

4 Q You said you remembered getting into the helicopter,
5 where were you taken?

6 A Greenville Memorial.

7 Q And how long did you stay there?

8 A Four or five days.

9 Q Do you remember where they had you in the hospital?

10 A When I went in I was in ICU and then I went to a
11 regular room.

12 Q Ms. Shands, are you and Mr. Shands still legally
13 married right now?

14 A Yes.

15 Q Are you going through a divorce?

16 A Yes.

17 Q And have you spoken directly to him since July 20th
18 of 2014?

19 A No.

20 Q Have you received any letters from him?

21 A Yes.

22 MS. WHITE: Can I approach the witness, Your Honor.

23 THE COURT: Yes.

24 Q I am handing you what has been marked as State's 14
25 and State's 15. If you can look at those for me. Do you

1 recognize the handwriting on those letters?

2 A Yes.

3 Q And who are those from?

4 A Preston.

5 Q And who are they directed to?

6 A The kids.

7 Q Did the kids ever see them?

8 A No.

9 Q How did you come to possess those?

10 A They came in the mail.

11 Q And what did you do with them when they came?

12 A Put them up and turned them in.

13 Q Turned them into law enforcement?

14 A Yes.

15 MS. WHITE: State moves exhibits 14 and 15 into
16 evidenced.

17 MR. GROSE: No objection.

18 THE COURT: Go ahead.

19 (Whereupon, State's Exhibit 14 and 15 were admitted
20 into evidence.)

21 Q And you said you never showed these to the kids?

22 A No.

23 Q Ms. Shands, when you were trying, you said you were
24 trying to leave and he shut the garage door, was that just
25 one time or did it keep going on?

1 A It went on for about one or two minutes. I was
2 trying to open it and he was trying to close it.

3 Q So you were trying to leave and he was trying to keep
4 the door shut?

5 A Yes.

6 Q Ms. Shands, were you in fear for your life that
7 night?

8 A Yes.

9 Q Please answer any questions Mr. Grose has for you.

10 CROSS-EXAMINATION

11 By Mr. Grose:

12 Q I want to ask you about State's exhibits 14 and 15.
13 These are the letters you just testified about, is that
14 right?

15 A Yes.

16 Q And I think you said those letters came in envelopes
17 addressed to your children?

18 A Yes.

19 Q And your oldest child, if I am saying his name right,
20 Travious.

21 A Travious.

22 Q Travious, I am sorry. That was the son from a prior
23 relationship?

24 A Yes.

25 Q But you and Preston had known each other for 11 or 12

1 years now?

2 A Yes.

3 Q And you all lived together as a family and he helped
4 raise your son, didn't he?

5 A Yes.

6 Q And the second son is Jalen, is that correct?

7 A Yes.

8 Q And that is the son that you and Preston have
9 together?

10 A Yes.

11 Q And these letters were addressed to both of them,
12 right?

13 A Yes.

14 Q Have you read the letters?

15 A No.

16 Q Okay. They came and then you gave them to law
17 enforcement?

18 A Yes.

19 Q When did you give them to law enforcement?

20 A A week after I got them.

21 Q And you got one in December and one in January,
22 right?

23 A Yes.

24 Q So, did you give them to them both at the same time
25 or did you give them the December one and then give the

1 January one?

2 A They were separate.

3 Q They were separate. So they have had those, one
4 since last December and one since January, is that right?

5 A Yes.

6 Q All right. Now, you said you haven't read those?

7 A No.

8 Q You took them to law enforcement for whatever value
9 they might have, didn't you?

10 A No, I was told that he couldn't contact us.

11 Q But you turned them over to them so they could do
12 with those whatever they needed to do, right?

13 A Yes.

14 Q Okay. And if there was something in there to
15 followup on you would expect them to followup, wouldn't
16 you?

17 A Yes.

18 Q Now, the Prosecutor ask you about smelling alcohol on
19 Preston the night that this happened, do you remember that
20 question?

21 A Yes.

22 Q And you said you didn't?

23 A No.

24 Q All right. Would it surprise you to learn that he
25 talks about alcohol in those letters?

1 A No, it wouldn't.

2 Q All right. You and Preston have fussed before,
3 right?

4 A Yes.

5 Q And argued, right?

6 A Yes.

7 Q This is the first time he has ever done something
8 like this, isn't it?

9 A Yes.

10 Q And you had concern that you have expressed to other
11 people that maybe Preston had been poisoned this night,
12 didn't you?

13 A No.

14 Q Do you remember talking to Jimmy McBeth about that?

15 A No. The conversation came up that he brought to me.

16 Q And you don't remember telling him about the
17 possibility that Preston's friends, that you didn't
18 approve of, might have given him something?

19 A No.

20 Q But the way Preston was acting that night, he was
21 more agitated than usual, right?

22 A I guess a little because he did stuff all the time.

23 Q Okay. But he never did anything like this before?

24 A No, not to this extreme, no.

25 Q But he has never physically harmed you before?

1 A No.

2 Q So, if there was something that could explain why
3 this that was out of the ordinary happened, you would want
4 to know that, wouldn't you?

5 A I would.

6 Q That is all I have. Thank you.

7 REDIRECT EXAMINATION

8 By Ms. White:

9 Q What was Mr. Shands demeanor, well, let me back up.
10 When y'all first got married would you describe your
11 relationship as happy?

12 A It was wonderful.

13 Q And the months leading up to this incident, how would
14 you describe Mr. Shands behavior towards you?

15 A Controlling, we walked on pins and needles every day,
16 we just didn't know what to expect.

17 Q No further questions.

18 THE COURT: Thank you, Ma'am, you can step down.
19 Call your next witness.

20 MS. WHITE: The State calls Travious Copeland.

21 TRAVIOUS COPELAND, being

22 first duly sworn, testified as follows:

23 DIRECT EXAMINATION

24 By Ms. White:

25 Q What is your name?

- 1 A Trey Copeland.
- 2 Q Your full name is Travious?
- 3 A Yes, ma'am.
- 4 Q And you go by Trey?
- 5 A Yes, ma'am.
- 6 Q How old are you, Trey?
- 7 A 16.
- 8 Q Where do you go to school?
- 9 A Clinton High.
- 10 Q What grade are you in there?
- 11 A Tenth.
- 12 Q And who are your parents?
- 13 A Sharon.
- 14 Q Did you live with your mom and her husband, Preston?
- 15 A Yes, ma'am.
- 16 Q Do you remember how old you were when your mom first
- 17 married Mr. Shands?
- 18 A No, ma'am.
- 19 Q Has he been pretty much there the whole time you have
- 20 been growing up?
- 21 A Yes, ma'am.
- 22 Q Where did y'all live?
- 23 A Laurens on Eden Street.
- 24 Q At 104?
- 25 A Yes, ma'am.

1 Q How would you describe your relationship with Mr.
2 Shands while you were growing up?

3 A It was good.

4 Q Are you nervous to be here today?

5 A Yes, ma'am.

6 Q Do you remember the night of July 20th of 2014?

7 A Yes, ma'am.

8 Q And what had you been doing that day?

9 A In my room.

10 Q And that was at your house?

11 A Yes, ma'am.

12 Q And who was there with you?

13 A Step-dad and my brother.

14 Q Your brother, are you talking about Jalen?

15 A Yes, ma'am.

16 Q And y'all were there all day together?

17 A Yes, ma'am.

18 Q Did you see Mr. Shands with any sort of alcohol that
19 day?

20 A A Bud Light.

21 Q Just one Bud Light?

22 A I don't know how many he drunk, I just seen a Bud
23 Light.

24 Q Did you see him drinking anything else that day?

25 A No, ma'am.

1 Q Have you ever, let me back up, would you say that Mr.
2 Shands got intoxicated, that he got drunk?

3 A I don't know.

4 Q About what time did your mom get home?

5 A Probably 1:00 or 2:00.

6 Q It was in the afternoon some time?

7 A Yes, ma'am.

8 Q What happened once your mom got home?

9 A She walked back to her room because she watched TV.

10 Q What happened after that?

11 A I heard him walking into my mama's room. And he was
12 like, why don't you never talk to me. And mama was like,
13 what do you mean. And that is when they started arguing.

14 Q What happened after they starting arguing?

15 A My mama told us, let's go to the car.

16 Q And where was the car parked?

17 A In the garage.

18 Q What happened after that?

19 A My mama, she got in the car and the door was opened
20 and he, I think he tried to close the garage.

21 Q When you say the door was open, are you talking about
22 the garage door was open?

23 A Yes.

24 Q And then you say he tried to shut it?

25 A Yes, ma'am.

1 Q What happened after that?

2 A He kicked the door and my mama's leg was still out.

3 Q Which door are you talking about now?

4 A The car door.

5 Q After he kicked the car door what happened?

6 A I got him out of the way and we got by the front of
7 the car and that is when I fell. And he was on top of me
8 and then my mom came and that is when he, that is when he
9 started, I believe before he kicked the door he got a
10 knife or whatever. And that is when, kind of runs away
11 and then my mom came and then somehow they got over there,
12 outside of the garage in the grass.

13 Q You said he had gotten a knife or something. What
14 was he doing with it?

15 A He was stabbing my mama.

16 Q What did you do when you saw him stabbing your mom?

17 A I ran to Bill's.

18 Q When you say, Bill, is that Mr. Koon who is sitting
19 right back here?

20 A Yes, ma'am.

21 Q You ran to his house and what did you do after that?

22 A I told Bill to call the police and that is when I ran
23 back over.

24 Q You ran back to your house?

25 A Yes, ma'am.

1 Q What did you do from there?

2 A I had to stop him from cutting my mom.

3 Q How, were you able to stop him?

4 A A little bit.

5 Q What did y'all do after that?

6 A I got my mom off and that is when she ran to Bill's
7 house and I told Jalen or whatever. And then that is when
8 I took off to the house and that is when he tackled my mom
9 at the front door at Bill's house. And that is when he
10 started stabbing again.

11 Q You said he tackled her at the front door of Bill's
12 house, were y'all actually in the house at that point,
13 kind of in the doorway?

14 A Right on the steps.

15 Q Started stabbing her again?

16 A Yes, ma'am.

17 Q What happened from then?

18 A That is when I grabbed his hand and I stopped him
19 from stabbing her.

20 Q Were y'all able to get him to stop?

21 A Yes, ma'am.

22 Q What did y'all do?

23 A I got his arm and did like that and leaned back.

24 That is when he left and he got a hammer and he came back
25 to Bill's house and he busted out the front window.

1 Q And when he had left to go get the hammer were y'all
2 inside with the door locked?

3 A Yes, ma'am.

4 Q You said he came back and busted out the window,
5 which window was that?

6 A The front window.

7 Q And then what did he do?

8 A He went to the back of the house and busted it out.

9 Q And what did he do from there?

10 A I think he busted out two windows and he got in and
11 in front of the kitchen and got another knife. That is
12 when the police came.

13 Q When the police came what did he do?

14 A He came to the front porch.

15 Q Did he have anybody with him when he came to the
16 front porch?

17 A I don't know.

18 Q What did your mom do when the police got there?

19 A She ran to the police officer.

20 Q And he followed her out the door?

21 A Yes, ma'am.

22 Q Did you, were you injured?

23 A Yes, I had some cuts and stuff.

24 Q How did you get those cuts?

25 A From catching a knife.

1 Q When you say from catching a knife, what were you
2 doing?

3 A I was trying to stop him from stabbing my mama.

4 Q And he cut you kind of in the process?

5 A Yes, ma'am.

6 Q Do you know what point during all of this that
7 happened?

8 A No ma'am, I really didn't feel it.

9 Q Travious, the person who had the knife that night, is
10 he in the courtroom today?

11 A Yes, ma'am.

12 Q Where is he.

13 A (The witness pointed to Mr. Shands.)

14 Q You are pointing to Mr. Shands. Did you see anybody
15 else with a weapon that night?

16 A No, ma'am.

17 Q What did you think was going to happen to your mom
18 that night?

19 A I thought she was going to die.

20 Q Please answer any questions Mr. Grose has for you.

21 CROSS-EXAMINATION

22 By Mr. Grose:

23 Q I am going to try to be brief. But in doing so if I
24 ask you something that you don't understand will you let
25 me know before you try to answer?

1 A Yes, sir.

2 Q Do you remember talking to the police officers that
3 night or the next day?

4 A Yes, sir.

5 Q And do you remember them wanting you to make a
6 statement?

7 A I don't know about a statement.

8 MR. GROSE: May I approach, Your Honor?

9 THE COURT: Yes.

10 Q Did you sign that statement?

11 A Yes, sir.

12 Q Okay. And what I wanted to ask you about was, the
13 first object that you saw Preston with, did you tell the
14 police officers that was a fork instead of a knife?

15 A I told them it was a knife, something that you use on
16 the grill.

17 Q And like the fork kind of with prongs to turn meat or
18 whatever on the grill, is that right?

19 A Yes, sir.

20 Q And, now Ms. White ask you about living with your
21 mother and Preston growing up?

22 A Yes, sir.

23 Q I think you said you did, correct?

24 A Yes, sir.

25 Q And Preston treated you like his own son?

1 A Yes, sir.

2 Q Did things with you?

3 A Yes, sir.

4 Q I think you said you had a good relationship?

5 A Yes, sir.

6 Q And other than this one incident Preston has never
7 done anything like this that you have seen, has he?

8 A He did some other things.

9 Q But he, he could fuss and get irritable but he has
10 never had stabbed anybody like this, has he?

11 A No, sir.

12 Q Okay. Now, they ask you questions about what you saw
13 Preston drinking that day and you said you saw one Bud
14 Light, is that right?

15 A Yes, sir.

16 Q There was also a time where he had a clear glass with
17 some, like coke, do you remember that, coca cola?

18 A No, sir.

19 Q You just don't remember that. And what time did you
20 say that your mother got home, I think you said it was
21 around 1:00 or 2:00?

22 A Yes, sir.

23 MR. GROSE: I beg the Court's indulgence for a
24 moment.

25 Q This was almost a year ago, right?

1 A Yes, sir.

2 Q And you are probably having a little trouble
3 remembering back when these things actually happened,
4 right?

5 A A little bit.

6 Q Thank you, that is all I have.

7 MS. WHITE: No questions.

8 THE COURT: Thank you, sir, you may step down.

9 MS. WHITE: The State calls Jalen Shands.

10 JALEN SHANDS, being

11 first duly sworn, testified as follows:

12 DIRECT EXAMINATION

13 By Ms. White:

14 Q Can you tell us your name?

15 A Jalen.

16 Q Your last name is Shands?

17 A Yes, ma'am.

18 Q When is your birthday, Jalen?

19 A November the 10th.

20 Q How old are you?

21 A Eight.

22 Q Where do you go to school?

23 A Clinton.

24 Q And you are in second grade there?

25 A Yes, ma'am.

1 Q Who is your mom?

2 A Sharon Shands.

3 Q And who is your dad?

4 A Preston.

5 Q Did you live with your mom and your dad?

6 A Yes, ma'am.

7 Q Do you remember back on July the 20th of last year?

8 A Yes, ma'am.

9 Q What had you been doing that day?

10 A Watching TV.

11 Q And had you been home all day?

12 A Yes, ma'am.

13 Q And where was your mom?

14 A At church.

15 Q And your mom got home at some point?

16 A Yes.

17 Q And what happened when your mom got home?

18 A We talked and watched TV.

19 Q Did she and your dad start arguing?

20 A Yes.

21 Q Did you hear what it was over?

22 A Yes.

23 Q What were they fighting over?

24 A (No response.)

25 Q You don't remember. It is fine. If you don't

1 remember just tell me you don't remember, okay. What
2 happened after they were arguing?

3 A My mom cranked up the car and her leg and he kicked
4 it.

5 Q When you say he kicked it, who are you talking about?

6 A My dad.

7 Q Your dad. He kicked the door of the car?

8 A Yes.

9 Q And what happened after that?

10 A Trey told me to call the police and that is when he
11 got the fork.

12 Q Who got the fork?

13 A My dad.

14 Q And what did he do with the fork?

15 A He got my mom by the hair and that is when my brother
16 and he just said, he had a fork. And he busted a window.

17 Q You said that your dad had your mom by the hair and
18 he had a fork, what was he doing with the fork.

19 A After he had the fork, he went back to her and he
20 tried to cut her throat but the fork was bent up.

21 Q And you saw him trying to cut your's mom throat?

22 A Yes.

23 Q Was Trey going to get him out of the house?

24 A Yes, he still had the fork when he went back to that
25 house and that is when the police arrived.

1 Q And when you are talking about the house, you are
2 talking about Mr. Bill's home?

3 A Yes.

4 Q Jalen, what did you think was going to happen to your
5 mom that night?

6 A She was going to be okay.

7 Q I am talking about while all of this was going on,
8 were you scared?

9 A Uh-huh.

10 Q Was your mom bleeding?

11 A Yes.

12 Q Did you see Trey get cut?

13 A No.

14 Q Please answer any questions Mr. Grose has.

15 CROSS-EXAMINATION

16 By Mr. Grose:

17 Q Jalen, if I ask you something that you don't
18 understand will you let me know, is that fair?

19 A Yes.

20 Q Are you a little nervous about being here, aren't
21 you?

22 A Yes.

23 Q Have you ever had to come to court for anything like
24 this before, have you?

25 A No, sir.

1 Q All right. I just want to kind of go back to a
2 couple of things real quickly, if that is all right.
3 Okay. I think you said that the first thing you saw your
4 dad grab was the fork, is that right?

5 A Yes, sir.

6 Q And this isn't so much for me, but this lady over
7 here keeps reminding us that she has got to record
8 everything so I need you to say your answer out loud,
9 okay.

10 A Okay.

11 Q And I think you said when you were in Bill's house
12 that your dad was still using the fork, is that right?

13 A Yes, sir.

14 Q And you said it was too bent up, is that right?

15 A Yes.

16 Q Now, you said you were scared that night and I can
17 understand that. This is the first time you have ever
18 seen your dad do something like that with a fork, isn't
19 it?

20 A Yes, sir.

21 Q And it was kind of out of the ordinary?

22 A Yes.

23 Q And you have never seen him in that kind of state of
24 mind before, have you?

25 A No.

1 Q That is all I have.

2 MS. WHITE: No questions.

3 THE COURT: You may step down. Call your next
4 witness.

5 MS. WHITE: The State calls Clarence Koon to the
6 stand.

7 CLARENCE KOON, being
8 first duly sworn, testified as follows:

9 DIRECT EXAMINATION

10 By Ms. White:

11 Q Tell us your name for the record?

12 A Clarence Koon, Jr., known as Bill.

13 Q I was about to say, do you go by Bill. Where do you
14 live, Mr. Koon?

15 A 105 Eden Street.

16 Q That is here in the City of Laurens?

17 A Yes.

18 Q Are you neighbors with Mr. and Ms. Shands?

19 A Yes.

20 Q And where, if you are standing on your front porch
21 kind of looking out where is their house?

22 A An angle to my front door.

23 Q They are across the street neighbors?

24 A Yes.

25 Q Now, going right to the night of July 20th of 2014,

1 what were you doing that night?

2 A Just had sat down and fixing to watch TV.

3 Q And what is the first thing you heard?

4 A Somebody was banging on my door like they were fixing
5 to knock it down. And I jumped up and went to the door.

6 Q And when you went to the door who was there?

7 A His boy.

8 Q And what happened after that?

9 A He was telling me that he was killing his mama,
10 stabbing her. And when he told me that he kind of turned
11 and went back across the road. And then it wasn't but a
12 few minutes later they all came over to the house.

13 Q When you say all of them who all was it?

14 A Mr. Shands was running, the two kids and the mama.

15 Q And they came back over to your house?

16 A Yes, they came in the house and that is when, I don't
17 know if he pushed her down on the floor but I know they
18 both wound up on my front room floor.

19 Q And what, that is just right inside of your front
20 door?

21 A Yes, ma'am.

22 Q And kind of how did they end up, who was where?

23 A Ms. Shands was on the bottom and Mr. Shands was on
24 top of her.

25 Q What was Mr. Shands doing?

1 A He was trying to, he looked to me he was trying to
2 cut her throat with some kind of object wrapped around his
3 hand, I couldn't tell at the time what it was. But when I
4 finally got to see the handle, it was white or it looked
5 white. And it was wrapped around his hand like a pair of
6 steel nooks. And he was trying to use the bottom end of
7 it, the broke end part and he was trying to go across her
8 throat with it.

9 Q Was he saying anything?

10 A He never said a word, not the first word, period.

11 Q Was Ms. Shands' bleeding?

12 A Oh, she had blood everywhere. I mean I didn't even
13 see no part of her, all I saw was blood.

14 Q You said he was trying to cut her throat?

15 A Yes, ma'am. He was trying to cut her throat with
16 whatever it was in his hand.

17 Q What happened after that?

18 A I got the phone. I went in the bathroom to tell my
19 wife but she was in the shower, what was going on because
20 Ms. Shands was screaming and hollering for me to help her.
21 And I grabbed my telephone and I go into the shower with
22 my wife to try to dial 911 and get the police out there.
23 And then when I went back in there the two boys had his
24 hand, him facing Ms. Shands and they had his hand kind of
25 back like this keeping him from whatever that was on his

1 hand from hurting their mama.

2 Q Were y'all able to get him off of her?

3 A Well, the weird thing was, I turned around and went
4 back into the bathroom and when I came back in there he
5 was gone. And that is when he went across the house,
6 across to his house. I guess that is when he got the
7 hammer and come back and started whelling, (phonetic),
8 because I noticed my windows were disappearing.

9 Q When you say your windows were disappearing, which
10 windows?

11 A The big, windowpane window in the front, the big one
12 is the one he hit first. It is like a five by five
13 windowpane.

14 Q And what happened after that?

15 A And he kind of goes to the back of the house and I
16 cut through the house and go back there to lock the door
17 because we had done locked the front door. When he got
18 back there I told him to cool off a little bit and just
19 take a few minutes and try to ease down. And the next
20 thing I know was wham, bam, he just busted two more
21 standing right beside me on the back of the house.

22 Q And he busted two more windows?

23 A Yes, busted two more windows. And then he just said,
24 let me in. And that was the only word, he hasn't spoke to
25 me since he had even been in my yard, just let me in,

1 Bill. And a few minutes later, I have two sliding glass
2 doors to the, would have been to his right. And he threw
3 the hammer through the sliding glass doors and that is how
4 he came back into my house. That is how he gained
5 entrance again.

6 Q When he came back into your house what did he do?

7 A I was outside on the front. At that point and time
8 me and the oldest boy and the youngest boy came out, it
9 seemed like with his daddy and he had a knife in his hand
10 that he got from my kitchen.

11 Q When you said he had a knife, you are talking about--

12 A Mr. Shands.

13 Q -- Mr. Shands?

14 A Yes, ma'am.

15 Q And you know it was a knife from your kitchen?

16 A Oh, yes ma'am, it was a knife from my kitchen.

17 Q What did he do with the knife?

18 A Well, about the time Mr. Shands came out the door the
19 policeman pulled up and drewed his weapon and told Mr.
20 Shands to drop the weapon and he just dropped it on the
21 grass.

22 Q I am going to hand you what has been marked as
23 State's 16 through 24, well I am going to hand you 16
24 through 24 but take out 17. Can you look at those and
25 identify them for me?

1 A Yes, ma'am. This one is the entrance to my home.

2 Q Are those all pictures of various places around your
3 house?

4 A Yes, ma'am. That is to the back entrance.

5 Q Are all of these pictures a fair and accurate
6 depiction of how it looks today?

7 A Yes, ma'am. That is what it looks like right now.

8 Q And with the exception of the boarded up or the sided
9 over place on the back, is that pretty much what it looked
10 like last year on July 20th?

11 A Yes, ma'am.

12 MS. WHITE: The State moves number 16 through, well,
13 let me ask you about 17.

14 Q What is 17 a picture of?

15 A That is Mr. Shands house.

16 Q Is that what it looked like back then?

17 A Yes.

18 MS. WHITE: State moves exhibits 16 through 24 into
19 evidence at this time, Your Honor.

20 MR. GROSE: No objection.

21 THE COURT: All right.

22 (Whereupon, State's Exhibits 16 through 24 were
23 admitted into evidence.)

24 MS. WHITE: Permission to publish.

25 THE COURT: Yes.

1 Q Looking at this, what is that picture of, Mr. Koon?

2 A That is the entrance to my home.

3 Q Is that where they came in that night?

4 A Yes, ma'am.

5 Q And you said he broke out a window. Is that this
6 window right here?

7 A Yes, ma'am.

8 Q Is that a better, closer picture of the window?

9 A Yes, ma'am. That is the big window.

10 Q You said he went around towards the back. This is
11 State's exhibit 18. What is that on your house?

12 A That is my patio back there. That is where he went
13 to.

14 Q So he came around this side of the house?

15 A Yes, ma'am.

16 Q Did he have to go in this gate?

17 A Yes, ma'am.

18 Q And this is State's exhibit 20. What is that?

19 A That is my patio.

20 Q Did he break out any windows there?

21 A The two on the left of the door.

22 Q These two right here?

23 A Yes, ma'am. Well, at the top and the bottom, the
24 stack window, yes.

25 Q State's exhibit 21. What is that there?

1 A That used to be a patio door.

2 Q Sliding glass door?

3 A Yes.

4 Q What happened there?

5 A That is how Mr. Shands reentered my home. He took
6 the hammer, we found the hammer where he threw the hammer
7 through the glass and that is how he came through.

8 Q Where was he when he threw the hammer?

9 A I don't really know but I am sure he had to be
10 somewhere standing on that patio to angle it the way it
11 went in the window.

12 Q And I guess y'all fixed it, y'all decided to close it
13 in?

14 A Yes, ma'am. Because people throw hammers through big
15 windows.

16 Q Mr. Koon, did you get a good look at the hammer that
17 night?

18 A I looked at it briefly, not up close.

19 Q I am going to show you what has been marked as
20 State's 25 for identification. Do you recognize that?

21 A Yes, that looks like the hammer, it sure does.

22 Q And, Mr. Koon, you said he grabbed the knife from
23 your kitchen. I am going to hand you State's exhibit 26.
24 Can you identify that for me. Be careful because it can
25 poke through.

1 A Yes, ma'am. That is the knife from my kitchen, we
2 got a set of them.

3 Q Mr. Koon, did he have your permission to come to your
4 house that night?

5 A No ma'am, he sure didn't.

6 Q And was it dark by the time he came in?

7 A It was getting dark, it wasn't completely one-hundred
8 percent dark but it was getting kindly dusky.

9 Q After everything kind of settled down, how was your
10 house left?

11 A Like a tornado went through it. It took us a long
12 time to get the blood off the floor and off the furniture.
13 It was a nightmare. In fact, it took me almost three days
14 before the insurance even sent me any money. And we sat
15 there with our guns because my windows were knocked out.
16 They didn't, nobody sent me any money or nothing. And we
17 had to put plywood up against them and that is how we took
18 care of the house.

19 Q Mr. Koon, what did you think Mr. Shands was trying to
20 do that night?

21 A I don't think, that man was trying to kill that
22 woman.

23 Q Please answer any questions Mr. Grose has.

24 CROSS-EXAMINATION

25 By Mr. Grose:

1 Q Mr. Koon, I probably will just have a few questions.
2 The first object that you saw in Preston's hands. What
3 did you call that?

4 A It looked like a meat fork from some kind of grill is
5 what it actually looked like.

6 Q So that wasn't a knife?

7 A No, sir. I don't think that was no knife, not at
8 that time.

9 Q And was that what you thought was wrapped around his
10 hands or was that something else?

11 A No, the meat fork is what he had wrapped around his
12 hands.

13 Q And the knife, did you actually see him cut or stab
14 anybody with the knife?

15 A No sir, I did not.

16 Q And you talked about seeing blood in your house and
17 on Ms. Shands?

18 A Oh, yes. She was covered.

19 Q And Preston was covered with blood?

20 A Yes sir, he was.

21 Q Do you know what parts of Preston's body were
22 injured?

23 A I know he had one or two cuts on his arm when he
24 broke the glass. I mean, I wasn't really paying a lot of
25 attention, everything was going ninety miles an hour.

1 Q You don't know exactly how he got those cuts, do you.
2 You just know he had some cuts?

3 A Yes.

4 Q And since things were going ninety miles an hour, out
5 of fairness, don't speculate.

6 A Right.

7 Q So, you did see cuts on Preston?

8 A Yes sir, he had cuts.

9 Q And you have no actual knowledge as to how he got
10 those cuts?

11 A I sure don't.

12 Q Now, you and Preston have lived across the street a
13 number of years, I would imagine?

14 A Yes.

15 Q And you have talked to Preston before?

16 A Real nice guy.

17 Q Real nice guy. You have seen him play with his
18 children?

19 A Yes, sir.

20 Q I believe you probably have had children of yours
21 visit him, his children at his house?

22 A Yes.

23 Q Kids play together?

24 A Yes.

25 Q And this was entirely out of character for Preston?

1 A Well, see I don't know if that was out of character
2 or not. I know he has been a neighbor to us.

3 Q Right, he had always been a good neighbor to you?

4 A Yes, sir.

5 Q And you had never witnessed anything like this?

6 A No sir, I have not.

7 Q That is all I have.

8 REDIRECT EXAMINATION

9 By Ms. White:

10 Q Mr. Grose was just asking you about Mr. Shands as a
11 neighbor. How would Mr. Shands react if someone tried to
12 speak to Ms. Shands?

13 A He could get sometimes a little jealous at times. I
14 mean he would say something to her and get her attention.

15 Q And that night, by my count, he broke three windows
16 and a sliding glass door?

17 MR. GROSE: Objection, leading.

18 A Yes.

19 THE COURT: Don't lead.

20 Q How many windows did he break out?

21 A Five total.

22 Q So there, was there a lot of broken glass around?

23 A It was everywhere.

24 Q No further questions.

25 THE COURT: You can step down, thank you.

1 MR. GROSE: Your Honor, can we take a brief recess.

2 THE COURT: We will take a break and don't talk about
3 the case and we will get back with you shortly.

4 (Whereupon, the jury was excused from open court for
5 a break.)

6 THE COURT: We will take a few minutes.

7 (Whereupon, a short break was taken.)

8 THE COURT: Let's get them in.

9 (Whereupon, the jury came into open court at
10 approximately 3:40 p.m.)

11 THE COURT: Call your next witness.

12 MS. WHITE: The State calls Martha Koon to the stand.

13 MARTHA KOON, being
14 first duly sworn, testified as follows:

15 DIRECT EXAMINATION

16 By Ms. White:

17 Q Tell us your name for the record?

18 A Martha Koon.

19 Q And where do you live, Ms. Koon?

20 A 105 Eden Street.

21 Q Who do you live with?

22 A My husband, Clarence.

23 Q Do you know Preston and Sharon Shands?

24 A Yes, I do.

25 Q Where do they live in relation to you?

1 A 104 Eden Street, right across the street.

2 Q Going to July 20th of 2014, do you remember that
3 night?

4 A I do.

5 Q And what, I guess this was a Sunday, did you work
6 that day?

7 A No.

8 Q What were you doing that evening?

9 A Well, when it first started I had gone in and I was
10 getting ready to take a shower. And, I had already gotten
11 in the shower and I heard screams.

12 Q Did it sound like a male voice, a female voice?

13 A Female.

14 Q What did you do when you heard the screams?

15 A Well, I got out of the shower and I went in to see
16 what was going on. And at that time I saw Preston on top
17 of Sharon.

18 Q You said he was on top of her, what was he doing?

19 A I could tell, it had begin to get dark. I could not
20 see what the weapon was but I could see that he had
21 something in his hand and they were struggling and she was
22 screaming. I could see blood everywhere and he was aiming
23 for her throat with whatever the weapon was.

24 Q Who else was there?

25 A Her oldest son and also her youngest son.

1 Q What were they doing when you came in?

2 A Well, the youngest son was just screaming because he
3 was very scared. And the older son was trying to pull
4 Preston off of Sharon.

5 Q What happened after that?

6 A Well, I went back into the bathroom to get dressed
7 and when I came back he was already gone. He had went
8 back to his home and a few minutes later he came back and
9 that is when he had the hammer. And he threw the hammer
10 or started breaking my front window with the hammer. Then
11 he went around to the back of the house and he asked Bill
12 to let him in and Bill said no. So, he went to my sliding
13 glass door and he threw the hammer and broke it and he
14 entered in my home through my den. He went straight to my
15 kitchen and got one of my kitchen knives and he started
16 towards Sharon and she went to, through the hall to my
17 bedroom. And at that time that is when the police arrived
18 and he went out the front door with the knife in his hand.

19 Q Did anybody give him permission to come in the house?

20 A No, ma'am.

21 Q Did he have permission to come in your house
22 ordinarily?

23 A No.

24 Q Please answer any questions Mr. Grose has.

25 CROSS-EXAMINATION

1 By Mr. Grose:

2 Q Thank you for being here. I will try to be very
3 brief. If I ask you anything you don't understand would
4 you let me know before you try to answer.

5 A Sure.

6 Q As I understand you were in the shower when this
7 started?

8 A Yes, sir.

9 Q And you heard a scream?

10 A I did.

11 Q So obviously you don't know what lead up to that
12 point, that is the first time you were aware of it?

13 A Right.

14 Q And when you went into your living room you saw
15 Preston with an object in his hand but you couldn't tell
16 what it was?

17 A No.

18 Q And I guess you never got a good look at it?

19 A No.

20 Q And then he left and he came back. That is when he
21 got the kitchen knife, right?

22 A Yeah, when he came back and came into my home for the
23 second time, right.

24 Q Yes, ma'am. And you didn't see him do anything with
25 the kitchen knife other than hold it, did you?

1 A No.

2 Q Okay. Now, as I understand it, there was blood in
3 your house?

4 A Right.

5 Q And you probably saw blood on Sharon?

6 A Yes.

7 Q And you saw blood on Preston?

8 A I don't remember, honestly I don't remember if I saw
9 blood on Preston or not.

10 Q Do you know if Preston was injured?

11 A I don't know, I was mainly concerned for Sharon.

12 Q So if Preston was injured you don't know how that
13 happened?

14 A I don't know, no sir.

15 Q You and Preston have been neighbors for a lot of
16 years?

17 A Yes.

18 Q About how many years do you think?

19 A At that time it would have been a little over four
20 years, because I have been there about five now.

21 Q And your children played with his children?

22 A Well, my son is older than his children.

23 Q But you saw him playing with the children?

24 A Right, yes.

25 Q Up until this night, as far as you know, he has been

1 a good neighbor?

2 A Yes, he was always very friendly, very polite, he
3 always spoke, he seemed like a good guy.

4 Q That is all I have.

5 THE COURT: You can step down, thank you.

6 MR. MOWRY: Call Michael Gainey.

7 MICHAEL GAINNEY, being
8 first duly sworn, testified as follows:

9 DIRECT EXAMINATION

10 By Mr. Mowry:

11 Q You are Michael Gainey?

12 A That's correct.

13 Q And by whom are you employed, please, sir?

14 A Laurens City Police Department.

15 Q What is your position with the Laurens County Police
16 Department?

17 A I am a supervisor, shift supervisor, sergeant.

18 Q Were you employed in that capacity back on the 20th
19 of July of last year?

20 A I was.

21 Q And were you working that day?

22 A Yes.

23 Q What shift were you working?

24 A Night shift, 7:00 p.m. to 7:00 a.m.

25 Q Twelve hour shift, you were working from 7:00 in the

1 evening to 7:00 on the morning of the 21st, is that right?

2 A That's correct.

3 Q So you were on duty around 9:00 o'clock that night,
4 is that right?

5 A That's correct.

6 Q Sometime around 9:00 o'clock, shortly after 9:00 did
7 you receive instructions to go to a location?

8 A I did.

9 Q And how did you get that information?

10 A We got it through 911 dispatch, took me in route to
11 105 Eden Street.

12 Q And let me ask you this, is 105 Eden Street in
13 Laurens County?

14 A It is in the County of Laurens, but it is in the
15 City.

16 Q It is in the City limits and in the County limits?

17 A That's correct.

18 Q Can you describe for the jury exactly where Eden
19 Street is located in relation to the Court House?

20 A If you go out Highway 14, I don't know if you are
21 familiar with, you go out to the Little Cricket. You go
22 straight out like you are going to Gray Court, when you
23 get to the Burger King gas station you turn right and go
24 down probably a tenth of a mile and turn left, you will be
25 on Lakeview Drive which Eden Street runs off of Lakeview.

1 Q So if you are heading out towards Gray Court, you get
2 to the BP, the Burger King out there it is pretty much
3 right behind there?

4 A That's correct.

5 Q In the City limits of Laurens?

6 A That's correct.

7 Q Were you advised how to proceed out to the scene,
8 whether this was a big emergency?

9 A That's correct. When they dispatch the calls the
10 supervisor makes that decision, whether or not to respond
11 emergency traffic which is blue lights and sirens. You
12 will hear people refer to it as code three. The
13 supervisors make that decision but any time the call is
14 dispatched in any type of nature, as this particular case,
15 you know, you automatically run blue lights and sirens.

16 Q So, what did you hear this type of call to be
17 involving, what were you told?

18 A The 911 dispatcher stated that a male subject called
19 in and said that his neighbor was stabbing his wife and
20 trying to cut her throat, I believe.

21 Q So you made the call as to whether to respond with
22 blue lights and sirens, is that correct?

23 A That's correct.

24 Q And how long after you got the call did you get
25 there?

1 A I would have to refer to the report but I would say
2 minutes, you know, it was a short time.

3 Q When you got to the scene, had your windows been up,
4 let me ask you that, when you were driving out there?

5 A The windows were up but what I do, is I always, any
6 time I go on the scene of the call I always roll my
7 windows down just to make sure I don't miss anybody, you
8 know, talking or screaming for help, anything, I always
9 roll my windows down. So once I arrived in the area of
10 Eden Street I automatically roll my windows down.

11 Q When you got onto Eden Street, the fact that you had
12 your windows down did that help you hear something?

13 A That's correct.

14 Q What did you hear?

15 A When I initially went on the scene or arrived on Eden
16 Street I was looking for the numerics, 105 is what I was
17 dispatched to, with my windows down I was looking on the
18 right side trying to find a house that had some type of
19 numeric so I knew where I was at in relation to the
20 incident location. And I heard a male subject on my left
21 side, from the driver's side of my vehicle screaming help,
22 he is going to kill her.

23 Q Did you later find out who that individual was?

24 A That's correct.

25 Q Who was it?

1 A Clarence Koon who was the original complainant.

2 Q Is this Mr. Koon sitting here on the front row?

3 A It is.

4 Q All right, sir. When you saw Mr. Koon did you see
5 anything else?

6 A At that point, he was standing on the front porch, I
7 arrived in front of his house. Immediately upon exiting
8 my patrol vehicle I seen the victim run out of the house.

9 Q When you talk about the victim who are you speaking
10 of here?

11 A Ms. Shands, the wife of the Defendant.

12 Q Is this Ms. Shands right here?

13 A It is.

14 Q All right. Then what happened?

15 A. When she came out of the front door of 105 Eden
16 Street I immediately seen blood, she was covered in blood.
17 Her shirt was torn, her shirt was just hanging by a
18 thread. She was running to me. At that point I seen a
19 teenage or an older juvenile come out of the house behind
20 her. And I advised both of them to go to my patrol car
21 and then I seen the Defendant and a smaller boy coming out
22 of the house as well.

23 Q Did you later find out who that boy was?

24 A That's correct. It was the victim's son, Jalen.

25 Q Jalen Shands?

1 A Shands, that's correct.

2 Q You talk about the Defendant, do you see him present
3 in the courtroom today?

4 A I do.

5 Q Can you point him out.

6 A Yes, I see him right there.

7 Q What is he wearing over there, please, sir.

8 A He has got a red tie on.

9 MR. MOWRY: For the record, Your Honor, he has
10 pointed out the Defendant.

11 Q Did the Defendant have anything in his hand?

12 A He did, his right hand, he had his left hand present
13 on Jalen's left shoulder. And he had a knife in his right
14 hand.

15 Q Let me hand you what has been marked as State's
16 exhibit number 26 for identification. Do you recognize
17 that?

18 A That is it.

19 Q That is the knife?

20 A Uh-huh.

21 Q When you saw him with the knife what did you do?

22 A At that point I drew my service issued firearm and
23 started giving him commands to first let the son go. At
24 that point he did, he complied with every order I gave
25 him. I advised him to drop the knife and he did. I gave

1 him commands to, you know, lay on the ground, spread his
2 arms out, distance himself from the knife. He did, he
3 complied with every order that I gave him.

4 Q Let me back up for just a second. You say that he
5 had the knife in his hand, how was he holding it?

6 A He just had it down by his side.

7 Q Down by his side, okay. When you told him to drop
8 the knife what did he do with it?

9 A He dropped there on, he was standing on the door or
10 the porch steps and he dropped it right where he was
11 standing.

12 Q Okay. Let me show you State's exhibit number 4 which
13 has already been identified as Mr. Koon's, there it is.
14 Do you recognize that?

15 A I do.

16 Q Where in relation, on that photograph, did Mr. Shands
17 drop the knife?

18 A There coming off the porch, in between those, one of
19 those two--

20 Q Two pillars?

21 A Yes.

22 Q The two swans there?

23 A Swans, yes.

24 Q So he dropped it right in there, is that right?

25 A That's correct.

1 Q Thank you, sir. You say that you told him to lie
2 down, is that right?

3 A That's correct.

4 Q Lie down on the ground?

5 A Face down.

6 Q Did he comply?

7 A He did.

8 Q Was there any fumbling around, any misdirection or
9 anything?

10 A No.

11 Q He did it immediately, is that right?

12 A That's correct.

13 Q What did you tell him at that time?

14 A I secured him in handcuffs and advised him that he
15 was under arrest and read him his Miranda warning.

16 Q Did you tell him what he was under arrest for?

17 A I did not at that point.

18 Q Did you know exactly what you were going to charge
19 him with at that stage?

20 A I knew it was, there was several charges involved but
21 I had to secure the scene and just figure out what was
22 going on.

23 Q So first thing is first, is that right?

24 A That's correct.

25 Q How did you, you talked about Miranda rights or

1 Miranda warnings, what are those?

2 A Miranda warning is basically explaining the rights to
3 him so that he knows he is being investigated. So,
4 everything that he says will be used in court.

5 Q Okay. Are those the rights you always hear on TV cop
6 shows?

7 A That's correct.

8 Q How did you go about advising him of those rights?

9 A I have a card that I keep on my person any time I am
10 working in an official capacity, I keep it with me.

11 Q Do you have that card with you today?

12 A I do.

13 Q Would you advise or read that card as you advised the
14 Defendant that night?

15 A That's correct. You have the right to remain silent.
16 Anything you say can and will be used against you in a
17 court of law. You have the right to speak to an attorney
18 and to have him present during any questioning. If you
19 cannot afford a lawyer one will be provided for you at the
20 government's expense. Knowing and understanding your
21 rights as I have explained them to you are you willing to
22 answer any questions without an attorney present.

23 Q And what did he indicate to you?

24 A He said, yes.

25 Q Did you ask him any questions?

1 A I didn't.

2 Q Okay. But you advised him of those rights?

3 A That's right.

4 Q Did he seem to understand them, in your opinion?

5 A He did.

6 Q Was there anything about him that gave you any reason
7 for pause, did he seem to be slurring his speech or
8 anything like that?

9 A No.

10 Q Did you smell anything that would have given you
11 concern?

12 A Not that I recall.

13 Q Were there other officers that arrived on the scene?

14 A That's correct.

15 Q Who else showed up?

16 A Officer Simmons and Officer Kanipe who also worked,
17 at the time worked on my shift.

18 Q So you were their supervisor, is that right?

19 A That's correct.

20 Q What did you advise them to do at that time?

21 A When they, I advised them to go ahead and respond
22 blue lights and sirens as well once I had the Defendant at
23 gunpoint. Once they arrived I immediately told them to
24 start rendering aide to Ms. Shands. Because at that point
25 I had not even had a chance to, you know, assess her

1 injuries or anything.

2 Q Did EMS arrive shortly thereafter?

3 A They did. They were called immediately. Once I
4 advised them to respond blue lights and siren EMS was
5 dispatched as well.

6 Q How quickly after you got there did they get there?

7 A I don't know the exact time. I mean they were there
8 pretty quick. It wasn't a long amount of time.

9 Q What else did you have Officers Kanipe and Simmons
10 do?

11 A Once they started accessing the victim and I had Mr.
12 Shands secured I started taping off the scene, you know,
13 securing the scene with crime scene tape.

14 Q The yellow tape that says, crime scene, do not cross,
15 that sort of thing?

16 A That's correct.

17 Q Describe how you decide where to put that?

18 A The way I like to do is I like to go as big as I
19 possibly can because you don't know where the evidence is,
20 has been placed. So, I like to make it as large as I
21 possibly can. And that situation, you know, I went from
22 the neighbor's house to the neighbor's house and got all
23 of Mr. Koon's property, as much as I could.

24 Q Okay. Did you know whether or not it extended that,
25 the crime scene extended beyond that?

1 A I did not until I spoke with Travious which is also a
2 son of the victim.

3 Q And based on that where did you believe that the
4 crime extended?

5 A Once I spoke with Travious he told me that the
6 initial assault took place in their residence which is
7 across the road. So then that is when I went across the
8 road and had, I believe it was Officer Kanipe tape off
9 that house as well and across the road.

10 Q Okay. Were there any other officers that eventually
11 came to the scene?

12 A That's correct. Our policy, any time something of
13 that magnitude happens we have to notify the captain of
14 the uniform patrol which during this time was Captain
15 Stankus and then he makes the decision whether or not to
16 contact an investigator.

17 Q Was an investigator brought to the scene that night?

18 A He was.

19 Q Who did you see there that was an investigator?

20 A Detective Lynch.

21 Q Sergeant Lynch?

22 A Yes.

23 Q Let me show you what has been marked for
24 identification as State's exhibit number 27. Do you
25 recognize that?

1 A I do.

2 Q And can you point out where the Shands' home is?

3 A That's correct, it is here.

4 Q Where it is marked 104, is that right?

5 A That's correct.

6 Q And where is Mr. and Ms. Koon's home?

7 A Would be across the road here.

8 Q The one with the red car in the driveway?

9 A That's correct.

10 Q Thank you, sir.

11 MR. MOWRY: Your Honor, I would offer this as a
12 State's exhibit at this time.

13 MR. GROSE: No objection.

14 THE COURT: Okay.

15 (Whereupon, State's Exhibit 27 was admitted into
16 evidence.)

17 Q Sergeant, what was your purpose there that night.
18 What tasks were you there to accomplish?

19 A Basically uniform patrol's job is just to secure the
20 scene, you know, and the welfare of the community. So
21 once the scene is secure and they were already rendering
22 aide to the victim, I don't like to say my job was done
23 but in a sense my job was completed at that point. I had
24 to turn the scene over to an investigator.

25 Q So the investigator would be the one that would

1 collect evidence and do all that kind of thing?

2 A That's correct.

3 Q Did you assist Detective Lynch with any of that
4 purpose, any of those tasks?

5 A I was with him for a brief time just showing him
6 basically the crime scenes because at this point the crime
7 scenes had expanded. It was a big crime scene so I wanted
8 to make sure he was familiar with all of the incident
9 locations of what took place. But other than that, I mean
10 I was with him when he was photographing some of the
11 evidence but as far as collecting it, all of that was on
12 him, he did all of that.

13 Q Were you involved with taking statements from any
14 witnesses later on?

15 A Briefly. The sons were transported back to the
16 police departement by their great-aunt and the victim's
17 advocate was notified and she arrived on the scene. But I
18 walked in briefly. Officer Kanipe conducted the interview
19 of the children, I just walked in to make sure he had
20 everything he needed to conduct the interview.

21 Q So that was pretty much the end of your involvement
22 with this case, is that right?

23 A That's correct.

24 Q Thank you.

25

CROSS-EXAMINATION

1 By Mr. Grose:

2 Q Just to go back over it real quick. You said that
3 your job that night was to secure the crime scene?

4 A That's correct.

5 Q And there is sort of a division of labor or jobs or
6 tasks within law enforcement, aren't there?

7 A That's correct.

8 Q And you were, in fact, doing what your assigned job
9 was that night?

10 A That's correct.

11 Q And then it sounds like your supervisor but there is
12 also people above you that make decisions?

13 A Right.

14 Q And so the decision whether to go blue lights and
15 sirens or as you call it, code three, that was made by
16 somebody else?

17 A That was my decision.

18 Q That was your decision?

19 A That's correct.

20 Q Okay. The decision to involve an investigator was
21 somebody's else's decision?

22 A That's correct.

23 Q And that investigator was Tony Lynch?

24 A That's correct.

25 Q And he did get there that night while you were still

1 there?

2 A That's correct.

3 Q And so part of it is, you kind of hand off the crime
4 scene to him?

5 A Right.

6 Q Get them acclimated?

7 A Right.

8 Q As I understand it, you came into contact with
9 Preston pretty soon after you got there?

10 A That's correct.

11 Q And, if you can see that, you said he came out that
12 front door?

13 A He did.

14 Q Now, you were the one who, for lack of a better word,
15 made the arrest and put him into custody, right?

16 A Right.

17 Q So you were actually having, you know, personal
18 upclose contact with Mr. Shands?

19 A Right.

20 Q Now, he had some injuries, didn't he?

21 A He did.

22 Q But you didn't document those injuries in your
23 report, did you?

24 A I didn't. When I say he had injuries, I would say
25 those were superficial.

1 Q But you are not EMS?

2 A No.

3 Q That wasn't your role that night, was it?

4 A No.

5 Q You weren't the doctor?

6 A No.

7 Q So it wasn't your role to treat him at the hospital?

8 A No.

9 Q All right. You did document that Sharon Shands had
10 injuries?

11 A That's correct.

12 Q But you didn't document the fact that Preston did?

13 A No.

14 Q Now, you went through and shared with us what you
15 read to Preston as far as what we call the Miranda
16 warnings, right?

17 A Right.

18 Q And you asked whether or not he wanted to answer
19 questions?

20 A Right.

21 Q And I believe you testified that Preston said he
22 would answer questions, right?

23 A That's correct.

24 Q But you didn't ask him any questions, did you?

25 A I did not, did not.

1 Q Now, at some point, you put him in handcuffs but at
2 some point he was put in a patrol car?

3 A That's correct.

4 Q And if I understand that correctly he was put in
5 Steven Sweat's patrol car?

6 A That's correct.

7 Q And at the time Mr. Sweat, was he employed with
8 Laurens Police Department?

9 A He was employed with the sheriffs office, Laurens
10 County.

11 Q And so sheriffs deputies responded to this as well?

12 A That's correct.

13 Q And was Mr. Sweat's role to stay with Mr. Shands
14 until somebody else got there?

15 A He was secured in his patrol car.

16 Q Do you know whether or not EMS came and looked at Mr.
17 Shands?

18 A They did.

19 Q Okay. And that is not in your report either, is it?

20 A No.

21 Q I mean you have in your report about EMS being there
22 for--

23 A It says EMS was on scene..

24 Q But it is not in your report about them being there
25 for Preston?

1 A It is not in the report about being there for Sharon
2 either. It doesn't say who they treated, it just says EMS
3 was contacted to arrive to the scene.

4 Q Well, in fact two units came, more than one unit
5 came?

6 A Right.

7 Q Some for Sharon and some for Preston?

8 A As far as I know. They arrived on the scene to
9 assess of injuries of everybody.

10 Q Well, we wouldn't look at your report and think that
11 EMS was there for Preston because you didn't note any
12 injuries for Preston?

13 A Right.

14 Q Now, at some point there was also Officer Heidi
15 Blackstock?

16 A That's correct.

17 Q She works with the police department?

18 A She does.

19 Q And do you know if she rode with Preston to the
20 hospital?

21 A She did.

22 Q Now, as far as reports, do you have a report from
23 Officer Sweat?

24 A I do not.

25 Q Are you aware of one?

1 A No.

2 Q Are you aware of a report from Officer Heidi
3 Blackstock?

4 A I am not.

5 Q And you have access to all of the incident reports,
6 correct?

7 A That's correct.

8 Q So it is probably safe to say that they don't exist,
9 right?

10 A Right.

11 Q So, there is no record of what might have been said
12 when Preston was in the police car with Officer Sweat and
13 the Laurens Sheriff Department?

14 A That's correct.

15 Q And there is no record of might have been said or
16 might have happened when Preston was being transported to
17 the hospital?

18 A That's correct.

19 Q But Preston did say he was willing to answer your
20 questions?

21 A That's correct.

22 Q And you didn't ask them, did you?

23 A I didn't ask anything.

24 Q That is all I have.

25 MR. MOWRY: Just a few on redirect, Your Honor.

REDIRECT EXAMINATION

By Mr. Mowry:

Q Sergeant, is it unusual for deputies with the Laurens County Sheriffs Office to come to Laurens PD crime scenes?

A It is not, it happens very often.

Q I wanted to ask you, do you have your report up there?

A I do.

Q Would you refer to the last paragraph of your two page incident report. And then right down there near the bottom does it talk about Preston Shands injuries?

A It does. It says statements were also obtained by Clarence Koon. Preston Shands was transported to Laurens Hospital due to a laceration on his hand.

Q Then what was done with him after that?

A Once he was cleared from the hospital he was transported to Johnson Detention Center.

Q One last question. You saw Sharon Shands come running out of--

MR. GROSE: Objection, leading.

Q Did you see Sharon Shands come out of the house at 105 Eden?

A I did.

Q When you saw her did she have anything in her hands?

A No.

1 Q Her hands were empty?

2 A That's correct.

3 Q Thank you.

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

5 MR. MOWRY: Your Honor, we call Andrew Heiney to the
6 stand.

7 ANDREW HEINEY, being
8 first duly sworn, testified as follows:

9 DIRECT EXAMINATION

10 By Mr. Mowry:

11 Q Would you state your name for the record, please, and
12 spell your last name?

13 A My name is Andrew Heiney, H-E-I-N-E-Y.

14 Q Mr. Heiney, what is your employment, what do you do?

15 A I am a paramedic with Laurens County EMS.

16 Q How long have you been employed in that capacity?

17 A Twelve years.

18 Q What sort of education did you receive before
19 becoming a paramedic?

20 A I received a Bachelor of Science Degree from Western
21 Carolina University.

22 Q And what discipline was that Bachelor's Degree in?

23 A Emergency medical care, specifically pre-hospital
24 emergency med.

25 Q How many other such programs are offered in the area

1 that you are aware of?

2 A In the State of North Carolina there is two.

3 Q Is it a very common degree to get?

4 A No, I would say that there are about eight to ten
5 schools in the country that offer a Bachelor's Degree.

6 Q Okay. Describe, if you would, the levels of
7 emergency medical technician?

8 A Currently there is three basic levels. The first one
9 is emergency medical technician basic that is more or less
10 advanced first aide. There is another level that is
11 called emergency medical technician intermediate which you
12 are able to start IV's. And the third level is emergency
13 medical technician paramedic which receives the gamut of
14 all training, medical and trauma.

15 Q And that last level is where you are at, is that
16 right?

17 A That's correct.

18 Q And you say you have been doing this for twelve
19 years, is that right?

20 A I have been a paramedic for twelve years and I have
21 been an EMT basic for five years before then.

22 Q So 17 years in emergency situations, is that right?

23 A Yes, sir.

24 Q How many calls do you think you have made as a
25 paramedic or answered as a paramedic?

1 A Currently Laurens EMS and in the last year I
2 personally went on about 650 calls. So, multiple that by
3 12 so over 6,000.

4 Q 7,000 at that point, is that right?

5 A Yes, sir.

6 MR. MOWRY: Your Honor, I would offer this witness as
7 an expert in pre-hospital emergency medicine.

8 THE COURT: Any voir dire?

9 MR. GROSE: No voir dire.

10 THE COURT: Any objection?

11 MR. GROSE: I will leave that in the Court's
12 discretion.

13 THE COURT: Yes sir, so qualified.

14 MR. MOWRY: Thank you, Your Honor.

15 THE COURT: I will just tell y'all, the distinction
16 being that most witnesses are not allowed to give
17 opinions. When someone is qualified in some art or
18 science through education or experience they are allowed
19 to give an opinion in that subject in which they are
20 qualified as an expert. And they may talk about what they
21 base their opinion on.

22 Q Mr. Heiney, were you employed--

23 MR. MOWRY: Excuse me, Your Honor, let me go ahead
24 and get this marked if I may, Your Honor.

25 THE COURT: One other thing I will tell you about

1 expert witness testimony, you can evaluate it with the
2 same tools and skills that you do with every other piece
3 of testimony and give it the weight that you think it
4 deserves.

5 Q Let me show you what has been marked as State's
6 exhibit number 28 for identification and if you could use
7 this for reference. You were employed or you were working
8 the night of July 20th of 2014, is that right?

9 A That's correct.

10 Q What times does your shift run between?

11 A They run from 7:30 in the morning until 7:30 the next
12 morning.

13 Q So twenty-four hour shift, is that right?

14 A Yes, sir.

15 Q So you were about half way through your shift around
16 9:00 o'clock that night, is that correct?

17 A That's correct.

18 Q About what time did you receive a call?

19 A Yes, we did.

20 Q Do you recall, is it listed in your report exactly
21 what time that call came in?

22 A It does.

23 Q Let me hand you this and ask you if that would assist
24 you in that conclusion?

25 A Yes. The call came in for us at 9:10 p.m.

1 Q So you got the call at 9:10. What did you do in
2 response to that?

3 A After we received the call we, obviously get in the
4 ambulance and, we will proceed there. That call came out
5 an assault so we have to always, as per Laurens County 911
6 policy standby for law enforcement which means law
7 enforcement makes the scene safe for us to arrive.

8 Q Okay. You said you got into your ambulance. Where
9 is y'all's headquarters?

10 A It is on Exchange Drive in Laurens City.

11 Q In relation to here, where is it?

12 A If you follow Hillcrest Drive and turn left out of
13 the Court House it is about three miles from here.

14 Q So, it is on the way over to Ingles or Walmart?

15 A That's correct.

16 Q Okay. Do you recall how long it took you to get to
17 the place you were dispatched to?

18 A According to the report we arrived at 9:14 p.m. So,
19 just about four minutes.

20 Q So you were moving pretty quick?

21 A At times we monitor the police radio too. So, I
22 imagine that we heard that go on and knew that we were
23 going to be going there for a call.

24 Q Okay. When you got to Eden Street did you see
25 anything unusual?

1 A I recall there were at least two Laurens City police
2 cruisers there. I don't remember exactly how many at that
3 time. But I remember seeing a person sitting kind of in
4 the trunk of that, one of those police cruisers with the
5 trunk open just kind of resting there, if you will.

6 Q Male or female?

7 A Female.

8 Q Did you later find out who that individual was?

9 A Yes, sir.

10 Q What was her name, please?

11 A Sharon Shands.

12 Q Is this Ms. Shands right here sitting on the front
13 row?

14 A It is.

15 Q Okay. What was her condition, what was her
16 appearance that night?

17 A Her initial appearance, she appeared dazed to me.
18 Her clothing was ripped, there was obviously blood about
19 her head and arms and torso. It was dark out so we needed
20 to move to the ambulance pretty soon after that to get a
21 good lighting to be able to inspect her a little bit
22 closer.

23 Q And did you do that at that time?

24 A We did. We ask her to stand up and sit down right
25 from where she was. We brought the stretcher immediately

1 next to her and immediately took her into the ambulance
2 which provides much better lighting.

3 Q How would you characterize the amount of blood you
4 saw?

5 A I would say moderate but it was wet, meaning new, not
6 dry blood. So, she had obviously been bleeding.

7 Q Did it appear that she was still bleeding?

8 A Yes, one specific wound was to her head where she had
9 a significant laceration that was bleeding rather briskly.

10 Q Describe that in a little bit more detail, please,
11 sir?

12 A I remember it being right to the rear of her left ear
13 and it was difficult to directly visualize because her
14 hair was matted. But you could tell it was still actively
15 bleeding and a bandage needed to be applied to control
16 that.

17 Q You say her hair was matted, you mean matted with
18 blood?

19 A Yes, sir.

20 Q Let me hand you what has already been admitted as
21 State's exhibit number 6, does that appear to be the
22 location on her head that you were talking about?

23 A Yes.

24 Q What was the State of the wound when you took a look
25 at it?

1 A From the best I could visualize it was still open and
2 briskly bleeding.

3 Q Briskly bleeding, thank you, sir. When you examined
4 her, if you could use these red stars here and let me just
5 show you this chart, State's exhibit 28 for
6 identification. If you would place a star on the location
7 corresponding where you found the wounds.

8 A Okay. There was three stab wounds to the left, the
9 anterior portion of the left arm which would be on this--

10 Q -- when you say anterior you are talking about the
11 front?

12 A This is the top of the arm. So there was three here,
13 there were two other on the right arm that were also on
14 the anterior portion. There were two other stab wounds,
15 what appeared to be stab wounds. This would be the left
16 flank area. And then there was this head wound that is
17 right there as I described before.

18 Q So total of eight wounds, is that right?

19 A That is where the ones that were readily visible.

20 Q Okay. Could there have been others that you just
21 didn't notice?

22 MR. GROSE: Objection, speculation.

23 THE COURT: I will sustain that.

24 Q Let me ask you this, did you do an in depth
25 assessment of her condition that night?

1 A At that point we were just going with what we saw and
2 that was enough to, for our treatment at that point.

3 Q Okay. When you spoke with her did you ask her
4 whether or not she had any other ailments, complaints or
5 anything?

6 A She just complained of general pain, about her ribs
7 on both sides.

8 Q Was there anything else that she complained about as
9 far as the red area was concerned?

10 A She was having a lot of pain and difficulty
11 breathing.

12 Q Based on that fact, the injuries that you saw and you
13 called it her flank areas, and the shortness of breath,
14 what was your concern?

15 A My concern was that she could possibly have a
16 collapsed lung especially with the stab wounds, that could
17 be easily caused with the stab wounds or any other trauma
18 sustained to the chest.

19 Q Do you have an opinion as to whether or not the
20 wounds you saw were potentially life threatening?

21 A I do.

22 Q What is your opinion, please, sir?

23 A I believe her wounds were life threatening.

24 Q In response to that belief what did you do?

25 A Within a few minutes we, we meaning my partner and I,

1 determined that her wounds were severe enough to be
2 transported to the trauma center via helicopter.

3 Q Is that something you would undertake lightly?

4 A No, sir.

5 Q And where was the trauma center?

6 A It is up to the helicopter crew to decide but for
7 this area it is mainly Greenville Memorial or Spartanburg
8 Regional.

9 Q Where did you take Ms. Shands at that point?

10 A After we requested the helicopter our dispatch center
11 coordinates a landing zone usually through the fire
12 department which in this case was at Laurens Electric
13 which was only about a mile and a half away. So we
14 transported her there to the landing zone that was
15 established.

16 Q Do you have in your records or your report the time
17 you transferred her to the airlift?

18 A We transferred her at 9:36 p.m.

19 Q So that would have been twenty-two minutes after your
20 arrival, is that right?

21 A That's correct.

22 Q Arrived at 9:14?

23 A That's correct.

24 Q Why did you opt to send her by airlift rather than
25 take her by ambulance?

1 A If she indeed had a collapsed lung or that was
2 progressing she needed to be in a trauma center, not just
3 in an emergency room but a trauma center as quickly as
4 possible because of the definitive care in a trauma
5 center, not a paramedic in an ambulance or even paramedic
6 in a helicopter. She needs a doctor in the proper
7 facility.

8 Q Thank you, that is all I have.

9 THE COURT: Mr. Grose.

10 MR. GROSE: I have no question.

11 THE COURT: You can step down, thank you.

12 MS. WHITE: Your Honor, our last witness, as we
13 discussed, will be here in the morning.

14 THE COURT: All right. Ladies and gentlemen, we
15 don't punch a time clock. We don't know when we will
16 break and we can't schedule things to run on thirty minute
17 shifts. So we break when things are good. Sometimes we
18 run late, today we will be leaving a little early. So, we
19 are going to break for the evening. I will ask you to be
20 back just a little bit before 10:00 o'clock in the
21 morning. And we will resume the trial at that time.
22 Don't talk about the case. You are excused and we will
23 see you in the morning.

24 (Whereupon, the jury was excused from the trial of
25 the case at approximately 4:40 p.m.)

1 THE COURT: Anything before we break?

2 MR. GROSE: If I could, Your Honor, I would like to
3 take up tonight, since I understand that they have one
4 witness to call in the morning. Mr. Shands and I are
5 discussing whether or not to testify. As you know from
6 earlier in the motions that I have handed up that he has a
7 conviction for murder in Florida from the 1970's. He was
8 released on parole in 2003. Before that can be, I don't
9 think it is admissible, not only the age but something
10 that far in the past would have little if any relevance,
11 no probative value in our opinion and the prejudicial
12 impact would be extraordinarily high if he were to take
13 the stand and be asked about that. They have not given us
14 notice. The rules says release from confinement. So
15 while he is still technically under the sentence he was
16 released from confinement over ten years ago. They have
17 not given us notice that they want to use that but out of
18 abundance of caution I want to make sure it is excluded
19 before we have some conversations that we are going to
20 have at the jail tonight.

21 MS. WHITE: Your Honor, my understanding of the rule
22 is that when he is done serving the sentence, that is ten
23 years from the sentence stop date. He was actually still
24 on parole being supervised in Laurens County when this
25 occurred. So he was still serving out his sentence. So I

1 think the ten years wouldn't--

2 MR. GROSE: Well, the rules says released from
3 confinement. So if you are sentenced to ten years then
4 you have got to wait another ten years. He was released
5 from confinement. But regardless, that I don't think is
6 our strongest argument. I think our strongest argument
7 is, is under the rule evidence that an accused has been
8 convicted of such a crime shall be admitted if the Court
9 determines that the probative value of admitting this
10 evidence outweighs its prejudicial effect to the accused.
11 And then you have, you know, the Green versus State case
12 that cites Colf, C-O-L-F, both from 2000, that deal with
13 similar crimes. Of course, attempted murder which is
14 charged for here is very similar sounding to murder. The
15 facts may be entirely different but the prejudicial effect
16 comes from the nature of the crime. And I think under our
17 precedent you have to conduct an analysis under Rule 609
18 in those cases. And I would note that this dealt with a
19 witness where the threshold is lower for the State to get
20 over than a Defendant. I would note that the State versus
21 Black case where a 20 year old's manslaughter conviction
22 should have been excluded but wasn't.

23 THE COURT: What case is that?

24 MR. GROSE: That was State versus Black, 400 S.C. 10,
25 2012. You should have a copy with the materials I handed

1 up this morning, a three-page motion to exclude Mr. Shands
2 prior conviction from Florida for murder. That case in
3 Green and Colf in the rule are cited in that motion.

4 MR. MOWRY: Your Honor, if I can be excused from the
5 courtroom for just one minute I will go get a case that I
6 have got a copy of in my office.

7 (Whereupon, Mr. Mowry retrieves case from his
8 office.)

9 MR. MOWRY: During the time he was out on parole he
10 was not a free citizen. He was, as we have seen, still a
11 prisoner and notwithstanding his prison bounds were not
12 so contracted as the prison bounds of an insolvent debtor,
13 this is 1922. At the time of our laws recognized
14 imprisonment or debt he was still give prison bounds.
15 Essentially and I can give you this, this is a 2012 case.
16 Appellate sentenced for probation for his attempted
17 burglary in the second degree conviction began after his
18 parole concluded for his conviction for burglary in the
19 second degree and not following his release from
20 incarceration. Thus the Circuit Court did not abuse its
21 discretion in revoking the Defendant's probation. But
22 this is a, there is a, Judge Hocker had the same question
23 probably a year or so ago, Your Honor, and we dealt with
24 it with this particular case.

25 THE COURT: That is?

1 MR. MOWRY: That is 2012, it is State versus Ellis,
2 it was filed May 16th of 2012, Chief Justice Toal was the,
3 wrote the opinion.

4 MR. GROSE: Regardless of the ten year, I think given
5 the fact that he has been out of parole without any
6 incident before this for over twelve years speaks heavily.
7 And that has actually, part of the analysis that you are
8 suppose to take into account under Green, the impeachment
9 value of the prior crime is number one. Number two, the
10 point and time with the conviction and the witness'
11 subsequent history. The similarity between the past crime
12 and the charged crime which is something that weighs
13 heavily in favor of us, importance of his testimony and
14 the credibility. If you will allow this to come in that
15 is going to devastate his credibility and for him to be
16 able to get up and tell his side of the story, I think
17 that his credibility is a sensual issue in the case. And
18 that is where, if we had to appeal this issue that is
19 where, you know, his testimony and the undermining of his
20 credibility where we would be arguing prejudice on appeal,
21 which we are arguing that as prejudice here too.

22 THE COURT: Outweighs the probative value, 403?

23 MR. GROSE: I don't think there is any probative
24 value.

25 THE COURT: Well,--

1 MR. GROSE: He was, I think, 17 years old when the
2 incident took place. Now you have, well now you have
3 Graham and Miller from the United States Supreme Court
4 from South Carolina talking about rehabilitation of
5 juveniles. I mean he was a juvenile when--

6 THE COURT: 17?

7 MR. GROSE: According to the U.S. Supreme Court the
8 cutoff is at 18, yes sir.

9 THE COURT: I think technically it is allowable. But
10 try to limit the impact of it. And I decline to allow
11 them to impeach his credibility by asking whether or not
12 he has been convicted of a violent crime. I don't know
13 how you want to characterize it as a violent crime as
14 opposed to saying murder limits a good bit of prejudiced
15 and allows him to--

16 MR. GROSE: -- if you are going to do that I would
17 suggest that it would be limited to a felony and that they
18 have to say the conviction was from 1975.

19 MR. MOWRY: Or we can say that he is still on parole
20 for it or something like that.

21 MR. GROSE: That is where I think prejudice comes
22 into play.

23 THE COURT: Yes, there is prejudice of him being
24 convicted of murder, yes.

25 MR. GROSE: Well, normally they are not allowed, the

1 rule makes no provision to be allowed to ask somebody if
2 they are on parole.

3 THE COURT: I think a violent offense, think about
4 overnight. But I am going to allow them to use it. I
5 will limit their use of the word, murder. All right
6 anything else?

7 MR. GROSE: That is all for now, Your Honor.

8 THE COURT: Mr. Shands, let just do this right now.
9 I want you to understand, I know you have spoken with your
10 attorney about this. I want to make sure you understand
11 that you have the absolute constitutional right to testify
12 in your own Defense. You have the equal absolute
13 constitutional right to not testify. And it cannot be
14 held against you in this court. And I will give
15 instructions to a jury, a person charged with a crime does
16 not have to testify. There are a lot of different
17 strategic issues that go into making that decision. And
18 that is what we have been talking, of your prior criminal
19 history. And there are other strategic decisions that you
20 have to make and you will need to discuss those with your
21 lawyer. Mr. Grose says he is coming to talk to you after
22 you leave court. And I am sure he will discuss all of
23 that with you. You have any questions that you would like
24 to ask me about your testifying?

25 MR. SHANDS: No, sir.

MR. MOWRY: Before I call my next witness, Your Honor, it occurred to me that the, that I had not moved State's exhibit number 28 for identification, the body

1 chart into evidence and as it has been marked I would like
2 to move it into evidence at this time.

3 MR. GROSE: No objection.

4 THE COURT: Without objection. Okay.

5 (Whereupon, State's Exhibit 28 was admitted into
6 evidence.)

7 MR. MOWRY: The State calls Tony Lynch to the stand.

8 TONY LYNCH, being
9 first duly sworn, testified as follows:

10 DIRECT EXAMINATION

11 By Mr. Mowry:

12 Q Mr. Lynch, I believe you are a Sergeant, an
13 Investigator with the Laurens City Police Department, is
14 that right?

15 A I am.

16 Q Before we go any further, I can see your arm in a
17 sling. What has happened to you?

18 A I had shoulder surgery, had to reverse my shoulder
19 and put it on the outside.

20 Q And currently you are in rehab for that?

21 A Yes, sir.

22 Q How long have you been a police officer?

23 A 38 years.

24 Q And how long have you been employed by the City of
25 Laurens?

1 A 13 years.

2 Q As an investigator what are your duties, how does
3 those differ from a road patrol officer like Sergeant
4 Gainey for example?

5 A We get the reports and we go over the reports and see
6 what needs to be investigated by us and take statements
7 and gather evidence and first one thing and another.

8 Q And were you employed on that capacity back on the
9 20th of July of last year?

10 A I was.

11 Q Sometime after 9:00 o'clock that evening did you
12 receive a call to come to Eden Street in the City of
13 Laurens?

14 A I did.

15 Q And in response to that call what did you do?

16 A When I got the call, I actually had the radio on that
17 night listening to it and I was getting in the car when
18 they called me.

19 Q So you were at home that night, is that right?

20 A Yes, sir.

21 Q What did you do?

22 A I proceeded to Eden Street.

23 Q What did you see when you got there?

24 A I saw, when I drove up Officer Gainey had one subject
25 laying on the ground at 105, in front of 105 Eden Street.

1 Q And did that subject, who did that subject turn out
2 to be?

3 A Turned out to be Mr. Shands.

4 Q The Defendant in this case?

5 A Yes, sir. They had, the 105 residence it was taped
6 off with crime tape. And come to find out after I got
7 there, we had two crime scenes, 104 and 105, talking to
8 Officer Gainey.

9 Q But only one was taped off at that point?

10 A That's correct.

11 Q What was done once you determined there was a second
12 crime scene?

13 A We proceeded to tape the other crime scene at 104.

14 Q What was your process that night, what steps did you
15 take in investigating this scene?

16 A After talking to Officer Gainey and finding out what
17 was going on I took photos and retrieved the evidence and
18 that is about it.

19 Q Let me show you a few photographs here, let me ask
20 you before we proceed. Did you have problems with your
21 camera that night?

22 A I did.

23 Q What was the problem?

24 A The battery was going low and I had to use a
25 flashlight to take photos.

1 Q So the quality of them, how would you describe that?

2 A Not good, no.

3 Q Let me hand you a series of pictures then and ask you
4 if you can identify them. First of all, let me show you
5 what has been marked for identification as State's exhibit
6 number 36.

7 A Yes sir, that is the butcher knife that was laying at
8 the bottom of the steps at 105, near Mr. Shands, where he
9 was.

10 Q Let me show you what has been marked as State's
11 exhibit, what is State's exhibit number 19, do you
12 recognize that?

13 A Yes, sir.

14 Q And what is that please, sir?

15 A That is the residence at 105 Eden Street.

16 Q The Koon's house?

17 A That's correct.

18 Q And where was the knife found?

19 A Right at the foot of the step, as you enter the
20 sidewalk, right there at the grass.

21 Q Right down in here?

22 A That's correct.

23 Q Okay.

24 MR. MOWRY: I would offer this as a State's exhibit
25 at this time, Your Honor.

1 MR. GROSE: No objection.

2 THE COURT: What number is that?

3 MR. MOWRY: This is number 36. These have been
4 premarked, I am probably going to have these out of order.

5 (Whereupon, State's Exhibit 36 was admitted into
6 evidence.)

7 Q Let me show you what has been marked as State's
8 exhibit number 32 and ask if you can identify that?

9 A That's the back patio door to 105 Eden Street, Mr.
10 Koon's residence.

11 Q And also number 31 for identification, what is that?

12 A That is the picture of the hammer laying at the base
13 of the patio door at 105.

14 Q The same door that you referred to State's exhibit
15 number 32, is that right?

16 A That's correct.

17 Q And when you talk about the patio door, let me refer
18 you to State's exhibit 21. Is this the location that you
19 are talking about?

20 A That's correct.

21 Q It is different from the way you saw it that night,
22 is that right?

23 A It is.

24 Q It is now boarded up or closed up, is that right?

25 A That's correct.

1 Q But what was it that night?

2 A It was the patio door.

3 Q Okay.

4 MR. MOWRY: And I would offer State's exhibits for
5 identification 31 and 32 into evidence at this time, Your
6 Honor.

7 MR. GROSE: No objection.

8 THE COURT: Okay.

9 (Whereupon, State's Exhibits 31 and 32 were admitted
10 into evidence.)

11 Q Where else did your investigation take you?

12 A 104.

13 Q Did you find anything of interest between 104 and
14 105?

15 A Some blood.

16 Q Okay, and how did you go about collecting blood
17 evidence?

18 A I used some sterile water and swabbed it with some
19 swabs.

20 Q Let me hand you this packet that has been marked as
21 State's exhibit number 40 for identification. What are
22 those, please, sir?

23 A Those are the swabs.

24 Q These are the blood or what you suspected as blood
25 that night?

1 A Yes, sir.

2 Q Let me hand you what has been marked as
3 identification as State's exhibit 26?

4 A Yes, sir.

5 Q Do you recognize that?

6 A I do.

7 Q What is that please, sir?

8 A That is the butcher knife I found at the bottom of
9 the step at 105.

10 Q Okay. And does that correlate to State's exhibit
11 number 36?

12 A It does.

13 MR. MOWRY: Your Honor, I would offer this butcher
14 knife into evidence at this time.

15 MR. GROSE: No objection.

16 THE COURT: Okay.

17 (Whereupon, State's Exhibit 26 was admitted into
18 evidence.)

19 Q Referring you now to State's exhibit 32, sliding
20 glass door, it is kind of hard to see. What is the
21 condition in the glass in this area?

22 A It was knocked just about completely out, just little
23 pieces hanging.

24 Q Did you find anything of interest in the door?

25 A The hammer.

1 Q Referring you to State's exhibit 31.

2 A Yes sir, that is what was found.

3 Q Is that the way you found it?

4 A Exactly the way I found it, yes sir.

5 Q And let me now hand you what has been marked for
6 identification as State's exhibit number 25. Do you
7 recognize that?

8 A I do.

9 Q What is that please, sir?

10 A That is the hammer that was in the patio door.

11 Q Okay. And you collected that that night?

12 A I did.

13 Q Is that your signature?

14 A It is.

15 Q Or your handwriting on the front?

16 A Yes, sir.

17 MR. MOWRY: Your Honor, I would offer this hammer as
18 a State's exhibit at this time.

19 MR. GROSE: No objection.

20 THE COURT: Okay.

21 (Whereupon, State's Exhibit 25 was admitted into
22 evidence.)

23 Q You say you proceeded on over to 104, across the
24 road, is that right?

25 A That's correct.

1 Q I am going to refer you to State's exhibit 27, and
2 ask you if you can point out where 104 and 105 were or
3 are?

4 A There is 104 which is the Shands residence and 105 is
5 the--

6 Q -- the one here in, with the red car in the driveway?

7 A That is Mr. Koon's.

8 Q Diagonally across the street from each other, is that
9 right?

10 A Yes, sir.

11 Q You said you found blood between the houses. How
12 much, would you quantify how much you found?

13 A Droplets of blood, leading from their house across
14 the street to Mr. Koon's house.

15 Q How much would you say it was, was it a good bit or a
16 little bit or how would you say?

17 A Not too awful much but a good bit.

18 Q Enough for you to collect several swabs, is that
19 right?

20 A It was, yes sir.

21 Q What were you looking for besides blood?

22 A The weapon that was used and other things that I
23 might need for evidence.

24 Q Let me hand you this photograph that has been marked
25 for identification as State's exhibit 33. Can you

1 recognize that?

2 A That is the broken fork, yes sir.

3 Q And again you were using a flashlight as your flash,
4 is that right?

5 A I was, yes sir.

6 MR. MOWRY: Your Honor, I would offer State's exhibit
7 33 into evidence at this time.

8 MR. GROSE: No objection.

9 THE COURT: Okay.

10 (Whereupon, State's Exhibit 33 was admitted into
11 evidence.)

12 Q This is the fork right here, is that right?

13 A That's right.

14 Q Let me hand you this bag that has been marked for
15 identification as State's exhibit 33, do you recognize
16 that?

17 A I do.

18 MR. GROSE: I thought 33 was the photo.

19 MR. MOWRY: I am sorry, 38, I misread it. I am
20 sorry.

21 A Yes, sir.

22 Q What is that please, sir?

23 A That is the broken fork with the handle and a garage
24 opener door.

25 Q Garage door opener?

1 A Yes, sir.

2 Q Where did you find that?

3 A In the carport.

4 Q Okay. And that was at 104?

5 A Yes, sir. Now, the fork was found in the grass in
6 the carport, and the other was under the carport, just at
7 the edge.

8 Q When you talk about the carport, let me just show you
9 these two pictures, State's exhibit 2 and 3 and I will put
10 these up together if I can. Is that what you are talking
11 about?

12 A That is at 104 Eden Street, the Shands residence, yes
13 sir.

14 Q And what does this show?

15 A That shows the door coming out of the kitchen into
16 the carport at 104 Eden Street.

17 Q And that was the general location in which you found
18 the garage door opener and the broken fork, is that right?

19 A It was, yes sir.

20 Q Does there appear from your observation to be
21 anything on the fork?

22 A A little blood on the fork, yes sir.

23 Q Did you continue your search?

24 A I did.

25 MR. MOWRY: Your Honor, I would like to enter into

1 evidence State's 38.

2 MR. GROSE: No objection.

3 THE COURT: Okay.

4 (Whereupon, State's Exhibit 38 was admitted into
5 evidence.)

6 Q Let me hand you this bag that has been marked as
7 State's exhibit 37 and ask you if you can identify this?

8 MR. GROSE: Can I see that?

9 MR. MOWRY: I am sorry, yes.

10 MR. GROSE: Your Honor we have a matter of law.

11 THE COURT: All right, ladies and gentlemen, remember
12 I told you there are times when I will either talk with
13 the lawyers up here or outside of your presence. This is
14 one of those times so I ask you to go back to the jury
15 room and we will be with you in just a short time.

16 (Whereupon, the jury was excused from open court at
17 approximately 10:34 a.m.)

18 THE COURT: Okay.

19 MR. GROSE: Your Honor, I don't remember the number.

20 THE COURT: 37.

21 MR. GROSE: In State's exhibit 37 for identification,
22 what they are getting to show is two items. We have one
23 knife into evidence and we had, which I did not object to,
24 we had testimony about where that came from, that it was
25 seen in Preston's hands, where it was found. We have had

1 absolutely no testimony about these other two knives. And
2 so at this point I would object because they are not
3 relevant to any facts in evidence in this case. And I
4 would also object that putting in multiple knives without
5 establishing any relevance, the prejudicial effect
6 substantially outweighs the probative value. I would also
7 note on item 38, I am not going to object to the fork
8 handle because we have had testimony about that, while
9 nobody has identified that object, that object fairly
10 links to the testimony of other witnesses. The garage
11 door opener, again, is not relevant.

12 THE COURT: I thought you did not object to--

13 MR. GROSE: They haven't moved that into evidence
14 yet, Your Honor.

15 THE COURT: No?

16 MR. GROSE: No.

17 MR. MOWRY: Which one, Your Honor?

18 THE COURT: 38.

19 MR. MOWRY: No, sir.

20 THE COURT: That has not been moved in?

21 MR. MOWRY: No, sir. It was identified, that was
22 all. I believe that is right.

23 MR. GROSE: I don't have and the garage door opener
24 may not be, I don't know how they are planning on using
25 that later in the case.

1 THE COURT: The garage door thing is in with the
2 fork.

3 MR. MOWRY: I take it back, 38 should be in.

4 THE COURT: I thought it was in, unobjected to.

5 MR. MOWRY: I thought I had gotten and the fork
6 itself in.

7 THE COURT: I could be mistaken.

8 MR. GROSE: I remember agreeing to the picture of the
9 fork.

10 MR. MOWRY: Once the jury gets back in I would like
11 to move that in if there is no objection.

12 MR. GROSE: There is no objection to the fork. There
13 is an objection to the garage door opener.

14 THE COURT: Why are they in the same bag?

15 MR. MOWRY: And that is a question I am going to ask,
16 yes sir.

17 THE COURT: Why don't we do it right now.

18 Q Mr. Lynch, Sergeant Lynch, why were the handle and
19 the broken piece of the fork in the same bag with the
20 garage door opener?

21 A I mistakenly put it in the same bag, it is my fault,
22 yes sir.

23 MR. MOWRY: We can keep that out if you like, Your
24 Honor.

25 THE COURT: What is the relevance of the garage door

1 opener?

2 MR. MOWRY: There really is none, the way the
3 testimony has come out, Your Honor.

4 MR. GROSE: I want to hear some argument later about
5 the garage door opener.

6 THE COURT: In my mind I have been thinking about
7 that. Okay. Take it out.

8 MR. MOWRY: I have no trouble.

9 THE COURT: What about these other knives?

10 MR. MOWRY: They were found at the scene, Your Honor.
11 One of them is bent, that is why it was of interest.
12 Again, let me just confirm with Ms. White for a second.
13 Your Honor, I think we will just withdraw that, we won't
14 proceed any further on that issue.

15 THE COURT: All right. Now, I think 38 is admitted
16 because I wrote it down. I think it is in the testimony
17 but I would say for the record that Mr. Mowry has removed
18 the garage door opener from the bag and it will not be
19 tendered as an exhibit unless you want to include it in
20 the record as a Court's exhibit.

21 MR. GROSE: No, I assume it will go back to the
22 police department.

23 MR. MOWRY: No problem whatsoever, Your Honor. We
24 will withdraw the knives, we will not proceed on that any
25 further. The two that we were talking about.

1 THE COURT: Joy, is it admitted and if the jury
2 heard, do you have it.

3 MR. MOWRY: Your Honor, what I can do--

4 COURT REPORTER: Yes sir, it was admitted.

5 THE COURT: So, I will just give a brief curative
6 instruction that the garage door opener is not going to be
7 admitted into evidence.

8 MR. MOWRY: And I am not going to proceed upon
9 State's exhibit 37. I will withdraw that.

10 THE COURT: You can proceed with that or not.

11 MR. MOWRY: I am just going to let it go, Your Honor.

12 THE COURT: Okay. Do you request some kind of
13 curative instruction about that?

14 MR. GROSE: No, because those were never identified.
15 There is not even, and I would object, that is why I
16 objected, I don't want any testimony about those.

17 THE COURT: Okay. All right. Everybody ready?

18 COURT REPORTER: Judge, I have got number 37, the
19 knife into ID. I am just going to leave it into ID or
20 just take it completely out?

21 THE COURT: Well, it has been marked for
22 identification. There is testimony in the record about
23 it.

24 (Whereupon, State's Exhibit 37 was marked for
25 identification only.)

1 MR. MOWRY: But I will go no further with it and I
2 will not seek to admit it into evidence.

3 THE COURT: You want me to give a curative on it I
4 will.

5 MR. GROSE: I don't think that is required for the
6 jury.

7 THE COURT: Are y'all ready?

8 MR. MOWRY: Yes, sir.

9 (Whereupon, the jury came into open court at
10 approximately 10:43 a.m.)

11 THE COURT: Thank y'all. We just cleaned up a little
12 issue that occurred. And y'all may or may not remember
13 that in the State's exhibit number 38, which is in
14 evidence, it had the fork and the garage door opener. The
15 garage door opener was admitted in error so it has been
16 removed, it is not evidence. Y'all pay it no attention.
17 Thank you very much, Mr. Mowry.

18 CONTINUE DIRECT EXAMINATION

19 By Mr. Mowry:

20 Q Captain Lynch, let's move on a little bit. Let me
21 show you this photograph that has been marked for
22 identification as State's exhibit 29. Do you recognize
23 that?

24 A I do.

25 Q What is that, please, sir?

1 A Hair.

2 Q Where was that found?

3 A At the steps of the garage, where the kitchen door
4 comes out into the garage.

5 Q Is that 104 or 105?

6 A That is 104.

7 MR. MOWRY: Your Honor, I would offer this photograph
8 as a State's exhibit at this time.

9 MR. GROSE: No objection.

10 THE COURT: Okay.

11 (Whereupon, State's Exhibit 29 was admitted into
12 evidence.)

13 Q I will publish what has been marked or what has been
14 admitted as State's exhibit number 29. Is this the hair
15 that you were talking about?

16 A That's correct.

17 Q Okay. And I want to show you a bag, what did you do
18 with the hair that was in that photograph?

19 A I gathered it and placed it in the evidence bag.

20 Q Did you, let me show you this bag, State's exhibit
21 number 39 for identification. Do you recognize that?

22 A I do, yes sir.

23 Q What is that, please, sir?

24 A That is the evidence bag I placed the hair in.

25 Q And your handwriting on the front of the bag?

1 A Yes, that is my handwriting, yes sir.

2 MR. MOWRY: Your Honor, I would offer this bag and
3 its contents as State's exhibit number 39.

4 MR. GROSE: No objection.

5 THE COURT: All right, without objection.

6 (Whereupon, State's Exhibit 39 was admitted into
7 evidence.)

8 Q Mr. Lynch, did you submit any of this evidence for
9 further testing?

10 A I did not, no sir.

11 Q What could you have done?

12 A I could have sent the blood done for DNA testing at
13 SLED but there is a backlog that generally takes them a
14 year or maybe two to get the evidence back.

15 Q Did you have an unknown suspect in this case?

16 A No, sir. I had the suspect and the three individuals
17 that were bleeding.

18 Q Who were the three individuals?

19 A Ms. Shands and the two young sons.

20 Q Was one of the young sons bleeding?

21 A One was, yes sir, the oldest son was bleeding.

22 Q The other would have been the suspect himself?

23 A Yes, sir.

24 Q Let me hand you this photograph, State's exhibit
25 number 34 for identification. Did you take that

1 photograph?

2 A I did.

3 Q What does that depict, please, sir?

4 A That is the right knee of the older--

5 Q The teenage?

6 A That's right.

7 Q That would have been Travious, is that right?

8 A That's correct.

9 Q What does that depict in there?

10 A A gash in his knee.

11 MR. MOWRY: Your Honor, I would offer this as a
12 State's exhibit at this time.

13 MR. GROSE: No objection.

14 THE COURT: Okay.

15 (Whereupon, State's Exhibit 34 was admitted into
16 evidence.)

17 Q What kind of injuries did Mr. Shands have?

18 A He had injuries to his hands, small cuts.

19 Q Did that come as a surprise to you?

20 A No, sir.

21 Q Given the circumstances?

22 A No, sir.

23 Q How many windows do you, were you able to count that
24 were broken out at 105?

25 A There was the big patio window out front, the glass

1 window in the back of the little tanning room that leads
2 off from the patio door and the patio door itself.

3 Q Okay. So there were several broken windows, is that
4 right?

5 A At least three, yes sir.

6 Q You have had dealings with blood before, is that
7 right?

8 A That's right.

9 Q What characteristic does blood have as far as
10 slippery is concerned?

11 A Very much so, it is more like the syrup, it is real
12 sticky and slippery.

13 Q Let me also ask you, could you have submitted the
14 hair that was found in State's exhibit 39, could you have
15 submitted that for analysis?

16 A I could have, yes sir, but I knew where it came from.

17 Q Okay. Did you later take statements from individuals
18 involved with this?

19 A I did.

20 Q Did you go to the police department afterwards?

21 A I did, yes sir.

22 Q Did you assign anyone to take statements from the two
23 boys?

24 A An Officer Kanipe, I believe, took the statement from
25 one boy and I took the statement from the other.

1 Q Okay. Did you get a statement from Ms. Shands that
2 night?

3 A No sir, I did not.

4 Q Why was that?

5 A Because she went to the hospital in Greenville.

6 Q Okay. Did you visit her in the hospital?

7 A I did, the following, that Monday morning. I called
8 the hospital and she was still in ICU and sedated. So I
9 asked them to call when she came out, I would like to come
10 talk to her. Well, it was several days. I think it was
11 on Wednesday morning I went to the Greenville Hospital and
12 talked with Ms. Shands.

13 Q And she was still in the hospital, is that right?

14 A A little sedated, yes sir.

15 Q Did you take a statement from her at that time?

16 A I did not. And she was still very much upset and
17 crying.

18 MR. GROSE: I am going to object. This is not
19 relevant or connected to the case.

20 THE COURT: Let's move on.

21 MR. GROSE: Move to strike, Your Honor.

22 THE COURT: Y'all disregard that last statement.

23 Q Was she also, in your observation, under sedation
24 still?

25 A Yes, sir.

1 Q Based on that did you determine whether or not to
2 take a statement from her?

3 A I decided not to.

4 Q What did you do, what arrangement did you make to get
5 a statement from her?

6 A I just told her when she felt like talking to me
7 about what happened to get in touch with me and I would
8 come take a statement from her.

9 Q And did she in fact write one herself?

10 A She did.

11 Q That is all I have.

12 CROSS-EXAMINATION

13 By Mr. Grose:

14 Q I am going to hand you what was previously marked as
15 State's exhibit number 40 and also has been marked as
16 Defendant's exhibit number 1. Is that the blood swabs
17 that you talked about?

18 A Yes, sir.

19 Q And those were taken, that was between the two
20 houses, right?

21 A And the roadway mostly, yes sir.

22 Q And the roadway mostly?

23 A Yes, sir.

24 Q And you testified earlier that you chose not to
25 submit those for analysis?

1 A I did.

2 Q That you could have submitted them to SLED?

3 A I could have, yes sir.

4 Q And what you testified to was is that you had three
5 people with injuries, right?

6 A That's correct.

7 Q Ms. Shands, correct?

8 A Correct.

9 Q Mr. Shands?

10 A Correct?

11 Q And the oldest son, Travious?

12 A Correct.

13 Q Earlier you started to say that the youngest son,
14 Jalen, had injuries but that was a mistake?

15 A That was a mistake, yes.

16 Q Okay. So he didn't?

17 A No, sir.

18 Q Okay. Now, having that analyzed could have lead to
19 other information, couldn't it?

20 A Well, maybe other information about the subject and
21 the victim.

22 Q Right, it could have told us whose blood that was?

23 A Well, it had three people.

24 Q Right?

25 A Yes, sir.

1 Q And so it could have been any one of those three?

2 A It could have been.

3 Q Or it could have been a mix?

4 A Could very possible, yes sir.

5 Q And so that is information that we don't know the
6 answer to?

7 A That's correct.

8 MR. GROSE: Your Honor, at this time I would move
9 Defendant's exhibit number 1 into evidence.

10 MR. MOWRY: No objection.

11 THE COURT: Without objection.

12 (Whereupon, Defendant's Exhibit 1 was admitted into
13 evidence.)

14 Q Now, I think you testified that you got there and
15 Officer Gainey was with Preston and Preston was on the
16 ground?

17 A That's correct.

18 Q And eventually Preston was, was with somebody and he
19 was put in a patrol car?

20 A That's correct.

21 Q A Laurens Sheriff's office patrol car?

22 A That's correct.

23 Q Were you present when Officer Gainey read Preston his
24 Miranda rights?

25 A No, sir.

1 Q Were you aware that Preston said he would answer
2 questions?

3 A No, sir.

4 Q Are you aware that Officer Gainey didn't ask Preston
5 any questions?

6 A No, sir.

7 Q Now, you said, you testified earlier that you took
8 some statements, right?

9 A I did, I did.

10 Q And you talked about that you took one of the child's
11 statement, right?

12 A That's correct.

13 Q And Officer Kanipe took the other one?

14 A That's correct.

15 Q And you testified about the circumstances of taking
16 statements from Ms. Sharon, right?

17 A That's correct.

18 Q And you wanted her to get out of the hospital and not
19 be sedated, you took her statement or she actually wrote
20 it out and brought it to you?

21 A That's correct.

22 Q Okay. And you have had an opportunity to ask her
23 questions and I am sure you probably did?

24 A Yes, sir.

25 Q There was also a statement from, that you didn't

1 testify about earlier but you took statements from Mr.

2 Koon and Ms. Koon?

3 A That's correct.

4 Q Okay. At some point you did talk to Preston when he
5 was in custody, didn't you?

6 A That's correct.

7 Q And you told him what you were going to charge him
8 with?

9 A No sir, I did not.

10 Q You told him that you could charge him with a number
11 of things?

12 A I did not.

13 Q All right. You didn't get a statement from Preston?

14 A I did not. I ask did he want to talk to me and he
15 told me, no.

16 Q But he also told you that he didn't have a memory of
17 these events, didn't he?

18 A I can't remember.

19 Q You can't remember?

20 A No, sir.

21 Q Okay. You memorialized some things in your reports,
22 didn't you, didn't you?

23 A Yes, sir.

24 Q You did some paperwork?

25 A Yes, sir.

1 Q Now I think some of the paperwork, well some of the
2 paperwork you did were these statements that we talked
3 about, right?

4 A Yes, sir.

5 Q And so those were all written down and a copy of the
6 file?

7 A Yes, sir.

8 Q Goes to the Solicitor's office?

9 A That's correct.

10 Q And we have access to it?

11 A That's right.

12 Q And you had a report from July 22nd of 2014, right?

13 A That's correct.

14 Q And then that just talks about you taking a statement
15 from Mr. Koon?

16 A Yes, sir.

17 Q And we have a report from July 30th that that, you
18 memorializing that Ms. Shands came in?

19 A That's right.

20 Q And of course you accepted her statement and that is
21 in the file?

22 A That's correct.

23 Q There is no report from your conversation with Mr.
24 Shands, is there?

25 A No, sir.

1 Q That is all I have.

2 THE COURT: Any redirect?

3 MR. MOWRY: No, sir.

4 THE COURT: Thank you, you can step down.

5 MS. WHITE: At this time the State rests, Your Honor.

6 THE COURT: Okay. This is a time for us, we need to
7 have a legal discussion and this is probably a good time
8 to take a break. Will get you back in just a few minutes.

9 (Whereupon, the jury was excused from open court for
10 a break.)

11 THE COURT: Okay, any motions?

12 MR. GROSE: Yes sir, Your Honor. I would like to
13 start with indictment 2014-GS-30-1482 which is the
14 indictment for kidnapping. I want to treat that
15 separately because I have two motions related to that.

16 THE COURT: Okay.

17 MR. GROSE: One motion is the standard directed
18 verdict motion. The State has failed to present any
19 direct evidence or any substantial circumstantial evidence
20 based upon which a jury could convict beyond a reasonable
21 doubt. If, however, and this goes to the second motion,
22 this record is construed to provide that, then I believe
23 that the kidnapping statute is unconstitutionally vague
24 and overbroad because we have not really heard any
25 evidence in this case of what would put somebody on notice

1 that they had committed a kidnapping crime and come to
2 defend the case at trial. And I would note that there is
3 really no factual allegations in this indictment to tell
4 us what exactly was done in the course of these events for
5 Mr. Shands to have to defend. And so we think the State's
6 proof has failed on this issue and if this evidence
7 somehow is construed that it has not then the statute is
8 unconstitutionally vague and overbroad and based on the
9 facts of this case Mr. Shands has standing to challenge
10 that statute.

11 THE COURT: Okay. I would just, go ahead.

12 MS. WHITE: Your Honor, as far as the evidence, Ms.
13 Shands testified, actually several people have testified
14 that she was grabbed by the hair as she was attempting to
15 leave, pulled back into the doorway of the house. There
16 is testimony that she lifted the garage door and closed it
17 and sort of ended up in kind of a halfway state where she
18 would not have been able to get her car out and leave.
19 That is confining her for purposes of the statute. I
20 don't have any research in front of me on the overbroad
21 argument. But the kidnapping statute has gone up on
22 appeal, I know it has been upheld.

23 MR. GROSE: It has and when you look at those cases
24 where it has been upheld you have conduct, actually a lot
25 of the cases it was never challenged in. There may be

1 some cases where they said the person didn't have standing
2 because what was the issue in that case would clearly
3 constitute kidnapping. But when you read the kidnapping
4 statutes they all, I mean not the statute, the cases on
5 kidnapping, they all seem to have a whole lot more in the
6 way of confinement or seizure or carrying from one place
7 to another than what you, what the evidence is in this
8 case. So I think a review of those cases would actually
9 support Mr. Shands argument in this case.

10 THE COURT: Okay. Viewing in the light most
11 favorable to the State, I am going to deny your motion on
12 both grounds. Okay.

13 MR. GROSE: Just a follow-up question on that. With
14 regard to the overbroad and vague, constitutional
15 challenge you are considering the statute as part of that
16 and not just the facts?

17 THE COURT: Right.

18 MR. GROSE: Thank you, Your Honor. I just want to
19 make sure we had a ruling on the record. With regard to
20 the other counts we would move for a directed verdict
21 based on the fact that the State has failed to present any
22 direct evidence or substantial circumstantial evidence
23 based upon which a jury could convict Mr. Shands beyond a
24 reasonable doubt.

25 THE COURT: Okay. In a light most favorable to the

1 non-moving party I am going to deny your motion. All
2 right. Mr. Shands, let me--

3 MR. GROSE: Well, before you do that can I follow-up
4 on our conversation from last night because I left it,
5 whether it was something you said or the impression that I
6 took away from that you were going to sleep on it a little
7 bit overnight and then we would know today exactly how you
8 intended to handle his prior record. And I think we
9 should address that before you go into your colloquy.

10 THE COURT: That is fine.

11 MR. GROSE: I am still in the position that when you
12 do the test outlined by the Green case that the factors
13 weigh in our favor and it should be, his prior conviction
14 should be excluded all together. No reference to it as a
15 conviction for a felony or a violent crime.

16 THE COURT: Okay. And I disagree with you on that.
17 I think it is pretty clear that it is, the end of
18 confinement refers to termination of parole or probation.

19 MR. GROSE: And just for the record, if that is what
20 the rule had meant I think it would have said, the
21 termination of the sentence and not confinement. But we
22 also have just the regular part, (a) of the Rule where,
23 regardless of the ten year timeframe, it can be excluded
24 based on you weighing those factors under the Green case.

25 THE COURT: What is the case name, you know case

1 names. What is the case, I think it was burglary
2 convictions, Judge Cole, do you remember that one.
3 Anyway, he wouldn't say burglary when they impeached him.
4 Do you remember that one.

5 MR. GROSE: Well, I know several cases with burglary.
6 The difference would be, you know, burglary is a crime of
7 dishonesty. These aren't necessarily a crime of
8 dishonesty.

9 THE COURT: I am not sure that was part of the
10 analysis when the Supreme Court agreed to it. I am going
11 to allow them to do it. And I am just torn with exactly
12 the logistics of how. What do you propose.

13 MS. WHITE: Well, Your Honor, there is also a robbery
14 conviction that I think would go to honesty.

15 THE COURT: Is that at the same time as the murder?

16 MS. WHITE: Yes, sir. It was a robbery, essentially
17 a robbery gone bad from what I can tell. Conspiracy to
18 rob, robbery and first degree murder.

19 MR. GROSE: And what was the sentences on those?

20 THE COURT: Y'all take a look at that.

21 MR. GROSE: It may very well be, but all of the
22 offenses other than murder have expired.

23 THE COURT: Yeah, we don't know that, if it was a
24 consecutive sentence it might not. It is hard to know and
25 I am not going to allow, what is your position on that.

1 MS. WHITE: Your Honor, the three, the way the
2 indictment reads, the sentence is actually written on the
3 indictment. It says, it has got conspiracy to commit a
4 felony to commit robbery, robbery and then murder in the
5 first degree. The sentence, ordered by a Judge, you be
6 confined for the rest of your natural life and then he is
7 given credit for 183 days. So to me that implies that the
8 life sentence is for all three charges.

9 THE COURT: Well, what is the, you can't impose a
10 life sentence on something that only carries ten years.

11 MR. GROSE: Right. And in South Carolina you have
12 that rule that you can't impose a sentence for kidnapping
13 if they are convicted of murder. So, we don't know what
14 rule might be in Florida.

15 MS. WHITE: And, Your Honor, my suggestion would be
16 that I be allowed to cross-examine him when he was
17 convicted of violent felonies unless he opens the door to
18 something else with his testimony.

19 THE COURT: I think that that is, I am sure Mr. Grose
20 would object, but I think violent felony is a, would be an
21 appropriate appellation to this. Without something else,
22 I am not going to allow y'all to talk about plural. The
23 robbery, without anything else I can't, I just can't let
24 you do that.

25 MS. WHITE: Thank you, Your Honor.

1 MR. GROSE: So they can ask, have you been convicted
2 of a violent felony.

3 THE COURT: Violent felony.

4 MR. GROSE: And that would be over objection at the
5 time.

6 THE COURT: And it is unnecessary unless you want to,
7 to object. Is that agreeable with the State? I am not
8 going to make him get up and object.

9 MS. WHITE: Yes, sir.

10 THE COURT: Okay. Let me, you want to talk to him?

11 MR. GROSE: He is going to testify.

12 THE COURT: Mr. Shands, please stand. Mr. Shands,
13 raise your right hand, please.

14 PRESTON SHANDS, being
15 first duly sworn, testified as follows:

16 THE COURT: Do you remember our conversation
17 yesterday which we had about your right to testify?

18 MR. SHANDS: Yes, sir.

19 THE COURT: And you understand that you have an
20 absolute constitutional right to testify in your own
21 Defense?

22 MR. SHANDS: Yes, sir.

23 THE COURT: You have an equal absolute constitutional
24 right not to testify and it cannot be held against you and
25 I give a strong instruction to that effect to the jury.

1 And as I told you yesterday there is a lot of strategic
2 decisions encompassed by a person's decision to testify.
3 And so I will ask you now, do you have any questions you
4 want to ask me about this issue?

5 MR. SHANDS: No, sir.

6 THE COURT: Have you had ample opportunity to speak
7 with your attorney about this?

8 MR. SHANDS: Yes, sir.

9 THE COURT: Okay. And are you satisfied with your
10 conversations with your lawyer?

11 MR. SHANDS: Yes sir, I am.

12 THE COURT: Okay. And have you made a decision about
13 what you are going to do?

14 MR. SHANDS: Sir?

15 THE COURT: Have you made a decision?

16 MR. SHANDS: Such as?

17 THE COURT: Are you going to testify or not testify?

18 MR. SHANDS: Yes, I am going to testify.

19 THE COURT: Okay, all right. Very good, we will take
20 a five or ten minute break and then we will be ready.

21 (Whereupon, a short break was taken.)

22 THE COURT: Let's bring them in.

23 (Whereupon, the jury came into open court at
24 approximately 11:25 a.m.)

25 MR. GROSE: We will call Steven Sweat from the

1 Laurens County Sheriffs Office.

2 STEVEN SWEAT, being
3 first duly sworn, testified as follows:

4 DIRECT EXAMINATION

5 By Mr. Grose:

6 Q Where are you employed?

7 A Laurens County Sheriffs Office.

8 Q And how long have you been employed there?

9 A Almost eight years..

10 Q And what is your title or your position there?

11 A Currently Sergeant in narcotics unit.

12 Q And did you have any involvement in the followup of
13 the incident that happened on July 20th of 2014 involving
14 Preston Shands or Sharon Shands?

15 A Yes, sir.

16 Q What was that?

17 A During the incident I showed up after the scene was
18 secured, Laurens City Units let the Defendant, the Laurens
19 City Unit put the Defendant in my patrol vehicle.

20 Q When you say the Defendant you are talking about
21 Preston?

22 A Yes, sir.

23 Q And while he was in your vehicle did he receive any
24 medical treatment?

25 A They had to get him out of the vehicle to do that,

1 sir.

2 Q Did you write any incident reports?

3 A No sir, the incident was recorded and documented by
4 Laurens City Police Department.

5 Q Do you have any notes from that night?

6 A No, sir.

7 Q Do you have any memory of what might have been said
8 when Preston was talking to EMS?

9 A No, sir. Like I said, I was just there to support
10 personnel.

11 Q And at some point did they take Preston to the
12 hospital?

13 A I believe so, I don't know where he went after he
14 left.

15 Q You didn't go with him?

16 A No, sir.

17 Q That is all the questions I have.

18 CROSS-EXAMINATION

19 By Mr. Mowry:

20 Q Sergeant Sweat, you say this is a Laurens City case
21 and you are employed by the Sheriffs Office?

22 A Sheriffs Office, yes sir.

23 Q Is that unusual for an agency, another agency to come
24 into another agencies investigation or case?

25 A Absolutely not. The City lays within Laurens

1 County's jurisdiction. I heard them out on something over
2 the radio, on the scanner. So I went over there and saw
3 what I could do to help.

4 Q And you say your sole involvement in the case was
5 having Mr. Shands in the backseat of your car, is that
6 right?

7 A Yes, sir.

8 Q Was there anything you noticed about his demeanor
9 that stuck in your memory?

10 A No, sir.

11 Q Do you remember how he appeared that night?

12 A I believe he was wearing, he seemed to be wearing
13 casual clothes, dressed comfortably, he was handcuffed.
14 But as far as exactly what he was wearing I couldn't tell
15 you.

16 Q Did you have any conversation with him yourself?

17 A Beside have a seat, no sir.

18 Q Okay. Thank you, that is all I have.

19 MR. GROSE: Nothing further.

20 THE COURT: Thank you, you can step down.

21 MR. GROSE: Call Hedi Blackstock.

22 HEDI BLACKSTOCK, being
23 first duly sworn, testified as follows:

24 DIRECT EXAMINATION

25 By Mr. Grose:

1 Q Where are you employed?

2 A At the Laurens City Police Department.

3 Q How long have you been employed there?

4 A Approximately a year and a half.

5 Q What is your position there?

6 A Currently I am a Resource Officer at Eddie Morris
7 Elementary.

8 Q And were you employed there in July of 2014?

9 A Yes sir, I was.

10 Q And did you have any involvement in the followup of
11 the incident involving Preston and Sharon Shands?

12 A I was, I was there.

13 Q And what was that?

14 A At the time I arrived the Lieutenant had called me
15 basically because they needed someone to ride with Mr.
16 Shands to the hospital. I came after the scene had been
17 secured already. As soon as I pulled up in my vehicle,
18 one of the other officers took the keys, he was going to
19 take the vehicle back to the Department for me. I got in
20 the ambulance, Mr. Shands was already loaded up in the
21 ambulance and they were basically waiting for me to get
22 there so that they could leave and take him straight to
23 the hospital.

24 Q And who was the Lieutenant?

25 A It would be Lieutenant Brewer.

1 Q And did you ride with Mr. Shands to the hospital?

2 A I did, I road in the back of the ambulance with Mr.
3 Shands.

4 Q Do you have any recollection of anything that
5 happened to him?

6 A I don't, honestly we didn't discuss the case, we
7 didn't communicate with him about anything like that. I
8 just rode with him.

9 Q In fact, were you instructed not to talk to him about
10 the case?

11 A I was advised not to give him any information to talk
12 to him because I had just shown up. So, it wasn't, not to
13 tell him anything, but it was because of the fact that,
14 you know, I really knew nothing about what was going on
15 when I got there.

16 Q Or to ask him any questions?

17 A Right.

18 Q And who instructed you that?

19 A Lieutenant Brewer.

20 Q And you sat with him at the hospital for a while?

21 A That's correct.

22 Q And any recollection of that?

23 A I just sat at the outside of his room and just
24 basically was there just to secure his room and didn't
25 really have any interaction with him other than, you know,

1 just sitting with him.

2 Q Any notes or reports that you made?

3 A No sir, I didn't write any supplementals for the
4 report.

5 Q That is all I have. Thank you.

6 THE COURT: Cross.

7 CROSS-EXAMINATION

8 By Mr. Mowry:

9 Q Officer Blackstock, were you with Mr. Shands the
10 entire time he was at the hospital?

11 A No sir, I believe there was another officer that came
12 in and relieved me and they were the ones who transported
13 Mr. Shands to the detention center or where ever he went
14 from the hospital.

15 Q Okay. According to your information how long was he
16 at the hospital, just approximately?

17 A I honestly don't remember. I sat with him for a
18 while, maybe an hour or longer. I don't remember how long
19 we were there.

20 Q But was it days or was it that evening when he was
21 transported or what?

22 A I just sat there with him that evening.

23 Q For about an hour?

24 A Probably about an hour.

25 Q Okay. Thank you, that is all I have.

1 MR. GROSE: Nothing further, Your Honor.

2 THE COURT: You can step down.

3 MR. GROSE: We call Julie Medlin to the stand.

4 JULIE MEDLIN, being

5 first duly sworn, testified as follows:

6 DIRECT EXAMINATION

7 By Mr. Grose:

8 Q Can you tell us where you are employed?

9 A Laurens County EMS.

10 Q And how long have you been employed there?

11 A Approximately two and a half years.

12 Q And does that mean you were employed there in July of
13 2014?

14 A Yes, sir.

15 Q And then were you one of the people that went on the
16 call involving Preston Shands?

17 A Yes, sir.

18 Q And there was more than one call that night, wasn't
19 it?

20 A Yes, sir.

21 Q And so it is fair to say you just know about the one
22 you were involved in?

23 A Yes, sir.

24 Q And do you have some recollection of that night?

25 A Yes, sir.

1 Q And can you tell us what Preston's demeanor was on
2 that night?

3 A He was slightly agitated, that is why we ask for law
4 enforcement to ride with us.

5 Q And when you say agitated, what do you mean?

6 A Just very upset, we don't know the details of what
7 happened before we got there. When we arrived he was in
8 the back of the car, whenever they got him out and brought
9 him to the ambulance he just seemed very upset, not
10 aggressive, just very, kind of I guess high strung.

11 Q Did he give you any information about what had
12 happened?

13 A Just that, he said that the wounds that he got were
14 in self-defense.

15 Q What did he mean by that?

16 A I am not sure, that is all he said.

17 Q Okay. And did he tell you how these wounds were
18 inflicted?

19 A From the report, it just says he got them in
20 self-defense by a knife.

21 Q Thank you, that is all the questions that I have.

22 CROSS-EXAMINATION

23 By Ms. White:

24 Q Were you the driver or the--

25 A I was the driver.

1 Q So during the actual transport you would have been up
2 front?

3 A Right, I had no patient contact during the transport.

4 Q And who actually wrote the run report?

5 A Erin King.

6 Q All right. Now, it says that the patient was alert
7 and oriented to person, place, time and event. What does
8 that mean?

9 A That means he knew who he was, he knew where he was,
10 he knew the events leading up to why we were called and
11 just everything that was going on around him, like what
12 day and time it is.

13 Q And so he didn't seem disoriented in any way?

14 A No, ma'am.

15 Q Did he seem intoxicated in any way?

16 A No, ma'am.

17 Q And do you remember him being covered in glass?

18 A Yes, ma'am. He had like small glass shards on his
19 skin.

20 Q And where exactly were his wounds?

21 A I have to read, I am sorry. He had a laceration to
22 his right hand, fifth digit; he had a laceration to the
23 outside of his left calf and an abrasion to the back of
24 the left shoulder.

25 Q And the laceration on his left calf, that was just

1 kind of a superficial?

2 A Yes, ma'am.

3 Q Was it like a graze?

4 A It says it is just, it says superficial laceration.

5 Q Okay. And the fifth digit, you said right hand?

6 A Yes, yes.

7 Q That would be his pinky finger?

8 A Yes, ma'am.

9 Q And Mr. Shands walked from the patrol car to your
10 ambulance, correct?

11 A Yes, ma'am.

12 Q And did he have any trouble with walking to the
13 ambulance?

14 A No, ma'am.

15 Q Once you take the patient to the hospital, that is
16 the end of your patient contact, correct?

17 A Yes, ma'am. We give a report to the nurse at the
18 hospital and that is it.

19 Q And once the hospital assumes his care you don't know
20 what is happening in the ER?

21 A Right, right.

22 Q Thank you.

23 THE COURT: You may step down, thank you.

24 MR. GROSE: At this time I would call Preston Shands.

25 PRESTON SHANDS, being

1 first duly sworn, testified as follows:

2 DIRECT EXAMINATION

3 By Mr. Grose:

4 Q Preston, are you the Defendant in this case?

5 A Yes, sir.

6 Q Do you have any memory of the events that happened
7 that night?

8 A No, sir.

9 Q Have you had a chance to look at the evidence from
10 that night before you came to the courtroom this week?

11 A Yes, sir.

12 Q And based on looking at that evidence do you agree
13 that you are responsible for the injuries that happened to
14 Sharon?

15 A Yes, sir. I don't think my wife would allow me, she
16 is not that type of person.

17 Q And you are not saying you were defending yourself or
18 anything?

19 A No, sir.

20 Q And were you responsible for the cut that or the
21 other injuries, any injuries that Travious got?

22 A No, sir.

23 Q All right. Do you think it could have happened in
24 the incident that involved with Sharon?

25 A It possibly could, it is speculation to me because I

1 have no memory of what happened that night.

2 Q At, before the incident happened, let me go back. Do
3 you remember what day this happened on?

4 A It was on a Sunday, July 20th, me and the boys stayed
5 up late that night watching the fight. And my wife told
6 me, she said, you need to spend time in church. I said, I
7 know.

8 Q When you say you stayed up late that night, are you
9 talking about the Saturday night?

10 A Saturday night, yeah, me and the boys stayed up and
11 watched the fight.

12 Q And when you are talking about the boys you are
13 talking about--

14 A My two boys.

15 Q And you need something, some water?

16 A No, I am good, good, good.

17 Q What do you remember about that Sunday?

18 A My traditions on Sunday that we all eat breakfast
19 together, whether we go to church or not, we sit at the
20 table. We have a family that is on the go, I have got two
21 boys that are active in sports, I work 70 hours a week, my
22 wife works and we do a lot of things together. On Sunday
23 mornings we mostly go to church together. But every
24 Sunday I always cook breakfast and it is a rule in the
25 house for all of us to sit down on Sunday morning and if

1 we don't get no other meal together we have to have
2 breakfast together on Sunday. I cook breakfast on Sunday.
3 That is the only meal I am specialized to cook.

4 Q And did you do that this Sunday?

5 A Yes sir, every Sunday, it is a ritual unless we are
6 out of time.

7 Q All right. Now, did Sharon go to church?

8 A Yes, she is a church person. The boys, they don't
9 like to be hung out in church all day. And my youngest
10 gets real restless in church and all, he is on the phone
11 and I refereeing them in the church. So I passed it this
12 Sunday because I had a lot of things I had to do.

13 Q And what did y'all do that day?

14 A Well, we cleaned the house. And my son has a
15 driver's permit.

16 Q Which son are you talking about?

17 A My oldest son, Travious. He is 15 and he likes to
18 drive my truck and he has all kind of excuses of why we
19 need to go out there and get some experience and I was
20 with that. And my wife, when he is driving it makes him
21 nervous. He likes to drive with me because I let him be
22 himself, you know. He went different places all that day,
23 back home and Walmart two or three times, the gas station
24 to put gas in, give him turns and everything, took him on
25 the highway. My youngest son is all boy.

1 Q So, did y'all practice driving that day?

2 A We practiced driving all morning, yes.

3 Q And what did y'all do that afternoon?

4 A We went and got something to eat and I let my son
5 drive to get something to eat. And we went back and forth
6 and back and forth. And every time he made a excuse, we
7 need to go do this, we need to go there. So, we finished
8 everything we were doing and got something to eat and came
9 home about 1:00. I texted my wife on that day and she
10 asked me, she said, what are y'all doing. I said, Trey is
11 driving. She said, how is he doing with his driving. I
12 said, he is doing better with it. He said, ha ha, really
13 funny. And I said, texted to her, I can't wait to get
14 home, get home because we are going to go ahead and make
15 decisions on what we are going to do with our moving, our
16 family, family are going to move in. They had nowhere to
17 go so we were going to make arrangements for them, where
18 everybody was going to sleep. And I was going to talk to
19 her about that.

20 Q Did you have anything to drink that afternoon?

21 A When I go home I had one Bud Light. And then I had
22 spilt that on the table and I said, oh man, she is going
23 to get me on this one. Spilled something and I went to
24 the cabinet to get the sponge and stuff to clean it with.
25 And so, she asking me to stop drinking and I said, okay.

1 So I went to give all of it to my father-in-law but under
2 the cabinet was this stuff that I had bought at work.

3 Q And then let me back up just a second. About what
4 time was it that you had this Bud Light?

5 A About 1:00, 1:30.

6 Q All right. And this stuff that you had bought from
7 work, what was that?

8 A It was stuff that people told me was homemade
9 moonshine. You couldn't smell it but you knew it was
10 alcohol in it when you tasted it. And I said, well, I am
11 going to go ahead and take me a shot, my last little
12 drink. So, I tasted it so I would know what it tasted
13 like because it was my first time.

14 Q Had you had anything to drink out of that bottle of
15 moonshine?

16 A Yes, I did.

17 Q Before that day?

18 A No.

19 Q Now that day did you have something to drink?

20 A Just a Bud Light.

21 Q I mean, did you start drinking that moonshine?

22 A Yes, I did.

23 Q Okay. And how did you go about doing that?

24 A I had a cup and ice. Like I said, this was my first
25 time of having something to drink in it. It was so

1 strong, it didn't have a smell because I spit it out of
2 the cup. So, I went and got a pitcher, a tall blue
3 pitcher and I poured it in there and I started mixing it
4 would coke and the more coke I mixed and I would put more
5 moonshine in there, it was in a preservative type jar.
6 And I poured that much of moonshine in there and I poured
7 a whole two liter coke into it and it was still strong, so
8 strong. I add ice to it and I drunk a cup of it. And
9 most of the time I drank I fall out and go to sleep.

10 Q Let's talk about that, you said most of the time you
11 drink you fall out and go to sleep?

12 A Yes, I just fall out.

13 Q Can you tell us about that?

14 A Most of the time I drink I am watching in front of
15 the TV in my living room, we have an air mattress. My
16 wife doesn't like us having an air mattress. But the boys
17 like the air mattress because we can sit and watch the
18 sports and the air mattress is one of those couches that
19 you can roll out from the couch right over to the air
20 mattress. And my youngest son like to roll and a little
21 kid rolling. When I drank I lay on that couch because we
22 have protection on our furniture and when I get on that
23 air mattress and go to sleep. I just sleep it off and I
24 just go off and go to bed.

25 Q Is that the reaction you had this time?

1 A No.

2 Q And because you had a different reaction do you have
3 some thoughts about that?

4 MS. WHITE: Objection, Your Honor.

5 THE COURT: What is the basis of your objection?

6 MS. WHITE: Speculation.

7 MR. GROSE: He can talk about what he experienced.

8 MS. WHITE: Not his thoughts as to any causation.

9 MR. GROSE: I think he can when it's--

10 THE COURT: He can talk about his state of mind.

11 Q Do you have any thoughts or any comments about your
12 state of mind in this situation?

13 A This is something that took me clean out of my round.

14 Q And by that what do you mean?

15 A It didn't have, it didn't cause me to have any action
16 that normal alcohol would cause me to a reaction. This
17 wasn't just alcohol.

18 Q What do you mean by that?

19 A This was something more strong and powerful in there,
20 that they put in there other than alcohol. Because
21 normally alcohol just makes me drunk and fall out and go
22 to sleep.

23 Q Do you think there was some type of drug in it?

24 A It had to be, there had to be something more powerful
25 that I had ever experienced in my life. I have never

1 experienced nothing like that, I don't do drugs. I am a
2 father, I don't do drugs. This had some effect on me that
3 took me slap clean out of mind, just took me slap out.

4 Q And as a result of that do you feel like it took away
5 your ability to exercise independent judgment?

6 A I had no--

7 MS. WHITE: Objection, Your Honor.

8 THE COURT: Yes, this is going over, he is now in the
9 realm of speculation.

10 MR. GROSE: Okay. Thank you, Your Honor.

11 Q Now, you have had a chance to review the evidence in
12 this case. You have indicated that you were responsible
13 for the events with Sharon?

14 A Yes, sir.

15 Q And at some point did your memory start to come back?

16 A No.

17 Q You remember any of the events, when did your memory
18 pick up?

19 A When I got to the, the next day, the other house.

20 Tony Lynch approached me and he said, you got something
21 you want to tell me. I said, first, what I am getting
22 here for. He said, man, you did a number on her. All he
23 would tell, I just didn't remember what went on.

24 Q So, you tried to tell them you couldn't remember?

25 A I couldn't and I was being honest because when it

1 came to my wife and kids I want to know what is going on
2 because I am an overprotective parent. And I love my
3 wife, man.

4 Q All right. And when was it that you first started
5 finding out what you had done?

6 A When the charges were read in front of me.

7 Q The charges, when you went in front of the
8 magistrate?

9 A Yes.

10 Q That probably Monday morning?

11 A That Monday morning.

12 Q Now, you mentioned earlier about having a job and
13 having a family?

14 A Yes.

15 Q How long have you known Sharon?

16 A Since 2003.

17 Q And how long have you and Sharon been married?

18 A Next month will be ten years.

19 Q And when you met Sharon did she already have a child?

20 A Yes, Travious.

21 Q And you refer to Travious as your son?

22 A Yes.

23 Q So you trusted him like a son?

24 A Yes.

25 Q And as I understand the testimony that has come out,

1 you and Sharon have a child together?

2 A Jalen.

3 Q And how old is Jalen?

4 A He is eight.

5 Q And where were you working at the time?

6 A I was working with canvas and hardwood flooring.

7 Q And what was your job there?

8 A Quality control, quality assurance.

9 Q And what does that mean, is that an inspection thing?

10 A Yes, they just, what we have in this country today,
11 so many recalls, we don't have recalls.

12 Q And does your job in quality involve working with
13 processes in inspection?

14 A From the start to the finish. That is why, when the
15 person that is over it from the start to the finish, which
16 is my job was, I knew every department. I could
17 distinguish whether it was a good claim or a bad claim.

18 Q Now, in the State's case they introduced State's
19 exhibit 14 and 15. Did you write those letters?

20 A Yes, sir. I wrote them to my boys.

21 Q All right. And what was the purpose of writing those
22 letters?

23 A After months and months sitting in here trying to
24 figure what is going on at night and looking at my motion
25 in discovery and everything and after hearing things

1 people are saying on the street, what people were telling
2 me. I wanted them to know that I didn't voluntarily did
3 this, this happened against my own knowing.

4 Q And did you talk in here something about the
5 intoxication?

6 A Yes sir, I did.

7 Q Did you go into all the details about it?

8 A There wasn't much details to go into.

9 Q All right. Preston, that is all the questions I have
10 right now. If you would answer any questions that they
11 have.

12 CROSS-EXAMINATION

13 By Ms. White:

14 Q Mr. Shands, you were just telling Mr. Grose about
15 your job. You had a pretty good job, didn't you?

16 A Yes ma'am, I did.

17 Q And you had a beautiful family, beautiful wife?

18 A Yes, I had it all.

19 Q Sharon is a good bit younger than you, isn't she?

20 A Twenty years, we had a lot of similarities because we
21 had a lot of problems in our background. She was raised
22 by her grandparents and I was raised by my grandparents.
23 And we have shared a lot of common. Out of all the women
24 I knew she was more than my mother. My mother, she put us
25 last and I never wanted a woman that didn't put God first

1 or family first. She was hardheaded, she was Christian
2 bound because she was raised by her grandmother and two
3 aunts.

4 Q And I am sorry to cut you off but Sharon took care of
5 you, didn't she?

6 A That is my rock.

7 Q And you love her son like he was your own?

8 A Treated him like my own, yes, since three and a half.

9 Q You coached him in his ballgames?

10 A Every moment.

11 Q Throw the ball with him?

12 A Every moment.

13 Q You said you were teaching him to drive?

14 A Yes, ma'am.

15 Q And your baby, Jalen.

16 A That is my heart.

17 Q You were a good dad to him too?

18 A I love my children, my family. People said I was
19 overprotective of my family, my wife was a good woman.

20 Q And y'all were happy at first, right?

21 A We was happy for a lot of times.

22 Q And then things kind of started, kind of falling
23 apart, didn't they?

24 A Yes.

25 Q And you got pretty jealous and kind of controlling,

1 right?

2 A Yeah, I started drinking.

3 Q And started fussing a lot at the kids being strict
4 about where they were going, where your wife was going,
5 where she was?

6 A No, we wanted to know where everybody was at all
7 times because we had two kids, we had to know where each
8 other was at.

9 Q Well, let me ask you about that. You told Mr. Grose
10 you were there with the kids that day?

11 A Yes.

12 Q And y'all had been driving around?

13 A Yes.

14 Q And you came back to the house?

15 A Yes.

16 Q And you were the one responsible, he was then 15?

17 A Yes, ma'am.

18 Q And a 7-year-old?

19 A Yes, ma'am.

20 Q And you were the adult in the house?

21 A Yes, ma'am.

22 Q And you went and, first of all you got a Bud Light,
23 right?

24 A Yes, ma'am. Knowing that is all I drink on Sunday.

25 Q But you spilled that?

1 A Yes.

2 Q So, tell me about this moonshine, is this something
3 you bought from somebody you work with?

4 A Yes, ma'am.

5 Q So it is not something, now they sell moonshine in
6 the liquor stores.

7 A I don't know if it is real moonshine, I don't know, I
8 never tried it, it is my first time trying it.

9 Q But this is something you bought, do you know
10 actually who made it?

11 A No, it is just the guys told me, before you quit
12 drinking why don't you try the granddaddy of all, the
13 cremator of all whiskey. It is the granddaddy, until you
14 tasted the granddaddy you can never say you drunk anything.

15 Q So, you were home alone with two children and you
16 decided to drink something that you had no idea where it
17 came from?

18 A Yes, ma'am.

19 Q And you had no idea what was in it and you had no
20 idea how you were going to react to it. That is what you
21 are telling us?

22 A Yes, ma'am.

23 Q These two boys that you love more than life itself?

24 A Yes.

25 Q And you bought that?

1 A It was given to me.

2 Q It was given to you?

3 A Yes.

4 Q But you went and drank that of your own free will?

5 A Yes, ma'am.

6 Q Nobody forcing you to drink it?

7 A No, ma'am.

8 Q And you said, you tasted it first, it tasted really
9 bad, it was strong?

10 A I didn't know what it was suppose to taste like. It
11 didn't have a smell, it had a taste but not a smell and I
12 didn't know what it was suppose to taste like. I just
13 know it was stronger than normal alcohol that you buy.

14 Q You spit out the first sip of it and then you said
15 you kept mixing it?

16 A With coke.

17 Q What sort of ratio were you mixing it with coke?

18 A A cup of coke and the shine. But every time I tasted
19 it it was strong.

20 Q But you kept drinking it?

21 A Two glasses all together. I only drank half of it, I
22 don't remember finishing the other half.

23 Q Now, you wrote these letters, do you have them?

24 A Yes, ma'am.

25 Q And you sent these to Jalen and Travious, right?

1 A My sons.

2 Q But you kept telling them, tell your mama this and
3 tell your mama that, right?

4 A Yes.

5 Q And at one point you start promising them things,
6 right?

7 A I always, I have made promises to them before but it
8 just hadn't happened.

9 Q But you start, you are promising them, you are
10 telling Travious that you are going to buy him a car, you
11 are telling Jalen you will buy him a bike. Is that right?

12 A But that was promises I had already made before this
13 had ever happened.

14 Q But you are also saying you will do it if you get to
15 come home, right?

16 A Yes.

17 Q You say tell your mama I will make her a stay at home
18 mom, she will never have to work?

19 A That was part of our future, plans.

20 Q And that is if you get to come home?

21 A No, that was before this ever happened, that is the
22 plans we had made.

23 Q Please, Jalen, I want to be your only dad. Please
24 let daddy come home. You are not asking to come home?

25 A Yes, I am asking to come home.

1 Q And in these letters you keep reminding them over and
2 over of everything that you have done for them, right?

3 A Yes.

4 Q And you are begging them to help you, you use the
5 words, help me, don't you?

6 A Yes.

7 Q And you, mean you understand that what you did that
8 night, you understand what you did, right?

9 A I know I did it but I don't understand it, I don't
10 understand what happened that night.

11 Q And in these letters you keep asking, why does
12 everybody turn their backs on me, right?

13 A I was talking about my sisters and my brothers.

14 Q And why do y'all hate me so much. Did you ask that?

15 A Yes, because everybody turned their back on me.

16 Q You say tell your mother to give me one last chance,
17 don't you?

18 A Yes.

19 Q Now, you never once mentioned moonshine in these
20 letters, do you?

21 A No.

22 Q You just mention alcohol?

23 A Yes.

24 Q Mr. Shands, you have been convicted before of a
25 violent felony, right?

1 A Yes, ma'am.

2 Q And you were, it looks like you have lost some weight
3 since July of last year. You were a bigger guy back then?

4 A Yes. This has caused me not to eat and I lost almost
5 thirty something pounds.

6 Q Now, how long, y'all have lived in that house about
7 ten or eleven years?

8 A 2004 is when I bought it and she moved in, the last
9 part of 2004.

10 Q And the Koon's moved in about five years ago?

11 A Yeah.

12 Q And you knew them?

13 A Great guy, he has helped me, come to my house and
14 fixed things and I paid him for it. And his son come
15 over, dropped out of school and I helped him. He has come
16 over and got in my pool. I have an above ground pool and
17 I let him come over any time he wants to.

18 Q Thank you, Mr. Shands.

19 A You are welcome, ma'am.

20 MR. GROSE: No redirect, Your Honor.

21 THE COURT: You can step down, thank you.

22 MR. SHANDS: Your Honor, can I address the Court and
23 Jury?

24 THE COURT: No, sir. Please step down.

25 MR. SHANDS: Okay.

1 MR. GROSE: Your Honor, as this time I call Jimmy
2 McBeth.

3 MS. WHITE: Your Honor, we have a matter of law
4 regarding Mr. McBeth's testimony.

5 THE COURT: All right, ladies and gentlemen, let's
6 take a short break.

7 (Whereupon, the jury was excused from open court.)

8 MS. WHITE: Your Honor, it is my understanding from,
9 I have had a brief discussion with Mr. McBeth this
10 morning, that the basis of his testimony is going to be
11 comments made to him by Mr. Shands about having been
12 poisoned essentially or something that was given to him.
13 That would fall under the category of self-serving
14 hearsay.

15 MR. GROSE: Actually his testimony is about the
16 conversation that he had with Sharon Shands where she
17 believed that that was possible because of people that he
18 got the moonshine from.

19 MS. WHITE: Your Honor, I think it is irrelevant at
20 this point.

21 THE COURT: Well, I will tell you what let's do. Let
22 us put him up and proffer and let us see what the
23 testimony is.

24 JIMMY MCBETH, being
25 first duly sworn, testified as follows:

PROFFER DIRECT EXAMINATION

2 By Mr. Grose:

3 Q Mr. McBeth, where do you work?

4 A Pet Dairy.

5 Q And where is that at?

6 A Spartanburg.

7 Q And are you related to Preston?

8 A Yes, I am.

9 Q And how are you related to him?

10 A Cousins.

11 Q And do you know Sharon Shands?

12 A Yes, I do.

13 Q And how do you know her?

14 A By marriage.

15 Q And have you had any conversations with her?

16 A Yes, I have.

17 Q And did you have any conversations with her about the
18 possibility that Preston was poisoned?

19 A Yes, I did.

20 Q And when you shared that with her what was her
21 response?

22 A She said what she told him to quit fooling with them
23 people, they were just bringing him down.

24 THE COURT: I can't hear you.

25 A She told him to leave the people's alone that he was

1 hanging around.

2 Q And did she express an opinion about whether it was
3 possible or not possible that he had been poisoned?

4 A She said they could have, you know, she told them to
5 leave them alone.

6 MR. GROSE: That would essentially be it, Your Honor.
7 And this is relevant because she denies saying that.

8 THE COURT: You want to cross?

9 MS. WHITE: No sir, I don't have any questions on
10 cross at this time. I still, I have an argument as to, no
11 questions on cross, no sir. Your Honor, I think it is
12 irrelevant mainly because there is no involuntary
13 intoxication Defense here legally speaking. He testified
14 that he purchased moonshine.

15 THE COURT: Yes, okay.

16 MR. GROSE: I disagree because he also testified that
17 he thought it was something other than alcohol that he
18 didn't know about. So, while he voluntarily ingested that
19 legally the Defense is here and we are going to request
20 that charge, so I think this is relevant.

21 MS. WHITE: Your Honor, to me this would be the same
22 as he bought marijuana that was lased with LSD. It is an
23 illegal substance.

24 THE COURT: This is liquor. I am intrigued by the
25 impeachment part of it.

1 MS. WHITE: And, Your Honor, I don't think her
2 opinion, I get the impeachment part but it is still
3 going--

4 THE COURT: What I understood him to say was that she
5 thought it could be possible. That is speculation.

6 MS. WHITE: And the testimony from Ms. Shands--

7 THE COURT: Just a second. Her state of mind is not
8 an issue here.

9 MR. GROSE: Well, and this goes to her state of mind,
10 it goes to Preston's state of mind and it goes to what she
11 knew about surrounding circumstances of what has come out
12 in the evidence now.

13 MS. WHITE: Your Honor, I don't see how her opinion
14 as to his state of mind is relevant. Furthermore, as far
15 as the impeachment--

16 THE COURT: It is not going to be to testify to
17 somebody else's state of mind.

18 MS. WHITE: From an impeachment standpoint her
19 testimony was that Mr. McBeth had mentioned it to her.
20 Because I think Mr. Grose asked her, do you recall saying
21 you thought he could have been poisoned. And she said,
22 no, Mr. McBeth mentioned it to me. And that was where
23 that line of questioning ended.

24 MR. GROSE: And when he mentioned it to her she
25 acknowledged that that was possible.

1 MS. WHITE: Which is still irrelevant.

2 MR. GROSE: Well, when she denied the statement under
3 the rules we are allowed to--

4 THE COURT: Impeach her testimony. Which I suggest
5 you all stay on your toes. All right. He hadn't taken
6 the stand when the jury exited, did he.

7 MR. GROSE: No, sir.

8 THE COURT: Step back down. Bring the jury, yes sir.
9 (Whereupon, the jury came into open court at
10 approximately 12:10 p.m.)

11 THE COURT: All right, Mr. Grose.

12 MR. GROSE: We call Jimmy McBeth to the stand.

13 JIMMY MCBETH, being
14 first duly sworn, testified as follows:

15 DIRECT EXAMINATION

16 By Mr. Grose:

17 Q Mr. McBeth, where are you employed?

18 A Pet Dairy in Spartanburg.

19 Q And what do you do for Pet Dairy?

20 A I am a maintenance helper.

21 Q And these are people that make some of the food
22 products we eat?

23 A Yes, sir.

24 Q Do you know Preston Shands?

25 A Yes, sir.

1 Q And how do you know Preston Shands?

2 A He is my cousin.

3 Q Do you know Sharon Shands?

4 A Yes, I do.

5 Q And how do you know her?

6 A By marriage.

7 Q And since this incident happened have you had any
8 conversations with Sharon Shands?

9 A Yes, I have.

10 Q And did you have a conversation with her about the
11 possibility that Preston might have been poisoned?

12 A Yes, I did.

13 Q And what did she say?

14 A She said she had told him to leave those people alone
15 that he was hanging around.

16 Q And did she acknowledge that it was possible?

17 A Yes, she did.

18 Q That is all I have.

19 CROSS-EXAMINATION

20 By Ms. White:

21 Q Mr. McBeth, you weren't there on July the 20th?

22 A No, I wasn't.

23 Q And you don't have a clue what actually happened that
24 day, do you?

25 A No, I don't.

1 Q No further questions.

2 THE COURT: Thank you.

3 MR. GROSE: Your Honor, at this time the Defense
4 would rest.

5 THE COURT: All right. Y'all approach.

6 (Whereupon, a bench conference was held in the
7 presence of the jury but out of the hearing of the
8 jury.)

9 THE COURT: All right. Ladies and gentlemen, it is
10 12:15, we are going to break for lunch. And I tell you
11 this, remember I gave you a roadmap, the first two parts
12 are finished and complete. So we will break for lunch, I
13 have got some things I need to go over with the attorneys.
14 And when you come back we will then begin part three which
15 is the closing arguments from the lawyers. And after that
16 I will give you the charge on the law and then the case is
17 yours to talk about. So, you have come a long way, I am
18 sure you want to discuss it and you will have that
19 opportunity soon. But remember your oath and remember the
20 reasons why we don't talk about it with anybody outside of
21 your group. And be back at 1:30, that is an hour and
22 fifteen minutes, hope that gives you plenty of time.

23 (Whereupon, the jury was excused from open court for
24 a lunch break.)

25 THE COURT: Okay, anything?

1 MR. GROSE: First thing is I want to renew the
2 motions for all the grounds previously stated including
3 the additional ground for kidnapping.

4 THE COURT: Okay, additional ground?

5 MR. GROSE: Well, based on the statute. I think I
6 made the same motion for all the charges and then that
7 additional ground.

8 THE COURT: The same ruling. Okay.

9 MR. GROSE: Your Honor, I just handed up four request
10 to charge that I have already filed copies of this
11 morning. The first one is I request the State versus
12 Manning language, that is the reasonable doubt charge.
13 The second charge we are requesting the State versus
14 Logan, circumstantial evidence charge. If I don't request
15 that you might not be required to give it so I want to
16 make sure the record reflects that and we want to request
17 that. Request to charge number three is the criminal
18 intent instruction. That is from the Judge's manual, it
19 is online from the Judicial Department. And then request
20 to charge number four is the involuntary intoxication
21 charge from, involuntary intoxication charge from Judge
22 Anderson's charge book in criminal cases.

23 MS. WHITE: Your Honor, as to the request to charge,
24 I am not sure what Your Honor's standard charges are but
25 most of the ones I have heard on reasonable doubt,

1 circumstantial evidence and criminal intent seem to cover
2 it fairly well. I don't know that these additional
3 charges are necessary. As to number four, involuntary
4 intoxication, this is not involved in the State of South
5 Carolina. He has testified under oath that he took an
6 illegal substance, it doesn't matter what he thought he
7 was taking. You cannot have involuntary intoxication for
8 taking an illegal substance regardless what may or may not
9 that was mixed with it.

10 THE COURT: I am not going to charge that. I am
11 curious about the circumstantial evidence.

12 MR. GROSE: Well, Your Honor, they have to prove
13 intent for, as elements for some of these crimes and the
14 standard charge on malice almost always talked about
15 direct or inferred malice and inferred malice is based on
16 circumstances. We have done a lot of talk about
17 circumstantial evidence in this case. And I do disagree
18 with them, I think I am required to request the Logan
19 charge under the plain wording of the Logan opinion. So I
20 am making that request.

21 THE COURT: Logan, what circumstantial evidence?

22 MR. GROSE: Your Honor, they have to prove criminal
23 intent and they have to prove, they have to prove intent,
24 specifically for some of these crimes. Attempted murder
25 is specific intent crime. Intent almost always is proven

1 or disproven by circumstantial evidence and it goes two
2 ways. We make the argument that our circumstantial
3 evidence that we presented go into a state of mind as
4 evidence that he didn't have criminal intent.

5 THE COURT: What do you say?

6 MS. WHITE: Your Honor, like I say, I think the
7 standard charge covers it. The circumstantial and the
8 direct evidence, I don't see the need to add anything else
9 to what I am sure is already going to be a pretty lengthy
10 charge for the jury to listen to. I don't necessarily
11 have a problem with the language that is in there.

12 MR. GROSE: If circumstantial evidence is charged
13 Logan is mandatory if requested.

14 THE COURT: I am not going to charge the involuntary
15 intoxication, I will charge the other stuff.

16 MS. WHITE: Your Honor, we are going to request that
17 you charge voluntary intoxication is not a Defense.

18 THE COURT: Okay.

19 MR. GROSE: We would object to that, without the
20 charge on involuntary that goes with it.

21 THE COURT: Okay. All right. The general, duties,
22 Judge and jury, the indictment is not evidence, normal
23 charges, credibility of the witnesses, presumption of
24 innocence, reasonable doubt, prior record only for
25 impeachment, voluntary intoxication. This is a burglary

1 first, right?

2 MS. WHITE: Yes, sir.

3 THE COURT: I will do the direct and circumstantial
4 evidence, intent, and the various offenses.

5 MR. GROSE: And what is your reasonable doubt charge
6 going to be?

7 THE COURT: I think you will like it. Reasonable
8 doubt, the kind of doubt which would cause a reasonable
9 person to hesitate to act. They arise from the evidence
10 in the case or the lack of evidence in the case. The jury
11 must determine whether or not it exist as to the guilt of
12 the Defendant. The State has the burden of proving each
13 and every element beyond a reasonable doubt.

14 MR. GROSE: And one other question. On offenses,
15 since attempted murder is a specific intent crime, it is
16 conceivable that they could find that there was a specific
17 intent, you should probably charge the lessor included of
18 assault and battery of a high and aggravated nature.

19 THE COURT: I would like to finish reading the charge
20 today.

21 MS. WHITE: They could find that there was not a
22 specific intent to kill her. I agree with Mr. Grose as
23 much I don't want to sit through an hour and a half
24 charge.

25 THE COURT: That's what I heard.

1 MS. WHITE: And Mr. Mowry brings up the expert
2 witness charge, Your Honor, since the EMT was qualified as
3 an expert.

4 THE COURT: Do you want expert witness done?

5 MR. GROSE: I don't care one way or the other.

6 THE COURT: I gave them the charge during the trial,
7 you think that will suffice. It is a very intelligent
8 jury.

9 MR. GROSE: Good enough for me.

10 THE COURT: Do you disagree with that?

11 MS. WHITE: No, sir.

12 THE COURT: All right. Well, see y'all at 1:30.

13 (Whereupon, a lunch break was taken.)

14 THE COURT: All right, are we ready?

15 MR. GROSE: I just want to put on the record, just so
16 there is no misunderstanding, that when I did not object
17 during cross-examination of Mr. Shands about the prior
18 record, that was based on discussions that we had earlier,
19 not because I had changed my mind.

20 THE COURT: I think I told you you didn't have to.

21 MR. GROSE: Right, you did and I just wanted the
22 record to reflect, I don't want the Attorney General to
23 say I must have changed my mind.

24 THE COURT: All right.

25 MR. GROSE: The second matter is in that packet that

1 I handed up on the first day. The final one, you might be
2 happy to know, is I had a motion regarding the order of
3 the closing arguments and I am asking that the State be
4 required to open in full on the law and the facts,
5 allowing us to have, I think due process requires that we
6 have a full opportunity to respond to their entire
7 argument. And then they would have a chance to respond to
8 new matters that were raised in the response.

9 THE COURT: Okay.

10 MR. GROSE: I realize this is different than what our
11 procedure is but I think it is within your discretion.

12 THE COURT: Well, maybe the Supreme Court will want
13 to change it, I decline to do so. Thank you, very much.
14 It is in the record.

15 MR. GROSE: It is filed in the record as long as you
16 have had an opportunity to review it, the arguments.

17 THE COURT: Yes, I have.

18 MR. GROSE: Thank you, Your Honor.

19 THE COURT: Anything?

20 MS. WHITE: No, sir.

21 THE COURT: Bring them in.

22 MR. GROSE: I still move for them to be required to
23 open and close, that is just on the law, subject to my
24 objection.

25 THE COURT: Okay. Before they come back, what were

1 the, burglary first, it would be--

2 MR. MOWRY: Injury to an individual not involved with
3 the burglary, not a party to the burglary.

4 MS. WHITE: And in the nighttime.

5 MR. GROSE: On that note, Your Honor, if I can have
6 just a moment.

7 THE COURT: And it is assault and battery first
8 degree, is that right?

9 MS. WHITE: Yes, sir.

10 MR. GROSE: I don't know that nighttime was proven,
11 Your Honor.

12 THE COURT: I think I believe I heard testimony that
13 it was dark.

14 MR. GROSE: Of course she was not outside so I don't
15 know how she could know.

16 MS. WHITE: Your Honor, there is testimony it is 9:00
17 o'clock, she said it was getting dark.

18 THE COURT: I am going to do the nighttime.

19 MR. GROSE: Thank you, Your Honor.

20 (Whereupon, the jury came into open court at
21 approximately 1:43 p.m.)

22 THE COURT: Ladies and gentlemen, I hope you had a
23 pleasant lunch. As I told you we have completed the first
24 two parts of the trial. We are going to now move into the
25 third part and that is the closing arguments of these

1 attorneys. And this is where they advocate their
2 positions to you and you have paid great attention
3 throughout the whole trial and I ask you to continue to
4 give your full attention to the arguments of these fine
5 attorneys. Thank you.

6 MS. WHITE: May it please the Court. Ladies and
7 gentlemen, I get to talk to y'all twice. The first time,
8 the first thing I am going to talk to y'all about is the
9 law that applies to this case and you will hear more about
10 that from the Judge in a little while. But I am going to
11 just kind of go over what we think the laws are that apply
12 to this case. You will hear from Mr. Grose and then I
13 will come back and kind of sum everything up for you of
14 what we have proven here in these past two days. The law
15 that applies to this case and Mr. Mowry has told y'all
16 yesterday, Mr. Shands is charged with a number of crimes.
17 The first is attempted murder. And like he said
18 yesterday, attempted murder is a murder where the victim
19 didn't die. It is the attempt to kill another human being
20 with malice aforethought. And attempt to kill another
21 human being, that is pretty easy, we can all understand
22 that. But malice aforethought, malice can be expressed or
23 implied. And what malice is, it is a hatred and ill will,
24 just an evil kind of state of mind. And expressed malice
25 is, you know, I am going to kill you, if someone says

1 that. That is them expressing malice. I am going to kill
2 you. Implied malice can be inferred from the
3 circumstances that surround it, using a deadly weapon,
4 trying to stap someone in the head with it. That is
5 implied malice. And aforethought just means a split
6 second, just a time that the person thinks that is it, I
7 am going to kill him, and they do it. It doesn't have to
8 be planning for days and days, it can be just that, split
9 second, grab a weapon and go. It can also be chasing
10 someone, having time to think about it, going back, coming
11 back and having time to think about it.

12 Burglary first degree is the next one. Burglary is
13 breaking into somebody's house in this case, first degree
14 burglary, you are breaking into a dwelling where somebody
15 lives of another person with the intent to commit a crime
16 therein. And in this case the crime therein would be the
17 attempted murder. And for it to be a first degree
18 burglary there have to be other aggravating factors. And
19 there is a whole list of them in the statute but there are
20 few that apply in this case. There is, if it occurs in
21 the nighttime then it is a first degree burglary. If it
22 occurs while someone is either, goes in with a deadly
23 weapon or while they are in the house they use a deadly
24 weapon. So if they come in and see a gun and grab it or
25 come in and see a butcher knife and grab it. That is

1 using a deadly weapon during burglary which makes it a
2 burglary first degree. Also, if you cause an injury to
3 someone who is in the house who is not a participant in
4 the crime then that makes it a burglary first degree. So
5 there are several different factors that come into play
6 that can make a burglary a first degree burglary. Another
7 crime he has been charged with is kidnapping. And again,
8 this isn't the traditional kidnapping we all think about
9 there is Amber alert and somebody's child is missing.
10 Kidnapping is confining someone against their will and it
11 doesn't have to be for a long time, there is no set amount
12 of time that you have to confine somebody. But it is
13 holding somebody against their will. That is what a
14 kidnapping is. Possession of a weapon during a violent
15 crime, that is kind of an easy one. You have a weapon,
16 our legislature, is a violent crime. Burglary first,
17 kidnapping and attempted murder are all violent crimes.
18 So if you find him guilty of any of those and say he had a
19 weapon during it he is guilty of possession of a weapon
20 during a violent crime. And then the final one is assault
21 and battery, first degree. And that is causing an injury
22 to another person and either you cause a great bodily
23 injury or you are using a means that can cause great
24 bodily injury. Great bodily injury is also defined and I
25 am going to read it because I tend to get it mixed up. It

1 is injury which causes a substantial risk of death or
2 which causes serious permanent disfigurement or protracted
3 loss or impairment of the function of a bodily member or
4 organ. So we are talking about something that could cause
5 an injury that is more serious than, say black eye or, and
6 bruising, something that could cause a great bodily
7 injury, protracted loss of use of some part of your body
8 or a significant injury to some part of your body. It
9 doesn't mean the injury has to happen, just means it could
10 happen. Assault and battery first degree can also occur
11 if there is an injury and it is inflicted during the
12 commission of a burglary or a kidnapping. So those are
13 the statutory crimes that apply in this case. And when I
14 come back I will talk to you a little bit about how I
15 think all the evidence we presented, how it applies to
16 those crimes. But that is all I have for right now.

17 THE COURT: Mr. Grose.

18 MR. GROSE: May it please the Court.

19 THE COURT: Yes, sir.

20 MR. GROSE: Obviously those crimes that she has just
21 talked are extraordinarily serious crimes. And when this
22 trial began yesterday the Judge talked about how there
23 would be five parts to the trial. And right before lunch
24 today he said that we had done the first three parts, that
25 we had the opening statements where we had an opportunity

1 to tell you about what we thought the evidence would show,
2 where there was a presentation of the evidence and I ask
3 that you listen to everything because there are certain
4 orders that we have to go in and the closing arguments.
5 So we are actually at the third part right now. The
6 fourth part is the charge on the law and the prosecution
7 has had a chance to talk about that a little bit already.
8 And the final part is the deliberations. As it has kind
9 of already been eluded to this is going to be my last
10 opportunity to address you and I am at a little bit of a
11 handicap because our rules and our procedures don't allow
12 me to hear what they are going to say about the facts
13 before they make their argument. So one point that I
14 would like to make at the onset is, is I have no idea how
15 they are going to explain kidnapping to you under this
16 evidence. And the reason that I have no idea about that
17 is because all they have told you in opening and just a
18 minute ago in closing is that it is not something that you
19 traditionally think of. So, what I would ask is, is that
20 when they are trying to explain it, not only look at the
21 broad sense of what we are trying to discuss in closing,
22 the broad picture of how we frame these issues for y'all
23 to consider in trial but look and see if that really, what
24 they argue really makes sense with what the Judge
25 ultimately tells you what the law is, because I don't get

1 a chance to respond to what their theory under the facts
2 is on. So I am going to talk more about the issues that
3 we wanted to present in this trial and how we had framed
4 these issues for your consideration. Now, I think one of
5 the things that Judge Miller told you in his opening
6 statement was that he is the Judge of the law and that you
7 are judges of the facts and that the law has to be
8 consistent from case to case, from courtroom to courtroom,
9 from incident to incident. And when he has an opportunity
10 after the closing arguments to talk to you about what the
11 law is I want you to pay particular attention, but pay
12 attention to everything but listen, do me a favor and
13 listen for two things. Listen for when he talks about
14 circumstantial evidence because one of the things you are
15 going to hear, you know the circumstantial evidence, there
16 is what is called direct evidence and there is what is
17 called circumstantial evidence. Direct evidence is when I
18 see, what I smell, what I touch. Circumstantial evidence
19 is something that you can infer from the circumstances,
20 that you listen to, that there is a chain of events and
21 you can infer from the circumstances. And what the law
22 is, is that crimes may be proven by circumstantial
23 evidence, the law makes no distinction between the weight
24 of the value to be given to either direct or
25 circumstantial evidence. However to the extent that the

1 State relies on circumstantial evidence, all circumstances
2 must be consistent with each other and when taken together
3 point conclusively to the guilt of the accused beyond a
4 reasonable doubt. And this not only goes for proving the
5 actions, it goes to the elements of the crime and it also
6 goes to what we talked about yesterday. And you heard it
7 from all of us, you heard it from the Judge, you heard it
8 from the prosecution in their opening and you heard it
9 from me which is criminal intent. And that is the second
10 thing that I want you to listen to when the Judge charges
11 the law in the case, is the law of criminal intent.
12 Because this is the law that we all have to accept, this
13 is what makes this consistent from one case to another,
14 one incident to another, one courtroom to another and that
15 is that criminal intent is always a matter that must be
16 determined by the jury from circumstances surrounding the
17 situation. So we get back to circumstantial evidence and
18 what you can look at and infer from the circumstances.
19 There is no way to prove intent to a mathematical
20 certainty, there is no way medical science can dissect a
21 person's brain and determine what the person had in mind.
22 So the law says that criminal intent must be inferred from
23 the circumstances shown to have existed, circumstances
24 shown to have existed. This is how you make the
25 determination of whether or not the element requiring

1 intent was present. It is not necessary to establish
2 intent by direct or positive evidence but may be
3 established by inference in the same way as any other fact
4 by taking into consideration all the acts of the parties
5 and the facts and circumstances of the case. So we get
6 back to the circumstances, circumstantial evidence. And
7 criminal intent is a mental state, a conscious wrongdoing.
8 The other thing, I said two, but the third thing I want
9 you to pay attention to is reasonable doubt. Again, that
10 is the law that applies in this case and in every case and
11 consistent in courtroom from courtroom across the country.
12 And the law of reasonable doubt is, if there is a doubt
13 that can cause you to hesitate, and that can come not only
14 from the evidence that is presented but from the evidence
15 that is not presented. Now, I am just going to be
16 straight with you, I realize I have got a pretty high
17 hurdle to get over here because Preston got on the stand
18 and admitted that, you looked at the evidence and admitted
19 that he committed the acts that were involved here. The
20 question that really comes down to is, is was there
21 criminal intent and was there that conscious wrongdoing
22 that the law requires. And one of the things that, you
23 know, we tried to bring out was the fact that there was
24 many opportunities for law enforcement to ask Preston
25 about what his side of the story was. The facts that you

1 will recall is that the Officer Heiney had read him his
2 Miranda rights and asked if he wanted to answer any
3 questions and they didn't ask him any questions. The
4 officer said, instructed them not to talk to him, they
5 made no notes, they made no records of what happened
6 during that period of time. Preston talked about the fact
7 that his injuries had come from a knife. And there has
8 been no explanation in this trial as to how those injuries
9 took place. The same with the blood, we know that the
10 blood could have come from three people but this also
11 helps to prove, help us learn more about the circumstances
12 that were then existing at the time so that you could make
13 the determinations that you have to make in regard to
14 circumstantial evidence and the criminal intent. When
15 Sergeant Lynch talked to Preston he documented everything
16 else but he didn't document the conversation that he had
17 with Preston where Preston told him that he didn't have
18 any memory of the events from that night. That is
19 something that should have been followed up because the
20 memory and the conscious wrongdoing has to go with
21 criminal intent that the State has to prove. And whether
22 you like the law or you don't like the law the Judge says
23 that you have to accept it as he gives it to you. And
24 when the law is given to you that the State has to prove
25 criminal intent and they fail to follow through and do

1 investigations, bring new information that you could use
2 in order to make that decision, that is not your fault,
3 that is the fault of the police officers, the people who
4 acted in the name of the community and the name of you and
5 me to bring charges against somebody knowing what the
6 burden of proof was, that they had to prove their case
7 beyond a reasonable doubt. The final thing that I really
8 want to close on is, is what I asked of you earlier in the
9 trial in my opening statement. I made mention of the fact
10 that the Judge was going to tell you, as he has done at
11 every break, that you are not allowed to discuss the case,
12 and that is because in a case like this everybody has to
13 exercise, the jurors are called upon and expected to
14 exercise their own independent judgment. And like I said,
15 I am not going to get a chance to get up and respond to
16 things that they are going to say. But I ask when you
17 view the evidence that everybody take a look at the facts
18 and take a look at the fact that it was undisputed during
19 this trial that Preston had ever done anything like this
20 before to his wife, Sharon. It was undisputed. It was
21 undisputed that he married Sharon, that he treated her son
22 as his own, that they had a child together, that they had
23 a family, that Preston was a good neighbor. And so it
24 gets back to the circumstances and the criminal intent.
25 The question that I asked you yesterday is how can

1 something like this happen. And Preston told you that he
2 thought he had been drugged or poisoned by what was in
3 this drink that he drank and how he reacted to that was
4 different than he ever reacted to alcohol. And that goes
5 to his ability to exercise an independent judgment and it
6 goes to the ability to inform criminal intent. And so
7 when you look at all of the evidence we ask that you find
8 Preston not guilty because there was no criminal intent.
9 Thank you.

10 THE COURT: Ms. White.

11 MS. WHITE: I thought my mama was going to die, I
12 thought he was going to kill my mama. I thought he was
13 going to kill me. I don't think, I know he was going to
14 kill that woman. Every person who got on that stand who
15 was there that night knew exactly what Preston Shands was
16 trying to do. He was trying to murder his wife of nine
17 years and he was trying to do it in front of their
18 7-year-old and their 15-year-old boys. That 15-year-old
19 boy shouldn't be pulling this man off of his mother, he
20 should be texting girls and worrying about whether he is
21 going to make it on the football team, instead he is
22 saving his mama's life. Those boys should never had to go
23 through that. Sharon should never have had to go through
24 that. I don't know, one of the things as jurors that
25 y'all get to look at is people's demeanor. How they act

1 in the courtroom. I don't know if y'all noticed but, when
2 I called Sharon to the stand it took a good thirty,
3 thirty-five seconds for her to get up from right there up
4 here. She didn't want to come because where she had to
5 walk. Who is sitting right there. She is terrified of
6 him because that man almost ended her life that night. I
7 am not going to rehash everything, y'all heard it all.
8 Y'all heard how he, a relationship that had been good and
9 nobody is disputing that, when they first met she said
10 things were wonderful. And he was a good daddy to her boy
11 and he was a good daddy to the child they had together and
12 they loved him. But things started going downhill and he
13 said he started drinking. And what happens, he is an
14 almost 60-year-old man with a 38-year-old wife and she is
15 beautiful and she is a good woman and she was taking care
16 of him but it wasn't good enough for him. He starts
17 getting controlling. Bill Koon told y'all, he could be
18 jealous if you tried to talk to her in the neighborhood.
19 He starts getting jealous and controlling. And it gets
20 worse and it gets worse and he is arguing and he is
21 fussing and he is drinking and Sharon said we were on pins
22 and needles. So this, he may not have put his hands on
23 her before but this is a relationship that is going
24 downhill fast. And what happens on July 20th, 2014, she
25 finally says, you know what, I am leaving, I am going.

1 Come on kids, get in the car. And that is when he snaps.
2 He is not, his wife and his kids that he provides for and
3 he works for that are his property, she is not leaving
4 him, she is not taking those kids, no, no, no, no. Grabs
5 her by the hair, grabs the first thing he can get his
6 hands on and starts going at her. This isn't about he was
7 drinking something that day, this is a jealous,
8 controlling husband who was not going to let his property
9 leave that house.

10 MR. GROSE: I object to the characterization, outside
11 of the evidence, Your Honor.

12 THE COURT: Let's keep it to the facts.

13 MR. GROSE: Move to strike.

14 THE COURT: Go ahead.

15 MS. WHITE: You heard how he stabbed her in that
16 garage, Travious trying to pull him off of her. You heard
17 how they ran across the street and him following right
18 behind, tried to cut her throat in Bill Koon's house,
19 left, got the hammer, came back, broke out all the
20 windows. No doubt in anyone's mind he was trying to kill
21 her. You heard how it took Bill and Martha Koon eight
22 hours to clean up all the blood that was in their house,
23 that is how violent it was in that house. Applying what
24 happened to the facts or to the law, the attempted murder,
25 the intent to kill another person. And y'all will have

1 the pictures, he stabbed her, got her in the head right
2 here, got her right here in the chest, got her up here on
3 the side and down here. When you are trying to kill
4 somebody when you stab them in the head and in the chest,
5 the chest again and in the lower side. Trying to kill
6 somebody, y'all will have this to look at. When you break
7 the handle off of the meat fork, breaks it off. And that
8 those prongs look like they could go in, like go into and
9 kill somebody. Tried to slash her throat, again,
10 attempted to kill. Malice aforethought I told y'all
11 about, he is running back and forth, he has got plenty of
12 time to think about what he is doing. He goes back and
13 gets a hammer to get into that house. That goes to
14 burglary first degree, Bill and Martha both said, we did
15 not want him in our house, he was not wanted. He goes in
16 without consent, it is getting to be dark. Martha
17 testified about that, 9:00 o'clock, y'all heard that a
18 lot. It is, he has got a deadly weapon, he grabs this
19 knife once he is in the house and takes off after her.
20 And y'all will have all of this to look at back there. Be
21 careful because it is kind of a coming out a little bit.
22 Takes off after her with that knife trying to commit a
23 crime inside of that house, trying to kill her. Travious,
24 the assault and battery first degree. Trey, he is trying
25 to save his mama's life, he is trying to pull him off of

1 her. He gets cut and he is injured, that is an injury,
2 assault and battery first degree. And what could that
3 have caused, gets him on the leg. Could have caused
4 plenty of damage when you cut somebody with a knife. It
5 is assault and battery first degree. Kidnapping, Mr.
6 Grose brought up that he didn't know what our position was
7 going to be on kidnapping. It is pretty obvious, she
8 wanted to leave, he closed the garage door, she opened it,
9 he closed it again until it was half way open. She can't
10 get out. He grabs her by the hair and pulls out a great
11 big chunk of it and won't let her leave. Can she leave
12 when he has got her hair. Can she leave when he has got
13 this fork stabbing her with it. She can't get away, she
14 has to be rescued by her own teenage son, she couldn't get
15 away on her own. There is a kidnapping, ladies and
16 gentlemen. And the weapons charge, again, guilty of
17 attempted murder, he is guilty of burglary first, he is
18 guilty of kidnapping and he had a weapon so he is guilty
19 of that too. Going to criminal intent, we have to show
20 that he did all of this knowingly and willfully. Was he
21 knowingly and willfully stabbing her in the head, in the
22 chest. Was he knowingly and willfully chasing her with a
23 knife, did he knowingly and willfully throw a hammer
24 through a sliding glass door to get into that house.
25 Ladies and gentlemen, he knew what he was doing that day.

1 The Judge is going to charge you voluntary intoxication is
2 not a Defense. You are just as guilty of what you do
3 while you are drunk or high as you are when you are sober.
4 So, I don't care what he smoked, what he drank, he did it
5 voluntarily, he admitted that. He bought it or somebody
6 gave it to him and he sat there and he--

7 MR. GROSE: Objection, no evidence that he was
8 smoking anything, Your Honor.

9 THE COURT: Limit it to the evidence.

10 MS. WHITE: I don't care what he drank, somebody gave
11 him something and that story has so many holes in it to
12 begin with. All right, he loves his kids, he loves them
13 so much, they are 15 and 6, 7, excuse me. And he is the
14 only one responsible for them and he is going to pull out
15 a jar of something he has never drank before and sit there
16 and kill a whole two liter bottle of coke while he is
17 drinking it, just him and these kids. That doesn't make
18 sense. And then let's talk about what happens afterwards.
19 He talks to Bill Koon at the backdoor, let me in, Bill.
20 That doesn't sound like somebody who is so drunk or high
21 or out of his mind that he doesn't know what he is doing.
22 Let me in, Bill. No, I am not letting you in. Then he
23 comes out the door and the minute he sees that officer
24 standing there with his gun drawn, he drops the knife,
25 gets down, completely compliant. Does that make sense,

1 that he is so out of his mind on something that all of a
2 sudden he stops, all of a sudden, there is somebody there
3 who can stop him he stops. That doesn't make sense,
4 ladies and gentlemen. Then their own witness, the
5 emergency medical technician they called. He was alert
6 and oriented to time, place, events, he knew where he was,
7 he knew what he was doing, he knew who he was, he could
8 answer all of their questions. They had no concerns that
9 he was drunk or intoxicated. Then, you know, he told the
10 EMT that his wounds were caused in self-defense. Well, he
11 has got to say something. And self-defense clearly wasn't
12 going to fly once he figured that out. I mean, look at
13 all of this evidence against him; oh, it was self Defense;
14 oh wait, that is not going to work; oh, I don't remember;
15 I must have been poisoned, I don't remember. What else is
16 he going to say, ladies and gentlemen. What else can he
17 possibly say. I don't remember, I was drunk, I had been
18 poisoned. Because after he tried self-defense he saw he
19 wasn't going to get very far with that. And his wounds,
20 are those consistent with self-defense. This knife, you
21 know, he has been cutting on her a pretty good bit, he is
22 covered in blood at this point. What did the officer tell
23 you, blood is kind of slippery, sticky in a way, his hands
24 slipping on that knife. And he is struggling, his arms
25 are being pulled. That is how he got cut, the cut on his

1 leg, he was covered in glass. He busted out how many
2 windows at this point. And then if y'all look at the
3 picture of the sliding glass door, the patio door, it
4 didn't just shatter the whole thing out. There is some
5 glass at the bottom, glass at the top, probably how he got
6 those cuts. That is how he got those injuries, ladies and
7 gentlemen. You know, we always want to put the police on
8 trial, what did the police do or not do that they should
9 have done or shouldn't have done. In this case you have
10 an officer who got on the scene and saw the assailant with
11 a knife still in his hand. You have five people telling
12 them what happened. What else did they need to do.
13 Everything they were seeing matched with what they were
14 being told. All of the evidence matched. They could have
15 sent the blood off for DNA but what would that have told
16 us, it would have told us that Sharon was bleeding or
17 Shands was bleeding or Trey was bleeding. We knew that,
18 we knew they were bleeding, we saw it. So that adds
19 nothing. Ladies and gentlemen, Sharon was leaving him on
20 that day, leaving someone she was constantly fighting
21 with, that was jealous, who was controlling, who was
22 manipulative. Y'all can see that in these letters. I
23 didn't read them all but y'all can read them. It is all,
24 I did this for you and I did that for you and I did this
25 and I did that and I am the man, this is my family. That

1 is what this is and you have to help me because of
2 everything I did for you. Why want you help me, why
3 doesn't anybody want to help me, making it about him, not
4 about what he did to his wife and his children. They are
5 just extensions of him. He is the only one that matters.
6 He was trying to manipulate y'all up here. A jealous,
7 controlling, manipulative person who was losing the family
8 that he thought he had earned. That is what happened
9 here. Ladies and gentlemen, he is guilty. And I know
10 once y'all get back there y'all will vote and y'all will
11 convict him. Thank you.

12 THE COURT: All right, ladies and gentlemen of the
13 jury, during this trial you and I have certain duties to
14 perform. And as a trial Judge it is my responsibility,
15 presiding over the trial of the case and to rule on the
16 admissibility of the evidence offered during the trial.
17 It is also my duty to charge you the law applicable to the
18 case. It is your duty as jurors to accept and apply the
19 law as I now state it to you. If you think you have any
20 idea as to what the law is or what the law ought to be and
21 it does not agree with what I tell you the law is you must
22 forget your own idea and apply the law precisely as I
23 state it to you. I would remind you that in every case
24 tried in this court before a jury, the jury is the sole
25 and exclusive judge of the facts. The trial Judge cannot

1 comment on or make any statement about the facts in the
2 case. So please don't think by anything I have said or
3 done throughout the trial I have such an opinion, I do not
4 and the law does not allow it.

5 And I instruct you that the fact that the Defendant
6 was arrested, charged and indicted in this case is not
7 evidence of guilt nor does it create any presumption or
8 inference of guilt. These documents are simply the formal
9 written instruments which contain the charges made against
10 the Defendant and they serve as the formal documents by
11 which the case is processed or brought into court, the
12 resolution.

13 The indictments in this case charge several different
14 offenses against the Defendant. And the charges are,
15 attempted murder, burglary first degree, kidnapping,
16 assault and battery and possession of a weapon during the
17 commission of a violent crime. Each indictment charges a
18 separate and distinct offense and you must decide each
19 case, each indictment separately on the evidence and the
20 law applicable to it uninfluenced by your decision as to
21 any other indictment. A Defendant may be convicted or
22 acquitted on any or all of the offenses charged and you
23 will be asked to write a separate verdict of guilty or not
24 guilty for each indictment.

25 Now necessarily you, the jury, must determine the

1 credibility or believability of the witnesses who have
2 testified. And it becomes your duty as jurors to evaluate
3 the evidence and determine which evidence convinces you it
4 is true. And in determining the believability of the
5 witnesses you may believe one witness over several or
6 several over one. You may believe a part of the testimony
7 of a witness and reject the remaining part. You may
8 believe the testimony of a witness in its entirety or
9 reject that testimony in its entirety. You may consider
10 whether the witness has an interest in the result of the
11 trial, whether the witness is prejudice towards either the
12 State or the Defendant, the opportunity for the witness to
13 have seen the matters and things about which the witness
14 has testified and the way a witness acts on the witness
15 stand or what we call a witness' demeanor.

16 You have heard evidence that the Defendant was
17 convicted of a crime other than the one for which he is
18 now on trial. Now this evidence may be considered by you,
19 if you conclude that it is true only in deciding whether
20 the Defendant's testimony is believable and for no other
21 purpose. You must not consider the Defendant's prior
22 record as any evidence of the Defendant's guilt from the
23 charge we are charging or the charges we are trying today.

24 The Defendant has plead not guilty to these
25 indictments. And that plea puts the burden on the State

1 to prove the Defendant guilty. A person charged with
2 committing a criminal offense in South Carolina is never
3 required to prove themselves innocent. And I charge you
4 that it is a cardinal and a fundamental rule of the law
5 that a Defendant in a criminal trial will always be
6 presumed to be innocent of the crimes for which
7 indictments have been issued unless and until guilt has
8 been proven by evidence satisfying you of guilt beyond a
9 reasonable doubt.

10 Now a reasonable doubt is the kind of doubt which
11 would cause a reasonable person to hesitate to act. It
12 may arise from the evidence which is in the case or from
13 the lack or absence of evidence in the case. And you, the
14 jury, must determine whether or not reasonable doubt
15 exists as to the guilt of this Defendant. The State has
16 the burden of proving each and every element of the crime
17 beyond a reasonable doubt. And any reasonable doubt that
18 you may have in your deliberations should be resolved in
19 favor of the Defendant.

20 There are two types of evidence which are generally
21 presented during a trial, direct and circumstantial
22 evidence, direct evidence and circumstantial evidence.
23 Direct evidence directly proves the existence of a fact
24 and does not require deduction. Circumstantial evidence
25 is proof of a chain of facts and circumstances indicating

1 the existence of a fact. Now, crimes may be proven by
2 circumstantial evidence and the law makes no distinction
3 between the weight and the value to be given to either
4 direct or circumstantial evidence. However, to the extent
5 that the State relies on circumstantial evidence, all of
6 the circumstances must be consistent with each other and
7 when taken together point conclusively with the guilt of
8 the accused beyond a reasonable doubt. If these
9 circumstances merely portray the Defendant's behavior as
10 suspicious the proof has failed. The State has the burden
11 of proving the Defendant beyond a reasonable doubt and
12 this burden rests with the State regardless of whether the
13 State relies on direct evidence, circumstantial evidence
14 or any combination of the two.

15 Now, in order to establish criminal liability,
16 criminal intent is required. And criminal intent must be
17 proven by the State beyond a reasonable doubt. Criminal
18 intent is always a matter that must be determined by you,
19 the jury, from the circumstances surrounding the
20 situation. Criminal intent may be inferred from the
21 circumstances shown to have existed. It is not necessary
22 to establish intent by direct and positive evidence but
23 intent may be established by inference in the same way as
24 any other fact by taking into consideration the acts of
25 the party and all of the facts and circumstances of the

1 case. Criminal intent is a mental state, a conscious
2 wrongdoing. It is up to you to determine beyond a
3 reasonable doubt whether the Defendant possessed criminal
4 intent based on the circumstances shown to have existed.
5 Criminal intent may arise when action or a failure to act,
6 it may arise from negligence, recklessness or an
7 indifference to the duty or the consequences that is
8 considered by, consequences considered by the law that
9 would be the equivalent of criminal intent.

10 I also tell you that voluntary intoxication is not a
11 Defense to a crime. A person who voluntarily becomes
12 intoxicated is just as responsible for the acts committed
13 while intoxicated as when a person is not intoxicated.

14 Now the Defendant is charged with attempted murder
15 and in order to prove this crime the State must prove that
16 the Defendant attempted to kill another person with malice
17 aforethought either expressed or implied. Malice is
18 hatred, ill will or hostility towards another person, it
19 is the intentional doing of a wrongful act without just
20 cause or excuse and with an intent to inflict an injury or
21 under circumstances that the law will infer an evil
22 intent. Malice aforethought does not require that malice
23 exist for any particular time before the act is committed
24 but malice must exist in the mind of the Defendant just
25 before and at the time the act is committed. Therefore

1 there must be a combination of previous evil intent in the
2 act. Malice aforethought may be expressed or inferred.
3 These terms, expressed and inferred does not mean
4 different kinds of malice but merely the manner in which
5 malice may be shown to exist. That is either by direct
6 evidence or by inference from the facts and circumstances
7 which have been proven. Expressed malice is shown when a
8 person speaks words which express hatred or ill will for
9 another or when the person prepared beforehand to do the
10 act which was later accomplished. For example, lying in
11 wait for a person or any other act of preparation going to
12 show that the deed was within the Defendant's mind would
13 be expressed malice. Malice may be inferred from conduct
14 showing a total disregard for human life. Inferred malice
15 may also arise when the deed is done with a deadly weapon.

16 Now, deadly weapon is any article, instrument or
17 substance which is likely to cause death or great bodily
18 harm. Whether an instrument has been used as a deadly
19 weapon depends on the facts and circumstances of each
20 case. The following are examples of instruments which may
21 be deadly weapons. A pistol, a shotgun, a rifle, a dirk,
22 a dagger, a knife, a sling shot, metal knuckles, a razor,
23 gasoline, fire bomb, a molotov cocktail. And a gun may be
24 a deadly weapon even when it is not operating. Ordinary
25 objects may become deadly weapons when the facts show that

1 they have been used to inflict serious bodily harm or
2 death. If that's all proven beyond a reasonable doubt,
3 sufficient to raise an inference of malice to your
4 satisfaction this inference would simply be an evidentiary
5 fact to be considered by you along with all the other
6 evidence in the case and you may give it the weight that
7 you decide it should receive.

8 A specific intent to kill is not an element of
9 attempted murder but there must be a general intent to
10 commit serious bodily injury. An intent means intending
11 the result which actually occurs, not accidentally or
12 involuntarily. Intent may be shown by acts and conduct of
13 the Defendant and other circumstances from which you may
14 naturally and reasonably infer intent. Evidence of the
15 character of the act and character of the instrument used,
16 the manner in which it was used, the purpose to be
17 accomplished and the resulting wounds or injuries may be
18 considered in determining the intent with which the act
19 was committed. Intent may also be inferred when it is
20 demonstrated that the Defendant voluntarily and willfully
21 commits an act, the natural tendency of which is going to
22 destroy another's life.

23 Now, if you find that the State has failed to prove
24 beyond a reasonable doubt attempted murder you must then
25 consider whether the State has proven assault and battery

1 of a high and aggravated nature. Now, assault and battery
2 of a high and aggravated nature which is being treated as
3 a lesser included offense in this regard is an unlawful
4 act of violent injury to a person of another accompanying
5 by circumstances of aggravation. An assault occurs when a
6 person unlawfully attempts or offers to commit a violent
7 injury upon another person and had the present ability to
8 complete the attempted injury. An assault is the
9 intentional creation of a reasonable fear of immediate
10 bodily harm. It is not necessary that the attempted
11 injury or harm actually take place. This is for an
12 assault. For example, if I walk up to you and when we are
13 within arms reach I draw back to hit you, that is an
14 assault. Now that is the unlawful touching of another
15 person by a person who has committed the assault. An
16 unlawful touching can be caused by a part of the accused
17 body or any object the accused puts in motion. A battery
18 is the completion of the assault by using or applying
19 force to another person, however slight in a rude, angry
20 or resentment manner without legal justification for doing
21 so. Using my earlier example, if I carry through the
22 assault by hitting you that is the battery. And the State
23 must also prove a circumstance of aggravation.
24 Circumstances of aggravation include the use of a deadly
25 weapon, the intent to commit a felony, the infliction of

1 serious bodily injury, great disparity between the ages or
2 physical conditions of the parties, difference in the
3 genders of the parties, the taking of indecent liberties
4 or familiarities with a female though the use of force,
5 the purpose for infliction of shame or disgrace, the
6 resistance of lawful authorities. These are only examples
7 of circumstances in aggravation.

8 The Defendant is also charged with burglary in the
9 first degree. The State must prove beyond a reasonable
10 doubt that the Defendant entered a dwelling without
11 consent. A dwelling is any building or portion of a
12 building in which a person ordinarily sleeps. In order to
13 prove that the Defendant entered the dwelling the State
14 does not have to show that the Defendant's entire body
15 entered the dwelling. The smallest entry is sufficient.
16 It may be any part of the body such as a hand or a foot or
17 even an instrument such as a book or other instrument. In
18 addition, the State does not have to prove that force was
19 used to gain entry. Next, the State must prove beyond a
20 reasonable doubt that the Defendant intended to commit a
21 crime, or a felony or a misdemeanor at the time of the
22 entry. The mere entry into a dwelling without consent is
23 not burglary. If the intent to commit a crime is formed
24 after the entry it is not burglary. On the other hand, if
25 the Defendant intended to commit a crime at the time of

1 the entry it is a burglary even if the intent was
2 abandoned after the entry and it doesn't matter if the
3 intended crime was not completed. Intent may be shown by
4 acts and conduct of the Defendant and other circumstances
5 from which you may naturally and reasonably infer intent.

6 Finally the State must prove beyond a reasonable
7 doubt at least one of the following. The first one, when
8 entering, while in the dwelling or when fleeing the
9 Defendant or an accomplice was armed with a deadly weapon
10 or explosive. Deadly weapon is any article, instrument,
11 or substance which is likely to cause death or great
12 bodily harm. Whether an instrument has been used as a
13 deadly weapon depends on the facts and circumstances of
14 each case. The following are examples of instruments
15 which may be deadly weapons. A pistol, a shotgun, a
16 rifle, a dirk, a dagger, a knife, a sling shot, metal
17 knuckles, razor, gasoline, a fire bomb, molotov cocktail.
18 Ordinary objects may become deadly weapons when the facts
19 show they have been used to inflict serious bodily harm or
20 death. That is the first one that the State has to prove.
21 The second one is when entering while in the dwelling or
22 when fleeing the Defendant or an accomplice caused
23 physical injury to anyone not participating within the
24 crime. The next one, when entering, while in the dwelling
25 or when fleeing the Defendant used or threatened to use a

1 dangerous object. The next one, when entering while in
2 the dwelling or when fleeing the Defendant or an
3 accomplice displayed what was appeared to be a knife,
4 pistol, revolver, rifle, shotgun or other firearm. And
5 finally the Defendant entered or remained in the dwelling
6 in the nighttime. Nighttime is the period between sunset
7 and sunrise during which there is not enough daylight to
8 recognize a person's face except by artificial light or
9 moonlight.

10 The next indictment is for kidnapping. The Defendant
11 is charged with kidnapping and the State must prove beyond
12 a reasonable doubt that the Defendant knowingly and
13 unlawfully seized, confined, inveigled, decoyed,
14 kidnapped, abducted or carried away another person without
15 authority of law. To do a thing unlawfully is to do it
16 willfully against the law. Knowingly means with
17 knowledge, consciously and not accidentally. Seized means
18 to take hold of suddenly or forcibly. Confine means to
19 limit, restrict or enclose within bounds, imprison or shut
20 or keep in. Inveigle means to lure, entice or lead astray
21 by false representations, promises or other deceitful
22 means. Decoy means to lure by, or as if by, decoy. And
23 decoy is something to entice a person into a trap. Kidnap
24 is to remove a person against his will by unlawful force
25 or by fraud. And abduct means to carry off secretly or by

1 force or illegal purpose. And carry away means to remove.
2 The State does not have to prove that the Defendant did
3 all of these things. Instead if you find beyond a
4 reasonable doubt that the Defendant did any of these
5 things you may find the Defendant guilty of kidnapping.
6 Something done without authority of law is something which
7 the law does not sanction, permit, allow, condone or
8 provide justification for. And the kidnapping does not
9 have to be for any personal or monetary gain or any
10 illegal purpose that may be for any reason whatsoever.

11 And it is also charged assault and battery in the
12 first degree. A person commits the offense of assault and
13 battery in the first degree and the person unlawfully
14 injures another person and the act occurred during the
15 commission of a robbery, burglary, kidnapping or a theft,
16 or a person may also commit an offense of assault and
17 battery in the first degree if the person unlawfully
18 offers or attempts to injure another person with the
19 present ability to do so and the act is either
20 accomplished by means likely to produce death or great
21 bodily injury or occurred during the commission of a
22 robbery, burglary, kidnapping or a theft. Great bodily
23 injury means bodily injury which causes a substantial risk
24 of death or which causes serious permanent disfigurement
25 or protracted loss or impairment of the function of bodily

1 member or organ.

2 Finally the Defendant is charged, indicted for
3 possession of a weapon during the commission of a violent
4 offense or attempt to commit a violent offense. The State
5 must prove beyond a reasonable doubt that the Defendant
6 was in possession or visibly displayed a knife during the
7 commission of a violent crime. And a knife means an
8 instrument or tool with a sharp cutting blade where they
9 were not fastened to a handle which can be used to inflict
10 a cut/or wound. In order to find the Defendant guilty of
11 possession of a weapon during the commission of a violent
12 crime you must first find the Defendant guilty of either
13 committing a violent crime or attempting to commit a
14 violent crime. Under our law attempted murder, burglary
15 first degree and kidnapping are all violent crimes. So
16 before you can consider this last indictment you must have
17 decided unanimously that he was guilty of one of those
18 three offenses.

19 Now, ladies and gentlemen, of these indictments there
20 are, on each of these indictments there are two possible
21 verdicts. And they are guilty or not guilty. It makes no
22 difference what order I say them in, one word has got to
23 go first. I want to tell you that all twelve of you must
24 agree on your verdict and it must be unanimous. And your
25 verdict cannot be based on sympathy, passion, prejudice,

1 emotion or any other consideration not in evidence in this
2 case. You have no enemies to punish and you have no
3 friends to reward. I will tell you we have prepared a
4 verdict form which we will send back with you in the jury
5 room. I think it is self-explanatory. And if you have
6 trouble interpreting it just let me know. The only, on
7 the attempted murder case I have also charged you with the
8 lesser included offense of aggravated assault and battery.
9 So if the jury says, no, we, says that the State has not
10 proven beyond a reasonable doubt that he is guilty of
11 attempted murder then and only then should you consider
12 assault and battery in a high and aggravated nature to
13 determine whether or not the State has met the burden of
14 proof beyond a reasonable doubt as to that offense. If
15 you find that the State met the burden beyond a reasonable
16 doubt on attempted murder then do not consider aggravated
17 assault and battery. I think it is explained on the form.
18 All right, ladies and gentlemen, I am going to ask y'all
19 to retire to your jury room at this time. I am going to
20 instruct you not to begin your deliberations just yet, I
21 need to go over my charge on the law and make sure I did
22 not misstate something or omit something. But when the
23 evidence comes back to you along with the verdict form
24 then y'all can begin your deliberations. Ms. Putnam, I
25 have to ask you to remain in the courtroom otherwise

1 please, the rest of you say goodbye to Ms. Putnam.

2 (Whereupon, the jury was excused from open court.)

3 THE COURT: Ms. Putnam, you are just as qualified as
4 every one of those twelve, you paid every sacrifice that
5 they had and you are entitled, should be entitled but the
6 law only allows twelve people to deliberate. So I
7 appreciate your service and I hope it has been a good
8 experience for you. You are welcome to stay, go. If you
9 want to stay you can, if not you are finished.

10 (Whereupon, the alternate was excused from the trial
11 of the case.)

12 THE COURT: Any exception or objection to the charge
13 from the State?

14 MS. WHITE: The only thing that I noticed was the
15 charge on ABHAN, I think it was the old ABHAN. The
16 circumstances of aggravation.

17 THE COURT: Okay, what have you got.

18 MR. GROSE: Well, the first thing I would do is I
19 would renew our request for request to charge number four
20 on involuntary intoxication. And also renew our prior
21 objection to charging voluntary intoxication without
22 corresponding involuntary intoxication charge. Also I
23 think that the way it came out, to leading one and talking
24 about the other that it also rises to a comment on the
25 facts in the case. The second thing I was going to object

1 to is you charged that an inference of malice can arise
2 from the use of a deadly weapon. Of course, that is State
3 versus Belcher which said that that charge was not
4 appropriate in a self-defense case or an insanity case.
5 And the basis of that would be when the Defense was
6 arguing criminal intent or the absence of criminal intent.
7 And so I think the Belcher objection or the Belcher
8 prohibition to that applies here particularly, again, when
9 a knife was also featured in your charge about burglary
10 and also the use of a weapon during the commission of a
11 violent crime. You also charged, take me a second to get
12 on my screen here, you also charged that attempted murder
13 is a general intent crime, it does not require proof of a
14 specific intent. That is actually the case of State
15 versus King which was Appellate case number 2012213405.
16 And Court of Appeals opinion number, I believe, 5313, that
17 was decided just recently, a little over a month ago on
18 April 22nd, 2015 which talks about the fact that the
19 legislature did require specific intent. And then
20 charging general intent, charging that attempted murder
21 was general intent as you have done in this case was
22 reversible. I think this also gets into the next issue
23 that Ms. White has already raised which is that you
24 charged the common law assault and battery of a high and
25 aggravated nature which of course was abrogated by the

1 General Assembly long before the facts of this case arose.

2 THE COURT: You don't need to make that argument. I
3 will recharge it.

4 MR. GROSE: Well, but one of my concerns is, is that
5 I think one of the differences between attempted murder
6 and assault and battery of a high and aggravated nature is
7 the difference between the general and the specific intent
8 where attempted murder requires a specific intent and
9 ABHAN does not. I think that covers the charges. I also
10 wanted to put on the record, with regard to the motion
11 that we had made regarding the order of closing arguments
12 that, you know, I was not going to have a chance to be
13 able to respond to what the Solicitor had done and so I
14 think it is incumbent on me, based on how some of these
15 cases have been arguing on appeal and placed on the
16 record, what I would have done if I had been able to
17 respond. I would have responded to what I considered to
18 be somewhat an emotional attack on Mr. Shands both in some
19 of how it was delivered but in particularly the language
20 that was used. We would have particularly responded to
21 comments about jealous, controlling, manipulative and
22 viewing his family as property. We would have responded
23 about what they said about kidnapping, we would have
24 responded to what they said about placing the police on
25 trial, that was not our purpose. And we would have

1 responded to the evidence about, the argument made about
2 Sharon leaving that day as well as a number of things that
3 I think that they said that exceeded the bounds of what
4 the evidence really was, Your Honor. So, thank' you for
5 allowing me to place all of that on the record.

6 THE COURT: All right, anything? What was the case,
7 April what?

8 MR. GROSE: It is State versus King, it was decided
9 April 22nd, 2015. It is Appellate case number 2012213405,
10 it is from the Court of Appeals. West Law number is
11 2015WL1813949.

12 THE COURT: Have y'all got that case?

13 MS. WHITE: I can try to pull it up.

14 MR. GROSE: I usually have a hard time of getting it
15 on line. I can email it to you.

16 THE COURT: What was the name of it?

17 MR. GROSE: State versus King, Your Honor.

18 THE COURT: I am going to recharge them on the
19 assault and battery. Tell me what page.

20 MR. GROSE: What page?

21 THE COURT: Yes, so I can get there without reading
22 the whole thing.

23 MR. GROSE: I am looking at section, Roman Numeral
24 II, regarding jury charge and the last paragraph of that.

25 THE COURT: The last paragraph. I wonder if that one

1 is on, you must know.

2 MR. GROSE: Is on what?

3 THE COURT: Going up.

4 MR. GROSE: What I can tell you is, we can have it on
5 West Law, it is probably too early to know whether the
6 hearing petition has been denied or not. My argument
7 would be that this has occurred before, correct law in
8 South Carolina right now. And actually I would like to
9 add a couple of little points on my Belcher objection.

10 THE COURT: Really, okay, go ahead.

11 MR. GROSE: One is, I don't think that that can be
12 cured under the facts of this case so we would ask for a
13 mistrial. I also think that the issue of decided in
14 Belcher is whether the finding of what a deadly weapon
15 would be, to comment on the facts all points to the State
16 versus Huey case where they said that you couldn't give
17 examples of manslaughter.

18 THE COURT: Tell me this. Under the facts of this
19 case, where your client said he was not claiming
20 self-defense.

21 MR. GROSE: Well, it is not just self-defense. It is
22 any time that criminal intent is an issue is our position.

23 THE COURT: Okay. I don't think we have gone on that
24 part.

25 MR. GROSE: I think we did, but they said it would

1 also apply in the case where insanity was raised as a
2 Defense, self-defense, insanity. You know, what we have
3 argued here all go to whether or not the State has met
4 their burden on criminal intent.

5 THE COURT: I disagree with you so that will be
6 denied.

7 MR. GROSE: Thank you, Judge.

8 THE COURT: I am going to recharge them on the
9 aggravated assault and battery. If you want me to I will
10 recharge them the whole attempted murder and remove the
11 one or the part about general intent. It is one sentence,
12 what do you prefer.

13 MR. GROSE: What is the other option. If you don't
14 recharge it what is the other thing we are being asked?

15 THE COURT: I would just tell them that I incorrectly
16 stated, specific intent to kill is not an element of
17 attempted murder. It must be a general intent to commit
18 serious bodily injury. I will tell them that that is
19 incorrect. And that there must be a specific intent to
20 kill. You want me to recharge the whole thing?

21 MR. GROSE: That option would be acceptable.

22 THE COURT: Anything else?

23 MR. GROSE: No, sir.

24 THE COURT: Bring them back.

25 (Whereupon, the jury came into open court at

1 approximately 2:58 p.m.)

2 THE COURT: Welcome back. And a good reason I asked
3 you not to begin your deliberations. It is always
4 difficult to admit that you made a mistake and I made a
5 mistake and these very fine attorneys pointed it out to me
6 and I want to correct it. The first thing I want to do,
7 with respect to the indictment for attempted murder. I
8 told you specific intent to kill is not an element of
9 attempted murder but there must be a general intent to
10 commit serious bodily injury. That is not correct.
11 Please disregard that. Instead I will tell you that a
12 specific intent to kill is an element of attempted murder.
13 Okay. The other thing I am going to do is tell you that
14 if the State fails to prove beyond a reasonable doubt
15 attempted murder then you should consider aggravated
16 assault and battery. This, what I am about to tell you,
17 is the correct charge on the law. Okay. So disregard
18 what I told you previously. A person commits the offense
19 of assault and battery of a high and aggravated nature if
20 the person unlawfully injures another person in great
21 bodily injury to another person results. Or the act is
22 accomplished by means likely to produce death or great
23 bodily injury. Great bodily injury means bodily injury
24 which causes a substantial risk of death or which causes
25 serious permanent disfigurement or protracted loss or

1 impairment of the function of a bodily member or organ.

2 Okay. All right, please retire to your room, we will get
3 you everything in a minute.

4 (Whereupon, the jury was excused from open court at
5 approximately 3:02 p.m.)

6 THE COURT: Other than previously stated, objections,
7 anything?

8 MS. WHITE: No, sir.

9 MR. GROSE: Just the previous objections, Your Honor.

10 THE COURT: Okay. If y'all want to take a look at
11 the verdict form before we send it back and get all of the
12 evidence together.

13 (Whereupon, the jury starts deliberations at
14 approximately 3:10 p.m.)

15 THE COURT: I understand the jury has reached a
16 verdict. Let's bring the jury in.

17 (Whereupon, the jury came into open court with the
18 verdict at approximately 3:37 p.m.)

19 THE COURT: Thank you, very much. Madam Forelady,
20 ladies and gentlemen, I understand you have reached a
21 verdict, is that right?

22 MADAM FORELADY: Yes, Your Honor.

23 THE COURT: Okay. If you will hand it over. Okay, I
24 will ask the Clerk to please publish.

25 CLERK OF COURT: Your Honor, in the case of the State

1 of South Carolina versus Preston Shands, Jr., case number
2 2014-GS-30-1477, 1478, 1479, 1481 and 1482. As to
3 question one, as to the charge of attempted murder of
4 Sharon Shands, we the jury find the Defendant guilty.

5 As to the charge of a possession of a weapon during a
6 violent crime, we the jury find the Defendant guilty.

7 As to the charge of assault and battery, we the jury
8 find the Defendant guilty.

9 As to the charge of burglary, we the jury find the
10 Defendant guilty.

11 As to the charge of kidnapping, we the jury find the
12 Defendant guilty.

13 I certify this decision was a unanimous decision of
14 the jury. Signed by Relois Briggs, May 27th, 2015.

15 Ladies and gentlemen, if that be your verdict please
16 indicate by raising your right hands.

17 (Whereupon, all jurors raised their hands.)

18 MR. GROSE: We request the jury to be polled.

19 THE COURT: All right.

20 CLERK OF COURT: Ladies and gentlemen, the verdict
21 that I just published was the verdict you reached in the
22 jury room. I ask you, was it your verdict then and is it
23 your verdict now. As I call your name if you will answer
24 yes or no. Relois Briggs?

25 JUROR: Yes.

1 CLERK OF COURT: India Brock?
2 JUROR: Yes.
3 CLERK OF COURT: Eric Spradling?
4 JUROR: Yes.
5 CLERK OF COURT: Lynnzie Coffey?
6 JUROR: Yes.
7 CLERK OF COURT: Kaherine Mcclellion?
8 JUROR: Yes.
9 CLERK OF COURT: Kimberly Dial?
10 JUROR: Yes.
11 CLERK OF COURT: Bridget Ashley?
12 JUROR: Yes.
13 CLERK OF COURT: Suzanne Hutchins?
14 JUROR: Yes.
15 CLERK OF COURT: Tavon Dendy?
16 JUROR: Yes.
17 CLERK OF COURT: Chad Gregory?
18 JUROR: Yes.
19 CLERK OF COURT: Shamica Thompson?
20 JUROR: Yes.
21 CLERK OF COURT: Marilyn Grayson?
22 JUROR: Yes.
23 CLERK OF COURT: Thank you.
24 THE COURT: Anything further from the Defense?
25 MR. GROSE: No, sir.

1 THE COURT: From the State?

2 MS. WHITE: Not from the State, Your Honor.

3 THE COURT: All right. Madam Forelady, ladies and
4 gentlemen of the jury, I want to thank you for your
5 service. It is an incredible service that you rendered
6 for your whole community. All the other citizens of
7 Laurens County and the State of South Carolina, it is a
8 great privilege and a great responsibility to serve on a
9 jury and I want you to know that we all work up here in
10 the court system, this system belongs to each of us. So,
11 I want you to know that we couldn't operate without you.
12 I congratulate you on your service. I don't think anybody
13 told you that it was easy because it is not. It is a
14 heavy responsibility. Thank you for your service and I am
15 very happy to tell you that you have completed your
16 service for the week and for the year and three years if
17 so choose. You are welcome to stay, go, whatever you
18 would like to do. Thank you very much. You are also free
19 to talk about it with whoever you would like to. And I
20 also say this, if someone bothers you, you don't want to
21 talk about it, let the Clerk of Court know and we will fix
22 that problem. We don't want anyone to be harassed or
23 bothered because of your service. Thank you very much.
24 Okay. And, Ms. Briggs, we need to get your signature on a
25 couple of things.

1 (Whereupon, the jury was excused at 3:43 p.m.)

2 THE COURT: All right, are you ready?

3 MS. WHITE: Yes, sir. Your Honor, if I can have just
4 a minute to talk to Ms. Shands.

5 THE COURT: Okay.

6 MS. WHITE: We are ready, Your Honor.

7 THE COURT: Okay.

8 MR. GROSE: Your Honor, before we go into that can I
9 just put a couple of things on the record?

10 THE COURT: Yes, please do, I am sorry.

11 MR. GROSE: The first thing we would do is we would
12 renew all the motions that we made during the trial
13 including the mistrial motion and the motions for the
14 directed verdict, for all the grounds previously stated.
15 And at this time, Your Honor, we would move for a new
16 trial based on the fact that the State failed to present
17 any direct evidence or substantial circumstantial evidence
18 that the jury could convict beyond a reasonable doubt.
19 And we would also move for a new trial on the kidnapping
20 statute, that that charge be dismissed because that
21 statute is unconstitutionally vague and overbroad.

22 THE COURT: Okay. Same ruling on all that and I will
23 deny your motions.

24 MR. GROSE: You want us to come around?

25 THE COURT: Yes.

1 MR. GROSE: We will wait here if that is all right,
2 Your Honor.

3 THE COURT: I will hear from the State.

4 MS. WHITE: Thank you, Your Honor, with regards to
5 the victim impact, Ms. Shands, that is what we were just
6 discussing, she is frankly still too scared and terrified
7 to even come forward. So, she did not wish to address the
8 Court during sentencing. His prior record, the only
9 record I am aware of, Your Honor, is, are the January
10 27th, 1976 conviction out of Florida for conspiracy to
11 commit robbery, robbery and first degree murder. And he
12 was on parole for a life sentence out of Florida. And,
13 Your Honor, we did serve LWOP notice September 4th of 2014
14 at his bond hearing and the State is seeking life with
15 parole.

16 THE COURT: Okay. Have you got a copy of the notice?

17 MS. WHITE: Yes, sir.

18 MR. GROSE: And I think the statute also requires,
19 since it was an out-of-state conviction that you find that
20 the elements are, would comply under our statute.

21 THE COURT: Mr. Grose, how many days has he been in
22 jail?

23 MR. GROSE: Said since July 20th.

24 MS. WHITE: Judge, this is a copy of the notice that
25 I gave Mr. Grose and Mr. Shands back in September. Also I

1 have the indictments. As far as the elements it appears
2 from the face of the indictment, on the murder conviction,
3 did unlawfully from a pre-mediated design effect the death
4 of one Ramon Guirao by stabbing him with a sword.

5 MR. GROSE: And I would argue that that is not, does
6 not comply under our statute as being equivalent of any
7 other crime because it doesn't require, it is not
8 equivalent because it doesn't require malice, Your Honor.

9 MS. WHITE: And, Your Honor, also the robbery would
10 be a most serious offense and that is a robbery with a
11 deadly weapon.

12 MR. GROSE: But you would have to, again, look at the
13 elements, whether or not a deadly weapon was actually
14 required. A weapon is not always required in a robbery,
15 Your Honor.

16 THE COURT: The documents submitted to me by the
17 State, I am going to find that these offenses do qualify
18 under our statute.

19 MR. GROSE: I just request that those be made a
20 Court's exhibit, Your Honor.

21 THE COURT: Yes, we can do that.

22 MR. GROSE: And I presume that notice has been filed
23 previously, correct?

24 MS. WHITE: Yes sir, I believe it was.

25 THE COURT: All right.

1 MR. GROSE: Giving the ruling that you just made I
2 don't know that there is much to add at this point, Your
3 Honor.

4 THE COURT: Anything you want to say, Mr. Shands?

5 MR. SHANDS: No, sir.

6 THE COURT: All right. Mr. Shands, on three most
7 serious offenses, kidnapping, burglary first and attempted
8 murder, the sentence is life without parole. Burglary,
9 excuse me, assault and battery is ten years and the
10 weapons charge five years. Credit for the time you are
11 entitled to. If you want to put on the record that you
12 have ten days to file a notice of intent to appeal, so if
13 you intend to do that please let your attorney know as
14 soon as possible.

15 MR. GROSE: We have already discussed that, Your
16 Honor.

17 THE COURT: Okay. All right.

18 MR. MOWRY: Thank you, Your Honor.

19 MS. WHITE: Thank you, Your Honor.

20 (Whereupon, Court's Exhibit 1, 2 and 3 were marked
21 for identification only.)

22 *** END OF REQUESTED TRANSCRIPT OF RECORD ***
23
24
25

1 CERTIFICATE OF REPORTER

2
3
4 State of South Carolina)
5 County of Newberry)
6
7

8 I, Joy E. Holston, Official Court Reporter for the
9 Eighth Judicial Circuit of the State of South Carolina, do
10 hereby certify that the foregoing is a true, accurate and
11 complete transcript of record of the proceedings had and
12 evidence introduced in the trial of the captioned case,
13 relative to appeal, in the County of Laurens, South
14 Carolina on the 26th day of May, 2015.

15 I do further certify that I am neither of kin,
16 counsel nor interest to any party hereto.
17

18 August 23, 2015
19
20

21
22 Joy E. Holston, Court Reporter

23 My Commission expires: March 13, 2016
24
25

THE STAT OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
	)	FOR THE EIGHTH JUDICIAL CIRCUIT
COUNTY OF LAURENS	)	
	)	Indictment Number(s): 2014-GS-30-1477-82
THE STATE	)	
	)	
	)	Motion to Quash Indictments
vs.	)	
	)	
Preston Shands, Jr.	)	
	)	
	)	

The defendant, Preston Shands, Jr., moves the Court for an order quashing the indictments for abuse of the grand jury process.¹ Mr. Shands challenges the indictment itself as well as the perfunctory process that produced the indictment.

I. Introduction: The Laurens County Grand Jury Process.

Although the grand jury process in South Carolina is cloaked in secrecy, it is supposed to protect citizens from unfettered, abusive, and otherwise unaccountable prosecution by the sovereign. These protections do not exist in Laurens County. Mr. Shands is informed and believes that an Administrative Assistant in the Solicitor's Office prepares indictments. The Administrative Assistant lists the affiant on the warrant as the sole witness to be called before the Laurens County Grand Jury. The indictments are then reviewed and signed by an Assistant Solicitor. When the Laurens County Grand Jury meets, a police officer from the arresting agency obtains copies of the indictments from the Solicitor's Office and presents them to the grand jurors. The testifying police officer, who is not the person listed on the indictment, does not have any personal knowledge of the case. The Solicitor's Office does not keep a record of the identity of the person *actually* testifying before the Laurens County Grand Jury.

¹ This motion presents the same legal arguments as the Common Law Petition for Writ of *Certiorari* in *Henry Bennett Davis v. State*, Florence County Case No. 2014-GS-21-00701, which is currently pending before the South Carolina Supreme Court.

II. Constitutional Right to a Challenge a Defective Grand Jury Process.

The right of an accused to have a grand jury review the charges against him is a Constitutional right enumerated in the Fifth Amendment to the United States Constitution as well as in Article I, §11 of the South Carolina Constitution. “It is the right of the accused to have the question of his guilt decided by two competent juries before he is condemned to punishment.” *State v. Rector*, 158 S.C. 212, 236, 155 S.E. 385, 394 (1930) (quoting *Crowley v. United States*, 194 U.S. 461, 473 (1904)).

It has long been recognized that when an indictment is presented, the accused “may question the propriety of the accusation, the manner in which it has been presented, the source from which it proceeds, and have these matters promptly and properly determined.” *State v. Faile*, 43 S.C. 52, 20 S.E. 798 (1895). *See also, State v. Torrence*, 305 S.C. 45, 406 S.E.2d 315 (1991). Our Supreme Court has recognized that questions about the fairness and impartiality of the grand jury are “so closely analogous” to questions regarding the qualification of jurors, that questions of the latter have bearing on considering questions related to the former. *Rector* at 240, 395 (citing *State v. Richardson*, 149 S.C. 121, 146 S.E. 676 (1928)).

A defendant must challenge the legality and sufficiency of the process of the grand jury *before* the jury renders a verdict in order to preserve the error for direct appellate review. *See Evans v. State*, 363 S.C. 495, 509 (2005) (citing *State v. Gentry*, 363 S.C. 93, 610 S.E.2d 494 (2005)).

“Grand jury proceedings are presumed to be regular unless clear evidence indicates otherwise.” *State v. Moses*, 390 S.C. 502, 521, 702 S.E.2d 395, 405 (Ct. App. 2010)

(citing *State v. Thompson*, 305 S.C. 496, 501, 409 S.E.2d 420, 424 (1991)). Our Supreme Court has recognized the incredible burden this standard places on defendants. “It is usually difficult for a defendant to make such a claim ... speculation about ‘potential’ abuse of grand jury proceedings cannot substitute for evidence of *actual* abuse as grounds for quashing an otherwise lawful indictment. Fortunately, given the nature of State Grand Jury proceedings, there is a complete record available for analysis.” *State v. Thrift*, 312 S.C. 282, 302-303, 1993 S.C. LEXIS 218, 32-33 (1993) (quoting *State v. Thompson* at 502, 424 emphasis in the original).

Pursuant to *Gentry*, Mr. Shands must challenge the indictment and the indictment process before his trial jury is sworn. The law also gives him the burden of proving actual irregularity or abuse by clear evidence pursuant to *Thrift* and *Evans*. During the *State v. Carrier* oral argument,² our Supreme Court made it clear that failure to present and preserve evidence on the record was fatal to a defendant wishing to make one of the very same arguments Mr. Shands attempts to make here. He challenges the indictment itself as well as the perfunctory process that produced the indictment.

Unless this Court hears testimony, Mr. Shands (and other similarly situated defendants) will have no meaningful right to an impartial grand jury in South Carolina. A contrary process would make it impossible to marshal evidence to challenge whether the right has been violated. A right without a remedy is no right at all. *Marbury v. Madison*, 5 U.S. 137, 163 (1803) (“The government of the United States has been emphatically termed a government of laws, not of men. It will certainly cease to deserve this high appellation,

² S.C.S.Ct. Memorandum Opinion No. 2014-MO-043 (filed October 22, 2014). Oral argument found at <http://media.sccourts.org/videos/2012-212777.mp4> (last viewed May 24, 2015).

if the laws furnish no remedy for the violation of a vested right.”).

III. Correcting Abuse of the Grand Jury Process in South Carolina.

In 1981, the South Carolina Supreme Court began an almost 12-year journey addressing how the State was allowed to go about presenting indictments to grand juries. *State v. Capps* began that journey by finding that “the practice of using a solicitor or *other officer of the State*, as the sole witness before the grand jury, to provide only a summary of the evidence could be abused and we strongly suggest it be abandoned unless no alternative is available.” 276 S.C. 59, 62, 275 S.E.2d 872, 873 (1981) (emphasis added).

Chief Justice Lewis authored a vigorous dissent in *Capps* in which he noted that the Court's previous call for a comprehensive study and ultimate revision in some respects to the current grand jury system had gone unheeded. He, therefore, felt that not only was the Court “compelled in the interests of justice” to reevaluate the system, but also that it was their duty given the “significance of the right involved” to “give this constitutional provision meaning.” *Capps* at 63-64, 874. Chief Justice Lewis saw a “pressing need for change as is evidenced by the further deteriorating nature of the proceedings.” *Capps* at 64-65, 874.

Chief Justice Lewis’ greatest concern arose over the use of hearsay evidence to obtain indictments. Drawing on the Court's decision in *State v. Williams*, an opinion that he had authored, Chief Justice Lewis argued that the Court had not intended to create “a limitless haven” for the routine use of hearsay in grand jury presentments. He noted that the “deliberate use of hearsay testimony is a questionable practice which seriously erodes the function of the grand jury.” *Capps* at 67-68, 876, referencing *State v. Williams*, 263 S.C. 290, 210 S.E.2d 298 (1974) and *U.S. v. Gramolini*, 301 F.Supp. 39 (D. R.I. 1969).

Chief Justice Lewis further found that the routine acquisition of indictments based solely on hearsay testimony requires that the indictment be dismissed. He reasoned:

In order to provide more than lip service to the constitutional provision here in question, I would hold that an indictment cannot, as a matter of course, be acquired solely on oral hearsay testimony. The routine practice of one individual appearing before the proceeding to give his "third hand" capsule version of facts which he has no direct knowledge without some other competent evidence, is insufficient.

The drafters of Article I, §11 as well as those citizens who voted for its implementation clearly intended the right to a grand jury indictment to be meaningful because they incorporated it into such a solemn document, our State constitution. The disposition I propose seeks to rekindle the spirit with which it was created.

Capps at 67-68, 876.

Despite the strong warning the *Capps* court issued, cases continued to come before the appellate courts of South Carolina raising issues about what was acceptable and adequate evidence to present to grand juries.

In *State v. Anderson*, prosecutors argued that while our Supreme Court had "frowned upon" an assistant solicitor being the only witness to appear before a grand jury, the Court had not prohibited the practice. In referencing *Capps*, the State's argument was "that case did not say we could not do it, they said they didn't like it." *State v. Anderson*, 439 S.E.2d 835, 1993 S.C. LEXIS 228 (1993). The *Anderson* Court rejected this position and explicitly prohibited the practice of prosecutors appearing as the sole witness before the grand jury. *Anderson* at 836, 3. In doing so, the *Anderson* Court specifically cited Chief Justice Lewis' dissent in *Capps*.

Capps dealt with more than *solicitors* testifying to the grand jury. The *Capps* Court also explicitly warned of the potential for abuse of using *any* "other officer of the State, as

the sole witness before the grand jury....” *Capps* at 62, 873 (emphasis added).

The lone case touching on the “other officer” issue is *State v. Whitted*, 279 S.C. 260, 305 S.E.2d 245 (1983). The defendant in *Whitted* challenged her indictment on the grounds that a sheriff’s deputy was the sole witness who testified before her grand jury, arguing that *Capps* prohibited the sheriff’s deputy from being the sole witness to testify before the grand jury. The *Whitted* Court said that *Capps* “did not contemplate and should not be construed to prohibit *the investigative officers*, such as the sheriff’s deputy was in this case, from appearing as the sole witness before the grand jury” and found no error. *Whitted* at 262, 246 (emphasis added).

As our Supreme Court made clear in *Anderson*, *Capps* was meant to be more than a warning. It was meant to stop “the practice of using a solicitor *or other officer of the State*, as the sole witness before the grand jury....” *Capps* at 62, 873 (emphasis added). Mr. Shands believes the circumstances of his case show that the State continues to engage in the type of grand jury presentment practices our Supreme Court has been warning of since *Capps*. In his case, five of the indictments (attempted murder, possession of a weapon during the commission of a violent crime, and two counts of assault and battery) list Hal Martin of the Laurens County Sheriff’s Office as the sole witness testifying before the Grand Jury. From the discovery provided by the State, it appears that Officer Martin does not have any personal knowledge of this investigation. The sixth indictment (kidnapping) lists Tony Lynch of the Laurens County Sheriff’s Office as the sole witness before the Grand Jury.

As outlined in Section I, *supra*, based on his knowledge of the Laurens County Grand Jury practice, Mr. Shands is informed and believes that neither officer actually testified before

the grand jury. This practice creates three problems.

First, if a witness not listed on the indictment testified before the Grand Jury, his appearance before the grand jury violates S.C. Code §14-7-1550, which provides:

The foreman of the grand jury or acting foreman in the circuit courts of any county of the State may swear the witnesses whose names shall appear on the bill of indictment in the grand jury room. No witnesses shall be sworn except those who have been bound over or subpoenaed in the manner provided by law.

Second, if the witness was not subpoenaed or bound over to appear in front of the grand jury, then the grand jury did not recognize his appearance as “unauthorized” and report it as a “clearly improper” attempt to influence their decision. These actions were compelled by the charge given to the grand jury. The pertinent part of that charge provides:

On the back of the indictments, the names of the witnesses for the State will be listed. You may call the witnesses before you for questioning ...The Foreperson of the Grand Jury will swear witnesses whose names appear on the bill of indictment. No witness may be sworn except those who have been bound over or subpoenaed in the manner provided by law. . . .

The presence of anyone other than Grand Jurors, witnesses under examination, and, at certain times, the Solicitor, during the sessions of the Grand Jury is unauthorized. Thus, any attempt to influence your decision is clearly improper and should be reported to me or the presiding judge.

S.C. Judicial Website, Sample Jury Charges, Chapter II: Grand Jury, pp. 5-6, a copy of which is attached.

Third, if the witness was neither an investigating officer, nor an actual witness, his testimony could have only been “a deliberate use of hearsay” by the State when there were clear alternatives, in violation of *Capps*, *Anderson*, and *Whitted*. It is easy to envision a scenario in which a witness, having held no personal knowledge as a witness and having had

no role in the investigation, merely appeared before the Grand Jury and read from the indictment prepared and signed by the Solicitor. Such a presentment would be exactly what *Capps* and *Anderson* prohibit. In that situation, the testimony would be akin to allowing “a solicitor to merely ‘tell his story’ by giving a summary of the evidence,” a result Chief Justice Lewis warned would lead to grand jury soon being “viewed by a justifiably skeptical public as a mere plaything for prosecutors.” *Capps* at 67, 875.

The journey towards completing the process of correcting abuse of the grand jury process in South Carolina is not complete. This Court should declare unconstitutional the practice followed by the Laurens County Grand Jury and require the State to present witnesses with actual knowledge of the case. Mr. Shands also argues that the State had a duty under Rule 3.3(d) of the Rules of Professional Conduct to provide the grand jury with all material facts, which would enable the tribunal to make an informed decision whether or not those facts were adverse to the prosecution.

IV. Denying Defendants Indicted By A County Grand Jury The Same Due Process Safeguards As Those Indicted By A Statewide Grand Jury Violates The Fifth and Fourteenth Amendments To The United States Constitution, As Well As Article I, Sections 3 and 11 of The Constitution of South Carolina.

Mr. Shands case illustrates a fundamental inequality within the grand jury process in South Carolina: defendants indicted under the statewide grand jury system are afforded different protections under the law than defendants who are indicted under the county grand jury system.

A defendant's rights to an indictment, due process, and equal protection under the law are secured through the Fifth and Fourteenth Amendments to the United States Constitution, as

well as through Article I, Sections 3 and 11 of the Constitution of South Carolina. Unfortunately, the current grand jury process in South Carolina denies defendants some of those rights.

In South Carolina, two types of grand juries issue indictments: a county grand jury or a statewide grand jury. Articles 13 and 15 of Chapter 7, Title 14 of the South Carolina Code contain the statutory authority controlling the grand jury systems in South Carolina. Article 13 deals with the county grand jury system. Article 15 addresses the statewide grand jury system.

The best example of the disparity between the two systems can be found in S.C. Code §14-7-1700, which is titled "Record of testimony and other proceedings of grand jury; furnishing of copy to defendant; transcripts, reporter's notes and all other documents to remain in custody and control of attorney general." That statute provides:

A court reporter shall record, either stenographically or by use of an electronic recording device, all proceedings except when a state grand jury is deliberating or voting. Subject to the limitations of Section 14-7- 1720(A) and (D) and Rule 5, South Carolina Rules of Criminal procedure, a copy of the transcript of the recorded testimony or proceedings requested by the Attorney General or his designee shall be provided to the defendant by the court reporter, upon request, at the transcript rate established by the Office of Court Administration. An unintentional failure of any recording to reproduce all or any portion of the testimony or proceedings does not affect the validity of the prosecution. The recording or reporter's notes or any transcript prepared therefrom and all books, papers, records, correspondence, or other documents produced before a state grand jury must remain in the custody and control of the Attorney General or his designee unless otherwise ordered by the court in a particular case.

This language illustrates the inequality that a defendant indicted by a county grand jury faces compared to a defendant indicted by a statewide grand jury: statewide grand jury

proceedings must be recorded. There is no corresponding requirement that county grand juries be recorded. Thus, a defendant indicted by a statewide grand jury *does* have a record from which to obtain evidence of irregularity, while a defendant indicted by a county grand jury *does not*. In *State v. Thrift*, our Supreme Court noted the difficulty defendants like the Mr. Shands face attacking the grand jury process, specifically finding that Thrift was fortunate his grand jury proceedings were statewide grand jury proceedings, thus providing a complete record for analysis. *Thrift* at 302-303, 32-33. By commenting on the good fortune Thrift received by virtue of being indicted by a statewide grand jury (and by implication, the *misfortune* of those defendants, like Mr. Shands, who are indicted by county grand juries without a record), the *Thrift* Court was implicitly acknowledging the inequality of our current grand jury system. Thus, if a defendant, like Mr. Shands, indicted by a county grand jury can not force the recording of the grand jury proceedings or compel testimony regarding the proceedings, he is effectively prohibited from challenging the propriety of those proceedings unlike the defendant who is fortunate enough to be indicted by the statewide grand jury which provides defendants with the evidence needed to mount such challenges. Such discriminatory treatment of defendants is prohibited by the equal protection clauses of the South Carolina and United States Constitutions.

V. Conclusion.

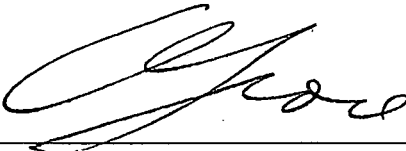
The Court should grant the following relief:

- a. Declare unconstitutional the process followed by the Laurens County Grand Jury;
- b. Quash the indictments;
- c. Order the State provide Mr. Shands with a meaningful grand jury process;

- d. Require the State to present exculpatory evidence to the Grand Jury;
- e. Require those proceedings to be recorded; and
- f. Such other and further relief that this Court deem just and proper.

IT IS SO MOVED.

Respectfully submitted,

By: _____

E. Charles Grose, Jr.
The Grose Law Firm, LLC.
404 Main Street
Greenwood, SC 29646
(864) 538-4466

Counsel for the Defendant

May 26, 2015
Greenwood, South Carolina

taken from an appellate opinion must be supplemented by additional relevant statements of the law because of the particular factual situation.”

State v. Grant, 275 S.C. 404, 407, 272 S.E.2d 169, 171 (1980).

CHAPTER TWO - GRAND JURY CHARGE

YOU HAVE BEEN SELECTED AND SWORN TO SERVE AS THE GRAND JURY OF _____ COUNTY AND, THEREFORE, HAVE BEEN CALLED TO PERFORM AN IMPORTANT PUBLIC SERVICE. AT THIS TIME, I AM REQUIRED TO TELL YOU THE DUTIES AND POWERS OF THE GRAND JURY.

A GRAND JURY IS SELECTED AND ORGANIZED TO INQUIRE INTO THE COMMISSION OF CRIMES WITHIN THE COUNTY, DETERMINE THE LIKELIHOOD OF GUILT, AND FIND INDICTMENTS AGAINST SUPPOSED OFFENDERS. THE GRAND JURY IS NOT ONLY A WAY TO BRING TO TRIAL PEOPLE ACCUSED OF CRIMES, BUT ALSO A WAY TO PROTECT CITIZENS AGAINST UNFOUNDED PROSECUTION. THIS IDEA IS FIRMLY ENTRENCHED IN OUR PRESENT SYSTEM OF JUSTICE. BOTH THE SOUTH CAROLINA AND UNITED STATES CONSTITUTIONS REQUIRE AN INDICTMENT BEFORE A PERSON CAN BE TRIED FOR MOST CRIMES.

THE GRAND JURY OF EACH COUNTY CONSISTS OF EIGHTEEN MEMBERS. WHILE ALL EIGHTEEN MUST BE PRESENT AT THE TIME THE GRAND JURY IS ORGANIZED AT THE FIRST TERM OF COURT FOR THE YEAR, AFTER THAT, A GRAND JURY WITH ONLY TWELVE MEMBERS PRESENT IS SUFFICIENT. TWELVE OF YOU MUST AGREE ON A MATTER BEFORE A “TRUE BILL” CAN BE FOUND AND THE CASE CAN BE SUBMITTED TO THE COURT. IN ADDITION, THREE ALTERNATE GRAND JURORS ARE DRAWN WHO WILL ACT IN PLACE OF ANY ORIGINAL GRAND JURORS WHO MAY BE UNABLE TO SERVE DURING THE YEAR.

THE DUTIES OF THE GRAND JURY ARE CRUCIAL TO THE ADMINISTRATION OF OUR SYSTEM OF JUSTICE. THE GRAND JURY HAS TWO MAIN JOBS - IT ACCUSES PEOPLE OF CRIMES AND IT CAN INVESTIGATE CRIMES. THE GRAND JURY IS AN ARM OF THE COURT, WITH ITS MAIN GOAL BEING THE DETECTION AND PUNISHMENT OF CRIME.

THE MOST IMPORTANT DUTY OF THE GRAND JURY IS PASSING ON BILLS OF INDICTMENT. THE SOLICITOR PREPARES THESE BILLS FROM ARREST WARRANTS AND TESTIMONY AT PRELIMINARY HEARINGS AND INQUESTS. IT IS NOT YOUR RESPONSIBILITY TO DECIDE THE GUILT OR INNOCENCE OF ANY PERSON. YOU HEAR ONLY THE EVIDENCE ON BEHALF OF THE PROSECUTION, BECAUSE THE FINDING OF AN INDICTMENT IS ONLY IN THE NATURE OF AN INQUIRY OR ACCUSATION WHICH WILL BE HEARD AND

DETERMINED LATER. YOU, AS THE GRAND JURY, ARE ONLY TO DECIDE WHETHER THERE IS SUFFICIENT REASON TO BRING THE PERSON TO TRIAL. IF YOU ARE CONVINCED THAT THE EVIDENCE THE SOLICITOR PRESENTS TO YOU, UNEXPLAINED AND UNCONTRADICTED, WILL WARRANT A CONVICTION BY A TRIAL JURY, IT IS YOUR DUTY TO FIND A "TRUE BILL". OTHERWISE, IT IS YOUR DUTY TO FIND A "NO BILL". THE GRAND JURY MAY EXERCISE ITS DISCRETION TO DECIDE, NOT ONLY THE PROBABILITY OF CONVICTION OR THE SUFFICIENCY OF THE EVIDENCE, BUT ALSO IF IT IS PROPER, UNDER THE PARTICULAR CIRCUMSTANCES, TO PROSECUTE THE PERSON AND THE EFFECT ON THE PUBLIC INTEREST BY PROSECUTING THE CHARGE. IN OTHER WORDS, THE GRAND JURY SHOULD DECIDE WHETHER OR NOT THE CASE IS ONE WHICH SHOULD GO TO TRIAL.

THE GRAND JURY MAY TAKE TESTIMONY AND RECEIVE EVIDENCE AND, IF THE EVIDENCE WARRANTS, DIRECTLY INDICT A PERSON WITHOUT AN ARREST WARRANT HAVING BEEN ISSUED. IN THAT CASE, THE SOLICITOR

WILL BE ASKED TO PREPARE AN INDICTMENT WHICH, IF A TRUE BILL IS RETURNED, WILL BE PRESENTED TO THE COURT AND A BENCH WARRANT WILL BE ISSUED FOR THE ARREST OF THE PERSON ACCUSED.

IF YOU FIND THAT THERE IS SUFFICIENT REASON TO BRING THE ACCUSED TO TRIAL, YOU WILL WRITE THE WORDS "TRUE BILL" ON THE FRONT OF THE INDICTMENT, AND THE FOREPERSON WILL SIGN THE INDICTMENT. IF, ON THE OTHER HAND, YOU FIND THAT THERE IS NOT SUFFICIENT CAUSE TO BRING THE ACCUSED TO TRIAL, YOU WILL WRITE THE WORDS "NO BILL", AND THE FOREPERSON WILL SIGN THE INDICTMENT.

OVER THE COURSE OF YOUR SERVICE THIS YEAR, YOU WILL HAVE PRESENTED TO YOU INDICTMENTS CHARGING MANY VARIOUS CRIMES. TIME DOES NOT PERMIT ME TO ATTEMPT TO DEFINE THE MANY CRIMINAL OFFENSES YOU WILL CONSIDER. IF YOU WISH TO BE ADVISED IN ANY LEGAL PARTICULAR, PLEASE SEND WORD TO ME OR THE PRESIDING JUDGE AND WE WILL BE HAPPY TO INSTRUCT YOU FURTHER IN OPEN COURT. COMMUNICATIONS OF THE GRAND JURY SHOULD ALWAYS BE DIRECTED TO THE PRESIDING JUDGE OR THE CHIEF JUDGE FOR ADMINISTRATIVE PURPOSES OF THE CIRCUIT, AND NO ONE ELSE.

YOUR RECOMMENDATIONS ARE ONLY ADVISORY AND SUGGESTIVE TO THE VARIOUS OFFICIALS CONCERNED. THEY DO NOT HAVE THE FORCE AND EFFECT OF LAW. THIS BY NO MEANS DESTROYS THE VALUE AND IMPORTANCE OF WHAT YOU DO.

THE GRAND JURY HAS OTHER DUTIES IN ADDITION TO PASSING ON BILLS OF INDICTMENT. A GRAND JURY HAS SUPERVISION OF THE ENFORCEMENT OF LAW AND ORDER, THE PRESERVATION AND PROTECTION OF MORALS AND SOCIAL ORDER, THE SUPERVISION OF PUBLIC OFFICES, THE INSPECTION AND EXAMINATION OF THE BOOKS OF PUBLIC OFFICES, AND THE CONDUCT OF PUBLIC OFFICES BY THE OFFICERS OCCUPYING THEM.

IT IS ALSO THE DUTY OF THE GRAND JURORS TO PROSECUTE VIOLATIONS OF LAW THEY KNOW OF. EACH INDIVIDUAL GRAND JUROR HAS THE DUTY TO BRING BEFORE THE GRAND JURY AS A WHOLE ANY INFORMATION WHICH THE INDIVIDUAL MIGHT HAVE ABOUT ANY LAW VIOLATION. HOWEVER, THIS INFORMATION MUST BE ACTED ON BY THE FULL GRAND JURY, OR AT LEAST TWELVE MEMBERS, NOT BY ANY INDIVIDUAL GRAND JUROR.

GRAND JURIES HAVE LARGE INVESTIGATIVE POWERS, BUT THOSE POWERS ARE LIMITED, AND THEY MUST BE EXERCISED FOR THE PURPOSE OF PRESENTING OFFENDERS TO THE PROPER OFFICERS FOR PROPER LEGAL PROCEEDINGS AGAINST THEM OR FOR THE FINDING OF BILLS OF INDICTMENT. FOR EXAMPLE, GRAND JURORS MAY CALL ATTENTION TO THE PROPER AUTHORITIES CONDITIONS WHICH ARE A MENACE TO GOOD MORALS OR THE PEACE OR HEALTH OF COMMUNITIES; THE CONDITION OF ROADS, BRIDGES, PUBLIC BUILDINGS, SCHOOLS, SCHOOL BUILDINGS; AND OTHER SIMILAR MATTERS. HOWEVER, GRAND JURORS CANNOT MAKE A SORT OF GENERAL PRESENTMENT OF EVILS OR BAD THINGS TO CALL ATTENTION TO THEM. A GRAND JURY HAS NO POWER TO FILE WITH THE COURT A REPORT OF THIS TYPE WHICH CHARGES NO CRIME, BUT JUST REFLECTS ON THE WAY A PERSON IS ACTING. YOU MAY NOT COME OUT WITH A FINDING THAT "JOHN DOE" IS NOT CONDUCTING HIS OFFICE AS HE SHOULD, UNLESS YOU BRING AN INDICTMENT AGAINST "JOHN DOE".

ON THE BACK OF THE INDICTMENTS, THE NAMES OF THE WITNESSES FOR THE STATE WILL BE LISTED. YOU MAY CALL THE WITNESSES BEFORE YOU FOR QUESTIONING. YOU DO NOT HAVE TO EXAMINE ALL OF THEM IN EVERY CASE, SINCE IN SOME CASES THE TESTIMONY OF ONE WITNESS MAY CONVINCE YOU THAT THE ACCUSED SHOULD GO TO TRIAL. IF SO, YOU DO NOT HAVE TO EXAMINE THE OTHER WITNESSES. HOWEVER, DO NOT

FIND A "NO BILL" WITHOUT EXAMINING ALL OF THE WITNESSES BECAUSE THE LAST WITNESS MAY KNOW FACTS WHICH THE OTHERS DID NOT KNOW. THE FOREPERSON OF THE GRAND JURY WILL SWEAR THE WITNESSES WHOSE NAMES APPEAR ON THE BILL OF INDICTMENT. NO WITNESS MAY BE SWORN EXCEPT THOSE WHO HAVE BEEN BOUND OVER OR SUBPOENAED IN THE MANNER PROVIDED BY LAW. THE GRAND JURY IS ALLOWED TO HIRE AN EXPERT ACCOUNTANT TO HELP THEM EXAMINE AND INVESTIGATE THE OFFICES, BOOKS, PAPERS, VOUCHERS, OR ACCOUNTS OF ANY PUBLIC OFFICER OF THEIR COUNTY WHEN, IN THEIR JUDGMENT, IT BECOMES NECESSARY. THE GRAND JURY MAY ALSO FIX THE AMOUNT OF COMPENSATION OR PER DIEM TO BE PAID. HOWEVER, THE APPROVAL OF THE PRESIDING JUDGE MUST BE GIVEN BEFORE ANY EXPERT IS EMPLOYED. IN ORDER TO CARRY OUT YOUR OVERSIGHT FUNCTIONS, THE GRAND JURY USUALLY FORMS VARIOUS COMMITTEES. IN THE PAST THESE HAVE BEEN: *(insert committees specific to your county)* MR./MADAM FOREPERSON, YOU WILL PLEASE NAME THE CHAIRPERSON AND MEMBERS OF ANY COMMITTEES THAT THE GRAND JURY CHOOSES TO FORM. THE PROCEEDINGS OF THE GRAND JURY ARE LARGELY INFORMAL AND FREE FROM TECHNICALITIES IN OBTAINING INFORMATION. HOWEVER, THE GRAND JURY SHOULD COMPLETE ITS ASSIGNED TASKS WITHOUT OUTSIDE INTERFERENCE, AND IMPROPER COMMUNICATION WITH THE GRAND JURY IS UNAUTHORIZED. THE PRESENCE OF ANYONE OTHER THAN GRAND JURORS, WITNESSES UNDER EXAMINATION, AND, AT CERTAIN TIMES, THE SOLICITOR, DURING THE SESSIONS OF THE GRAND JURY IS UNAUTHORIZED. THUS, ANY ATTEMPT TO INFLUENCE YOUR DECISION IS CLEARLY IMPROPER AND SHOULD BE REPORTED TO ME OR THE PRESIDING JUDGE.

THE GRAND JURY WILL NOT MEET EXCEPT BY ORDER OF THIS COURT. A SCHEDULE OF YOUR REGULAR MEETINGS WILL BE FURNISHED TO YOU.

YOUR ROLE IN THIS VITAL SERVICE TO THE JUDICIAL SYSTEM IS GREATLY APPRECIATED BY THE COURT. YOU ARE ENCOURAGED TO ASSUME THIS DUTY WITH A SERIOUS MIND, TO STUDY CAREFULLY ALL EVIDENCE SUBMITTED TO YOU, AND TO ACT FAIRLY ON THE EVIDENCE.

CHAPTER THREE - PRELIMINARY CHARGE

LADIES AND GENTLEMEN OF THE JURY, THE CASE WE ARE ABOUT TO TRY IS THE CASE OF THE STATE VERSUS _____, DEFENDANT.

JUROR EXPECTATIONS - PROFESSIONALISM CHARGE

(The Chief Justice's Commission on the Profession recommends that the following charge be given prior to trial in every case.)

BEFORE WE BEGIN THIS TRIAL, I WANT TO TELL YOU THAT THIS TRIAL PROBABLY WILL BE DIFFERENT FROM WHAT YOU MIGHT EXPECT. MANY PEOPLE DO NOT HAVE THE CHANCE TO ATTEND ACTUAL COURT SESSIONS, AS YOU ARE DOING NOW, AND MAY THINK, FROM WATCHING TELEVISION OR MOVIES OR READING BOOKS, THAT TRIALS ARE ALWAYS FULL OF HIGH DRAMA, INTENSE ACTION, AND RIVETING CIRCUMSTANCES. WHILE ALL OF THESE THINGS MAY BE TRUE AT TIMES, THIS TRIAL IS NOT FOR ENTERTAINMENT. IT IS A FUNDAMENTAL PART OF OUR DEMOCRACY; A SEARCH FOR THE TRUTH IN AN EFFORT TO MAKE SURE THAT JUSTICE IS DONE BETWEEN THE PARTIES BEFORE THE COURT. SEARCHING FOR THE TRUTH AND MAKING SURE THAT JUSTICE IS DONE IS OFTEN SLOW, DELIBERATE, AND REPETITIVE - THE OPPOSITE OF WHAT YOU MAY

THE STAT OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
	)	FOR THE EIGHTH JUDICIAL CIRCUIT
COUNTY OF LAURENS	)	
	)	Indictment Number(s): 2014-GS-30-1477-82
THE STATE	)	
	)	
	)	
vs.	)	Motion to Exclude Mr. Shands' Prior
	)	Conviction from Florida for Murder
Preston Shands, Jr.	)	
	)	
	)	

The defendant, Preston Shands Jr., is on parole from Florida for a murder conviction that resulted from an incident occurring when he was a juvenile. Mr. Shands moves the court for an order excluding evidence of his prior conviction for murder. This motion is based on the following grounds.

Rule 609(a)(1), SCRE provides, "For the purpose of attacking the credibility of a witness, evidence that a witness other than an accused has been convicted of a crime shall be admitted, subject to Rule 403, if the crime was punishable by death or imprisonment in excess of one year under the law under which the witness was convicted, and *evidence that an accused has been convicted of such a crime shall be admitted if the court determines that the probative value of admitting this evidence outweighs its prejudicial effect to the accused*" (emphasis added). Mr. Shands' conviction for murder—occurring almost forty (40) years ago—has absolutely no probative value in this case. Admitting evidence of this conviction would create "the risk that a jury will convict for crimes other than those charged—or that, uncertain of guilt, it will convict anyway because a bad person deserves punishment—creates a prejudicial effect that outweighs ordinary relevance." *Old Chief v. United States*, 519 U.S. 172, 181 (1997).

Rule 609(b) additionally provides, "Evidence of a conviction under this rule is not admissible if a period of more than ten years has elapsed since the date of the conviction or of

the release of the witness from the confinement imposed for that conviction, whichever is the later date, unless the court determines, in the interests of justice, that the probative value of the conviction supported by specific facts and circumstances substantially outweighs its prejudicial effect.” Mr. Shands was released from confinement over ten years ago. The prosecution, moreover, has not noticed its intent to introduce this conviction as required by Rule 609(b).

Additionally, the similarity of Mr. Shands’ prior conviction for murder to the current charge of attempted murder is more reason for this Court to exclude evidence of the prior conviction. Our Supreme Court has “decline[d] to hold similar prior convictions inadmissible in all cases. Trial courts must weigh the probative value of the prior convictions against their prejudicial effect to the accused and determine, in their discretion, whether to admit the evidence. The following factors, along with any other relevant factors, should be considered:

1. The impeachment value of the prior crime.
2. The point in time of the conviction and the witness's subsequent history.
3. The similarity between the past crime and the charged crime.
4. The importance of the defendant's testimony.
5. The centrality of the credibility issue.”

Green v. State, 338 S.C. 428, 433-34, 527 S.E.2d 98, 101 (2000) (citing *State v. Colf*, 337 S.C. 622, 525 S.E.2d 246 (2000)).

Allowing the prosecution to impeach Mr. Shands with evidence of the prior murder conviction—occurring almost forty (40) years ago—will be extremely prejudicial and interfere with the jurors’ evaluating Mr. Shands’ testimony, the credibility of which will be central to his defense. *See also State v. Black*, 400 S.C. 10, 732 S.E.2d 880 (2012) (defense witness's prior

convictions for manslaughter that were approximately 20 years old were inadmissible to impeach witness's credibility).

The Court, therefore, should exclude evidence of Mr. Shands prior conviction for murder.

IT IS SO MOVED.

Respectfully submitted,

By: _____

E. Charles Grose, Jr.
The Grose Law Firm, LLC.
404 Main Street
Greenwood, SC 29646
(864) 538-4466

Counsel for the Defendant

May 26, 2015
Greenwood, South Carolina

THE STAT OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
	)	FOR THE EIGHTH JUDICIAL CIRCUIT
COUNTY OF LAURENS	)	
	)	Indictment Number(s): 2014-GS-30-1477-82
THE STATE	)	
	)	
	)	Motion to Require the State to Open Fully on
vs.	)	the Law and the Facts and then Reply Only to
	)	New Matters Raised by Defense Counsel in His
Preston Shands, Jr.	)	Closing Argument
	)	
	)	

The defendant, Preston Shands, Jr., moves the court for an order requiring the State to open fully on the law and the facts and then reply only to new matters raised by defense counsel in his closing argument.

In South Carolina, no Rule of Criminal Procedure addresses the question of the order of argument to the jury.¹ The practice of the State opening only on the law and then closing fully on the facts after the defendant has given the closing argument is long on tradition but short on law to support that tradition. The early practice in South Carolina was for the state to open fully on the law and the facts. In *State v. Atterberry*, 129 S.C. 464, 124 S.C. 648 (1924), the Supreme Court held that the failure to require the state to open fully on the law and facts was reversible error. At that time Circuit Court Rule 59 provided, "The party having the opening in argument shall disclose his entire case and on his closing shall be confined strictly to a reply to the points made, and authorities cited by the opposite party."² In reversing the conviction of the defendant

¹ The South Carolina Supreme Court has requested comments on proposed Rule 21 S.C. RCrimP, which would require the prosecution to proceed in the manner requested in this motion. Proposed Rule 21 can be found at <http://www.sccourts.org/whatsnew/displaywhatsnew.cfm?indexID=1013> (last viewed May 23, 2015).

² Rule 59 in 1924 was part of the Code of Civil Procedure. The concurring opinion by Acting Associate Justice Aycock makes reference to the fact that nothing in the Code of Civil

the Court said, "The defendant moved the court to require the solicitor to make the opening speech to the jury before the defendant's attorney's were required to make their arguments. This was refused. This was error." *Atterberry*, 129 S.C. at ___, 124 S.E. at 651. In his concurring opinion Acting Associate Justice Aycock stated the principle best when he said, "It is but fair that the party who has the advantage of the last address to a jury should be required to open and apprise the opposing party of his views as to his entire case." *Id.* at ___, 124 S.E. at 651. As a matter of legal history, the State in South Carolina was required to open fully on the law and the facts.

The more recent practice developed when the Circuit Court Rules were changed. This change was noted in *State v. Lee*, 255 S.C. 309, 178 S.E.2d 652 (1971). Again the defense counsel requested that the state be required to open fully on the law and the facts. The trial judge denied this request. The Court noted that since the decision in *Atterberry*, Rule 59 of the Circuit Court Rules had been changed to Rule 58 and the rule then read, "The party having the opening in an argument shall disclose fully the law upon which he relies if demanded by the opposite party." The Court in *Lee* concluded, "It follows that the trial judge, under the changed rule, was correct in holding that a solicitor is no longer required to make an opening argument to the jury on issues of fact."³ *Lee*, at 318, 178 S.E.2d at 656. Thus began the more recent, but incorrect, practice of requiring the state to open only on the law and not the facts.

Today Rule 43(j) of the South Carolina Rules of Civil Procedure controls the order of argument in civil cases. This rule now provides that the plaintiff shall have the right to open and

Procedure limits the application to civil cases. Rule 1 of the South Carolina Rules of Civil Procedure today does limit their application to civil cases.

³ Again this was a change in the Code of Civil Procedure which the court had no problem applying to a criminal case.

close at the trial of the case. The rule then concludes, “The party having the right to open shall be required to open in full, and in reply may respond in full but may not introduce any new matter.” With Rule 43(j) of the South Carolina Rules of Civil Procedure, the long practice in civil cases of plaintiff’s lawyers “sandbagging” and saving their real argument for their last argument, came to an end. But the practice, without any support in the law, continues in the general sessions courts not based upon the law or logic, but upon misapplication of the civil rules.

The practice of “sandbagging” in a closing argument was a basis for reversal of a criminal conviction in Delaware. In *Bailey v. State*, 440 A.2d 997 (Del. 1982) the court noted that “Closing argument is ‘an aspect of a fair trial which is implicit in the Due Process Clause of the Fourteenth Amendment.’” *Id.* at 1004 (internal citations omitted). The court further held, “Application of these authorities to the facts at hand compels us to reverse and remand the case for a new trial on the ground that the Trial Court abused its discretion in permitting the State to utilize the inherently prejudicial “sandbagging” trial strategy.” *Id.* In South Carolina, “sandbagging” by a prosecutor is not only approved but is actually legalized.

The majority of states and the federal courts require the prosecutor to open fully on the law and the facts. *See, e.g.* Fed. Rul Cr. Proc. 29.1; Ark. Code Ann . 16-89-123; Ga. Code Ann. § 17-8-71; Nev. Rev. Stat. Ann 175.141; Tenn. Rules of Crim. Proc. Rule 29.1; In Re AMENDMENTS TO THE FLORIDA RULES OF CRIMINAL PROCEDURE-FINAL ARGUMENTS, 957 So.2d 1164 (Fla. 2007) *but see*, *Degadillo v. State* , 262 S.W.3d 371 (Tex. Ct. App. (2008)). The treatise writers also support the requirement that the state open fully on the law and evidence. *See*, Jacob Stein, Closing Arguments 2d, § 1:6 (2010) and 75A Am. Jur. 2d *Trial* § 448 (2010). In revising its rules as to closing argument the Florida Supreme Court noted

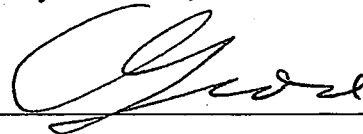
“The statute provides that in accord with the common law, the prosecuting attorney shall open the closing arguments, defendant or his or her attorney may reply, and the prosecuting attorney may reply in rebuttal.” *In re AMENDMENTS TO THE FLORIDA RULES OF CRIMINAL PROCEDURE- FINAL ARGUMENTS*, 957 So.2d at 1166.⁴

South Carolina should break with a practice that has no support in logic or the law and require that the State be required to open fully on the law and the facts. The current procedure in South Carolina simply permits the State to legally “sandbag” its argument and not afford the defense the opportunity to reply to new arguments that the State used in its closing. The inherent logic of this position has been acknowledged by our Court of Appeals concerning reply briefs and oral argument. “An appellant may not use either oral argument or the reply brief as a vehicle to argue issues not argued in the appellant’s brief.” *Bochette v. Bochette*, 300 S.C. 109, 112, 386 S.E.2d 475, 477 (Ct. App. 1989). The reason of this rule in the appellate court is a party should have a fair chance to respond to matters raised by counsel in their briefs. The rule should also be applied to arguments before a jury.

IT IS SO MOVED.

Respectfully submitted,

By: _____



E. Charles Grose, Jr.
The Grose Law Firm, LLC.
404 Main Street
Greenwood, SC 29646
(864) 538-4466

Counsel for the Defendant

May 26, 2015
Greenwood, South Carolina

⁴ The Florida Supreme Court also noted that forty-seven states follow the common law.

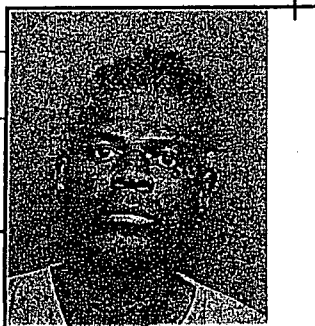
Request to Charge No. 4**Involuntary Intoxication**

“There are two types of intoxication, voluntary and involuntary. Involuntary intoxication may result from innocently consuming an intoxicant, through being tricked into it by another, or being forced to take it, or perhaps through unanticipated side effects of a prescription drug taken on orders of a physician. If you find the defendant was given drugs or alcoholic beverages without his knowledge, and as a result, he lost his ability to exercise independent judgment and volition while committing the crimes alleged against him, then it would be your duty to find the defendant not guilty.”

Ralph King Anderson, Jr., *South Carolina Requests to Charge - Criminal*, 2007, § 6-4 Involuntary Intoxication (citing P.S. Watson & W.S. McAninch, *Guide to South Carolina Criminal Law and Procedure* 165-66 (3d ed. 1990); 21 Am. Jur. 2d Criminal Law §§ 108-09 (1998)).

ARREST WARRANT

2014A3020400344



STATE OF SOUTH CAROLINA

County/ ☒ Municipality of

LAURENS

THE STATE

against

PRESTON SHANDS JR

Address:

Phone: 683-1526

SSN:

Sex: M Race: B Height: 6-1 Weight: 198

DL State: SC DL#

Agency ORI#: SC0300100

Prosecuting Agency: LAURENS POLICE DEPARTMENT

Prosecuting Officer: SGT. M. GAINNEY

Offense: ATTEMPTED MURDER

Offense Code:

3410

Code/Ordinance Sec. 16-03-0029

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 law.

Signature of Judge

(L.S.)

Date:

RETURN

A copy of this arrest warrant was delivered to

defendant PRESTON SHANDS JR

on 7/21/14

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

LAURENS MUNICIPAL COURT

250 W. LAURENS ST

LAURENS, SC 29360

864-984-3532

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

LAURENS

Personally appeared before me the affiant MPTL HAL MARTIN

who

being duly sworn deposes and says that defendant PRESTON SHANDS JR

did within this county and state on 07/20/2014 to 07/20/2014 violate the criminal laws of the

State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of LAURENS)

in the following particulars:

DESCRIPTION OF OFFENSE: 16-03-0029 / ATTEMPTED MURDER

I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:MPTL HAL MARTIN STATES UNDER OATH BASED ON THIS INVESTIGATION OF SGT. MICHAEL GAINNEY THAT PRESTON
SHANDS DID COMMIT THE CRIME OF ATTEMPTED MURDER. PRESTON SHANDS HAVING MALICE AFORETHOUGHT DID
ATTEMPT TO MURDER THE VICTIM. PRESTON SHANDS DID STAB THE VICTIM MULTIPLE TIMES IN THE HEAD AND TORSO
WITH TWO PRONG FORK. THE VICTIM RECEIVED MULTIPLE LACERATION AND PUNCTURE WOUNDS. THIS INCIDENT
OCCURRED AT 104 EDEN STREET IN THE CITY LIMITS OF LAURENS.

WITNESSES: SGT. GAINNEY, TRAVIOUS COPELAND, JALEN SHANDS, AND OTHERS

VICTIMS: SHARON SHANDS

Signature of Affiant

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

LAURENS

Affiant's Address 250 W LAURENS ST

LAURENS SC 29360

Affiant's Telephone 864-984-3532

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER IN THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that
on 07/20/2014 defendant PRESTON SHANDS JR

did violate the criminal laws of the State of South Carolina (or ordinance of

☐ County/ ☒ Municipality of LAURENS) as set forth below:

DESCRIPTION OF OFFENSE: MURDER / ATTEMPTED MURDER

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said
defendant and bring him or her before me forthwith to be dealt with according to the law. A copy of this Arrest Warrant shall be delivered
to the defendant at the time of its execution, or as soon thereafter as is practicable.

Sworn to and subscribed before me

on 07/21/2014

C W WIER II

Judge Code: 8079

Judge's Address 250 W LAURENS ST

LAURENS SC 29360

Judge's Telephone 864-984-3532

Issuing Court: ☐ Magistrate☒ Municipal☐ Circuit

ORIGINAL

Case: 2014-3075

LAURENS COUNTY
CLERK OF COURT
2014 JUL 23 P 4:04
LYNN W. LANCASTER

ARREST WARRANT

2014A3020400345

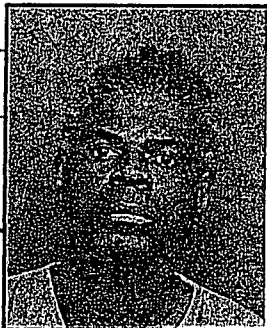
STATE OF SOUTH CAROLINA

County/ ☒ Municipality of

LAURENS

THE STATE

against



STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

LAURENS

Personally appeared before me the affiant MPTL HAL MARTIN

who

being duly sworn deposes and says that defendant PRESTON SHANDS JRdid within this county and state on 07/20/2014 to 07/20/2014

violate the criminal laws of the

State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of LAURENS)

in the following particulars:

DESCRIPTION OF OFFENSE: 16-23-0490 / WEAPONS POSSESSION DURING A VIOLENT CRIME

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

MPTL HAL MARTIN STATES UNDER OATH BASED ON THE INVESTIGATION OF SGT. MICHAEL GAINNEY THAT PRESTON SHANDS DID COMMIT THE CRIME OF WEAPONS POSSESSION DURING A VIOLENT CRIME. PRESTON SHANDS DID HAVE IN HIS POSSESSION A TWO PRONGED FORK, IN WHICH HE USED A CUTTING INSTRUMENT TO ATTEMPT TO MURDER THE VICTIM. THIS INCIDENT OCCURRED AT 104 EDEN STREET IN THE CITY LIMITS OF LAURENS.

WITNESSES: SGT. GAINNEY, TRAVIOUS COPELAND, JALEN SHANDS, AND OTHERS.

VICTIM: SHARON SHANDS

Signature of Affiant

Affiant's Address 250 W LAURENS STLAURENS SC 29360Affiant's Telephone 864-984-3532

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

LAURENS

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER IN THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on 07/20/2014 defendant PRESTON SHANDS JR

did violate the criminal laws of the State of South Carolina (or ordinance of

☐ County/ ☒ Municipality of LAURENS) as set forth below:DESCRIPTION OF OFFENSE: WEAPONS / POSS. WEAPON DURING VIOLENT CRIME, IF NOT ALSO SENTENCED TO LIFE WITHOUT PAROLE OR DEATH

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to the law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable.

Sworn to and subscribed before me

on 07/21/2014C.W. Wier (L.S.)

C W WIER II

Judge Code: 8079Judge's Address 250 W LAURENS STLAURENS SC 29360Judge's Telephone 864-984-3532Issuing Court: ☐ Magistrate☒ Municipal☐ Circuit

Case: 2014-3075

ORIGINAL

Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 616

LAURENS COUNTY
CLERK OF COURT
2014 JUL 23 P 4 05
LYNN W. LANCASTER

ROA 295

PRESTON SHANDS JR

Address:

Phone: 683-1526

SSN

Sex: M Race: B Height: 6-1 Weight: 150DL State: SC DL:JOE Agency ORI#: SC0500100Prosecuting Agency: LAURENS POLICE DEPARTMENTProsecuting Officer: SGT. M. GAINNEYOffense: WEAPONS POSSESSION DURING AVIOLENT CRIME Offense Code: 0549Code/Ordinance Sec. 16-23-0490

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

The accused

s to be arrested and brought before me to be
dealt with according to law.

Signature of Judge

(L.S.)

Date:

RETURN

A copy of this arrest warrant was delivered to
defendant PRESTON SHANDS JR

in

7/21/14

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

LAURENS MUNICIPAL COURT

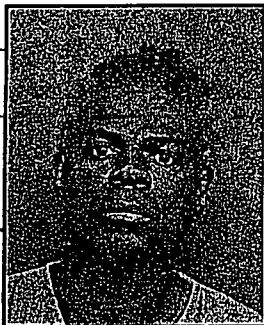
250 W. LAURENS ST

LAURENS, SC 29360

864-984-3532

ARREST WARRANT

2014A3020400346



STATE OF SOUTH CAROLINA

County/ ☒ Municipality of

LAURENS

THE STATE

against

PRESTON SHANDS JR

Address: _____

Phone: 683-1526 SSN: 263-4

Sex: M Race: B Height: 6-1 Weight: 198

IL State: SC DL #:

DOB: Agency ORI#: SC0300100

Prosecuting Agency: LAURENS POLICE DEPARTMENT

Prosecuting Officer: SGT. M. GAINEY

Offense: ASSAULT 1ST DEGREE

Offense Code: 3412

Code/Ordinance Sec. 16-03-0600 (C) (1)

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 law.

Signature of Judge

(L.S.)

Date: _____

RETURN

A copy of this arrest warrant was delivered to

defendant PRESTON SHANDS JR

on 7/21/14

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

LAURENS MUNICIPAL COURT

250 W. LAURENS ST

LAURENS, SC 29360

864-984-3532

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

LAURENS

Personally appeared before me the affiant MPTL HAL MARTIN who

being duly sworn deposes and says that defendant PRESTON SHANDS JR

did within this county and state on 07/20/2014 to 07/20/2014 violate the criminal laws of the

State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of LAURENS)

in the following particulars:

DESCRIPTION OF OFFENSE: 16-03-0600 (C) (1) / ASSAULT 1ST DEGREE

I further state that there is probable cause to believe that the defendant named above did commit

the crime set forth and that probable cause is based on the following facts:

MPTL HAL MARTIN STATES UNDER OATH BASED ON THE INVESTIGATION OF SGT. MICHAEL GAINEY THAT PRESTON SHANDS DID COMMIT THE CRIME OF ASSAULT AND BATTERY OF THE FIRST DEGREE. PRESTON SHANDS DID, IN THE COMMISSION OF BURGLARY, BRANDISH A KNIFE; AND BEGAN SLASHING AT THE VICTIM. THIS INCIDENT OCCURRED AT 105 EDEN STREET IN THE CITY LIMITS OF LAURENS.

WITNESSES: SGT. GAINEY, SHARON SHANDS, JALEN SHANDS, CLARENCE KOON, AND OTHERS.

VICTIM: TRAVIOUS COPELAND

Signature of Affiant

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

LAURENS

Affiant's Address 250 W LAURENS ST

LAURENS SC 29360

Affiant's Telephone 864-984-3532

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER IN THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on 07/20/2014 defendant PRESTON SHANDS JR

did violate the criminal laws of the State of South Carolina (or ordinance of

☐ County/ ☒ Municipality of LAURENS) as set forth below:

DESCRIPTION OF OFFENSE: ASSAULT / ASSAULT & BATTERY 1ST DEGREE

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to the law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable.

Sworn to and subscribed before me)

on 07/21/2014)

C W WIER II (L.S.)

Judge Code: 8079

Judge's Address 250 W LAURENS ST

LAURENS SC 29360

Judge's Telephone 864-984-3532

Issuing Court: ☐ Magistrate ☒ Municipal ☐ Circuit

ORIGINAL

Case: 2014-3075

LAURENS COUNTY
CLERK OF COURT
2014 JUL 23 P 4: 05
LYNN W. LANCASTER

ARREST WARRANT

2014A3020400348

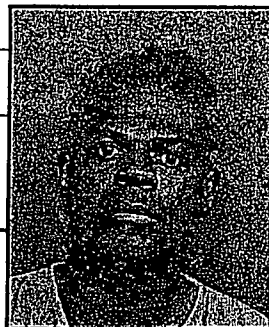
STATE OF SOUTH CAROLINA

County/ ☒ Municipality of

LAURENS

THE STATE

against



STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

LAURENS

AFFIDAVIT

Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 618Personally appeared before me the affiant MPTL HAL MARTIN whobeing duly sworn deposes and says that defendant PRESTON SHANDS JRdid within this county and state on 07/20/2014 to 07/20/2014 violate the criminal laws of theState of South Carolina (or ordinance of ☐ County/ ☒ Municipality of LAURENS)

in the following particulars:

DESCRIPTION OF OFFENSE: 16-11-0311 / BURGLARY 1ST DEGREE

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

MPTL HAL MARTIN STATES UNDER OATH BASED ON THE INVESTIGATION OF SGT. MICHAEL GAINEY THAT PRESTON SHANDS DID COMMIT THE CRIME OF BURGLARY IN THE FIRST DEGREE. PRESTON SHANDS DID UNLAWFULLY ENTER THE RESIDENCE BY BREAKING A WINDOW. PRESTON SHANDS ENTERED THE RESIDENCE WITH THE INTENT OF ASSAULTING A VICTIM, WHO SEEKED REFUGE WITHIN THE RESIDENCE, WITH A KNIFE. THIS INCIDENT OCCURRED AT 105 EDEN STREET IN THE CITY LIMITS OF LAURENS.

WITNESSES: SGT. GAINEY, TRAVIOUS COPELAND, JALEN SHANDS, SHARON SHANDS, AND OTHER

VICTIM: CLARENCE KOON

Signature of Affiant

Affiant's Address 250 W LAURENS STLAURENS SC 29360Affiant's Telephone 864-984-3532

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

LAURENS

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER IN THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on 07/20/2014 defendant PRESTON SHANDS JR

did violate the criminal laws of the State of South Carolina (or ordinance of

☐ County/ ☒ Municipality of LAURENS) as set forth below:DESCRIPTION OF OFFENSE: BURGLARY / BURGLARY (AFTER JUNE 20, 1985) - FIRST DEGREE

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to the law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable.

Sworn to and subscribed before me

on 07/21/2014C W WIER II (L.S.)Judge Code: 8079Judge's Address 250 W LAURENS STLAURENS SC 29360Judge's Telephone 864-984-3532Issuing Court: ☐ Magistrate ☒ Municipal ☐ Circuit

Case: 2014-3075

ORIGINAL

PRESTON SHANDS JR

Address: _____

Phone: 683-1526SSN: 4Sex: M Race: B Height: 6-1 Weight: 198DL State: SC DL#: _____DOB: _____ Agency ORI#: SC0300100Prosecuting Agency: LAURENS POLICE DEPARTMENTProsecuting Officer: SGT. M. GAINEYOffense: BURGLARY 1ST DEGREEOffense Code: 0079Code/Ordinance Sec. 16-11-0311

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 law.

Signature of Judge

(L.S.)

Date: _____

RETURN

A copy of this arrest warrant was delivered to defendant PRESTON SHANDS JR

on 7/21/14

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

LAURENS MUNICIPAL COURT

250 W. LAURENS ST

LAURENS, SC 29360

864-984-3532

ARREST WARRANT

2014A3020400363

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

LAURENS

THE STATE

against

PRESTON SHANDS JR

Address:

10

Phone: 683-1526

SSN:

Sex: M Race: B Height: 6-1 Weight: 198

DL State: SC

DL #:

DOB: Agency ORI#: SC0300100

Prosecuting Agency: LAURENS POLICE DEPARTMENT

Prosecuting Officer: DET. TONY LYNCH

Offense: KIDNAPPING/ KIDNAPPING

Offense Code:

0095

Code/Ordinance Sec. 16-03-0910

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☒ Municipality of

LAURENS SC

The accused

is to be arrested and brought before me to be
dealt with according to law.

Signature of Judge

(L.S.)

Date:

RETURN

A copy of this arrest warrant was delivered to
defendant PRESTON SHANDS JR

on 7/29/14

H. Black

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

LAURENS MUNICIPAL COURT

250 W. LAURENS ST

LAURENS, SC 29360

864-984-3532

GS
8-29-14
9:00AM

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

LAURENS

AFFIDAVIT

Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 616

Personally appeared before me the affiant TONY LYNCH

who

being duly sworn deposes and says that defendant PRESTON SHANDS JR

did within this county and state on 07/20/2014 to 07/20/2014

violate the criminal laws of the

State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of LAURENS)

in the following particulars:

DESCRIPTION OF OFFENSE: 16-03-0910 / KIDNAPPING/ KIDNAPPING

I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:DET. TONY LYNCH STATES UNDER OATH THAT PRESTON SHANDS JR. DID COMMIT THE CRIME OF KIDNAPPING BY
UNLAWFULLY SEIZING, CONFINING, KIDNAP AND HOLD AGAINST THE WILL OF ONE SHARON COPELAND SHANDS ON JULY
20TH 2014. THIS OFFENSE OCCURRED AT # 104 EDEN STREET AND WITH IN THE LAURENS CITY LIMITS.

Signature of Affiant

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

LAURENS

Affiant's Address

201 W MAIN ST, SUITE B 211

LAURENS SC 29360

Affiant's Telephone

864-984-3532

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER IN THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that
on 07/20/2014 defendant PRESTON SHANDS JR

did violate the criminal laws of the State of South Carolina (or ordinance of

☐ County/ ☒ Municipality of LAURENS

as set forth below.

DESCRIPTION OF OFFENSE: KIDNAPPING / KIDNAPPING

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said
defendant and bring him or her before me forthwith to be dealt with according to the law. A copy of this Arrest Warrant shall be delivered
to the defendant at the time of its execution, or as soon thereafter as is practicable.

Sworn to and subscribed before me

on July 29, 2014

Signature of Issuing Judge

Judge Code: 6980

ORIGINAL

Judge's Address

Judge's Telephone

Issuing Court:

☐ Magistrate☒ Municipal☐ Circuit

Case: 2014-3075

LYNN W. LANCASTER
2014 JUL 31 P 2:11
CLERK OF COURT
LAURENS COUNTYA TRUE COPY OF ORIGINAL
Lynn W. Lancaster
Laurens County CCCP & GS

ROA 299

WITNESSES

Hal Martin
Laurens Police Department

WARRANT NUMBER

2014A3020400344

Tore Bill

W. E. D. Jr.

Foreman of the Grand Jury

Date: *10/3/14*

VERDICT

Guilt

Reh. Biggs
Foreman *8/20/15*

THE STATE OF SOUTH CAROLINA

COUNTY OF LAURENS

COURT OF GENERAL SESSIONS

October Term, 2014

Indictment # 14GS30- *1477*

THE STATE

vs.

Preston Shands Jr

INDICTMENT FOR

Attempted Murder
§16-03-0029

CDR: 3410

THE STATE OF SOUTH CAROLINA

COUNTY OF LAURENS

INDICTMENT FOR

Attempted Murder
§16-03-0029

At a Court of General Sessions, convened on the 3rd day of October, 2014, the Grand Jurors of Laurens County present upon their oath:

That Preston Shands Jr did, on or about July 20, 2014, in Laurens County, willfully and unlawfully, with the intent to kill and with malice aforethought, attempt to kill Sharon Shands, in violation of Section 16-3-29 of the South Carolina Code of Laws, 1976, as amended.

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



Assistant Solicitor

ROA 301

WITNESSES

Hal Martin
Laurens Police Department

WARRANT NUMBER

2014A3020400345

Ture Bill

Walter E. [Signature]

Foreman of the Grand Jury

Date: *10/3/14*

VERDICT

Guilty

[Signature]

Foreman

5/27/15

THE STATE OF SOUTH CAROLINA

COUNTY OF LAURENS

COURT OF GENERAL SESSIONS

October Term, 2014

Indictment # 14GS30- *1478*

THE STATE

vs.

Preston Shands Jr

INDICTMENT FOR

Possession of Weapon during Violent Crime

§16-23-0490

CDR: 0549

THE STATE OF SOUTH CAROLINA

INDICTMENT FOR

COUNTY OF LAURENS

Possession of Weapon During Violent Crime
§16-23-0490

At a Court of General Sessions, convened on the 3rd day of October, 2014, the Grand Jurors of Laurens County present upon their oath:

That Preston Shands Jr did, on or about July 20, 2014, in Laurens County, possess a firearm or visibly displayed what appeared to be a firearm, or visibly displayed a knife during the commission of a violent offense, to wit: Attempted Murder, Kidnapping, and/or First Degree Burglary, or any lesser included violent offense, in violation of Section 16-23-490 of the South Carolina Code of Laws, 1976, as amended.

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



Assistant Solicitor

ROA 303

WITNESSES

Hal Martin
Laurens Police Department

WARRANT NUMBER

2014A3020400346

Ture Bell

Wells E. 1

Foreman of the Grand Jury

Date: *10/3/14*

VERDICT

Guilty

Reelin B. 5/27/15
Foreman

THE STATE OF SOUTH CAROLINA

COUNTY OF LAURENS

COURT OF GENERAL SESSIONS

October Term, 2014

Indictment # 14GS30- *1479*

THE STATE

vs.

Preston Shands Jr

INDICTMENT FOR

Assault & Battery

§16-03-0600

CDR: 3412

THE STATE OF SOUTH CAROLINA

INDICTMENT FOR

COUNTY OF LAURENS

Assault & Battery
§16-03-0600

At a Court of General Sessions, convened on the 3rd day of October, 2014, the Grand Jurors of Laurens County present upon their oath:

That Preston Shands Jr did, on or about July 20, 2014, in Laurens County, willfully and unlawfully injure another person, to wit: Travious Copeiland, and the act occurred during the commission of a robbery, burglary, kidnapping, or theft, or he did offer or attempt to injure another person with the present ability to do so and the act was accomplished by means likely to produce death or great bodily injury, or occurred during the commission of a robbery, burglary, kidnapping, or theft, in violation of the provisions of Section 16-3-600 of the South Carolina Code of Laws, 1976, as amended.

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



Assistant Solicitor

ROA 305

WITNESSES

Hal Martin
Laurens Police Department

WARRANT NUMBER

2014A3020400347

True Bill

Walter E. DeFuria

Foreman of the Grand Jury

Date: *10/3/14*

VERDICT

Foreman

THE STATE OF SOUTH CAROLINA

COUNTY OF LAURENS

COURT OF GENERAL SESSIONS

October Term, 2014

Indictment # 14GS30- *1480*

THE STATE

vs.

Preston Shands Jr

Nolle Proas

5/28/15

Walter E. DeFuria

INDICTMENT FOR

Assault & Battery
§16-03-0600

CDR: 3412

THE STATE OF SOUTH CAROLINA

INDICTMENT FOR

COUNTY OF LAURENS

Assault & Battery
§16-03-0600

At a Court of General Sessions, convened on the 3rd day of October, 2014, the Grand Jurors of Laurens County present upon their oath:

That Preston Shands Jr did, on or about July 20, 2014, in Laurens County, willfully and unlawfully injure another person, to wit: Jalen Shands, and the act occurred during the commission of a robbery, burglary, kidnapping, or theft, or he did offer or attempt to injure another person with the present ability to do so and the act was accomplished by means likely to produce death or great bodily injury, or occurred during the commission of a robbery, burglary, kidnapping, or theft, in violation of the provisions of Section 16-3-600 of the South Carolina Code of Laws, 1976, as amended.

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



Assistant Solicitor

ROA 307

WITNESSES

Hal Martin
Laurens Police Department

WARRANT NUMBER

2014A3020400348

Ture Bell

Walter E. DeLeon

Foreman of the Grand Jury

Date: *10/3/14*

VERDICT

Guilty

Regina Biggs
Foreman
5/25/15

THE STATE OF SOUTH CAROLINA

COUNTY OF LAURENS

COURT OF GENERAL SESSIONS

October Term, 2014

Indictment # 14GS30- *1481*

THE STATE

vs.

Preston Shands Jr

INDICTMENT FOR

Burglary
§16-11-0311

CDR: 0079

THE STATE OF SOUTH CAROLINA

INDICTMENT FOR

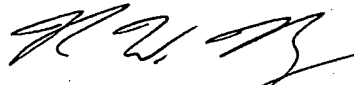
COUNTY OF LAURENS

Burglary
§16-11-0311

At a Court of General Sessions, convened on the 3rd day of October, 2014, the Grand Jurors of Laurens County present upon their oath:

That Preston Shands Jr did, on or about July 20, 2014, in Laurens County, willfully and unlawfully enter a dwelling without consent and with intent to commit a crime therein, when in effecting entry or while in immediate flight there from, he or another participant in the crime; was armed with a deadly weapon or explosive; or caused physical injury to a person who was not a participant in the crime; or used or threatened the use of a dangerous instrument; or displayed what was or appeared to be a knife, pistol, revolver, rifle, shotgun, machine gun or other firearm, or the entering or remaining occurred in the nighttime, the said dwelling being owned and/or occupied by Clarence Koon, in violation of Section 16-11-311 of the South Carolina Code of Laws, 1976, as amended.

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



Assistant Solicitor

ROA 309

WITNESSES

Tony Lynch
Laurens Police Department

WARRANT NUMBER

2014A3020400363

True Bill

[Signature]
Foreman of the Grand Jury

Date: *10/3/14*

VERDICT

Guilty

[Signature]
Foreman *5/27/15*

THE STATE OF SOUTH CAROLINA

COUNTY OF LAURENS

COURT OF GENERAL SESSIONS

October Term, 2014

Indictment # 14GS30- *1482*

THE STATE

vs.

Preston Shands Jr

INDICTMENT FOR

Kidnapping

§16-03-0910

CDR: 0095

THE STATE OF SOUTH CAROLINA

INDICTMENT FOR

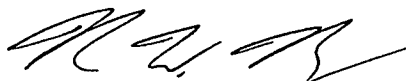
COUNTY OF LAURENS

Kidnapping
§16-03-0910

At a Court of General Sessions, convened on the 3rd day of October, 2014, the Grand Jurors of Laurens County present upon their oath:

That Preston Shands Jr did, on or about July 20, 2014, in Laurens County, willfully and unlawfully with criminal intent, seize, confine, inveigle, decoy, kidnap, abduct or carry away Sharon Shands without authority of law, in violation of Section 16-3-910 of the South Carolina Code of Laws, 1976, as amended.

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



Assistant Solicitor

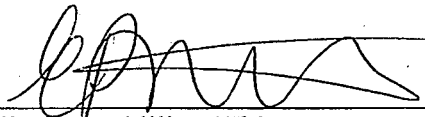
STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
	)	
COUNTY OF LAURENS	)	EIGHTH JUDICIAL CIRCUIT
	)	
State of South Carolina	)	
	)	Warrants: 2014A3020400344-348;
	)	2014A3020400363
v.	)	
	)	NOTICE OF INTENT TO SEEK LIFE
Preston Shands, Jr.	)	WITHOUT PAROLE
	)	

Pursuant to S.C. Code Ann. § 17-25-45 (H), the State of South Carolina hereby notifies Defendant Preston Shands, Jr. that he is charged with Attempted Murder, First-degree Burglary, and Kidnapping. These are defined as "most serious" offenses in S.C. Code Ann § 17-25-45 (C)(1).

On January 27, 1976, Defendant was convicted of First-degree Murder, Conspiracy to Rob, and Robbery. Upon information and belief, Florida's First-degree Murder statute would be classified as a "most serious" offense under Sections 17-25-45(A) and (C)(1).

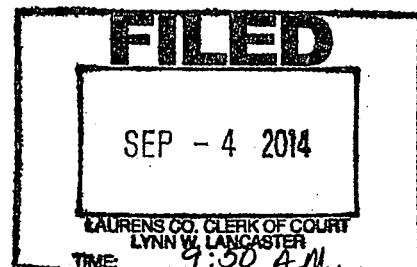
The State further gives notice that, upon a conviction for Attempted Murder, First-degree Burglary, and/or Kidnapping, the State intends to seek a term of imprisonment for life without the possibility of parole pursuant to Section 17-25-45 (A).

Respectfully submitted,



Elizabeth Phillips White
Assistant Solicitor
Eighth Judicial Circuit
P.O. Box 516
Greenwood, South Carolina 29648
(864) 942-8828

September 4, 2014
Laurens, South Carolina



STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

ROA 312

COUNTY OF Laurens
 STATE VS.
Preston Shands Jr

AKA:

Race: AFRICAN AME Sex: M Age: 58DOB: SS#:

Address:

City, State, Zip:

DL#: SID#:*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was
 TO: Murder / Attempted Murder

INDICTMENT/CASE#: 14GS30-1477A/W#: 2014A3020400344Date of Offense: 7/20/2014S.C. Code § : 16-03-0029CDR Code #: 3410

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADSin violation of § 16-03-0029 of the S.C. Code of Laws, bearing CDR Code # 3410

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
 w/minor 1st or Lewd Act)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST

White, ElizabethSC Bar#DefendantAttorney for DefendantSC Bar#

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of LIFE WITHOUT PAROLE 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. 311 DAYS

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

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

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ OrderedTotal: \$ plus 20% fee: \$ Payment Terms: ☐ Set by SCDPPPS Recipient:

*Fine:		\$
§ 14-1-206 (Assessments 107.5 %)		\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ <u>100</u>
§ 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	\$ <u>25</u>
§ 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	\$ <u>5</u>
3% to County (if paid in installments)		\$ <u>3.90</u>
TOTAL		\$ <u>133.90</u>

 days/hours Public Service EmploymentObtain GED ☐Attend Voc. Rehab. or Job Corp. May serve W/E beginning Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly
 pmts. of \$ beginning

\$ paid to Public Defender FundOther:

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

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

Presiding Judge

Judge Code:

Sentence Date:

Lynn W. Lancaster
Joy Holston

2780
5-27-15

STATE OF SOUTH CAROLINA

COUNTY OF Laurens
 STATE VS.
Preston Shands Jr

AKA: _____
 Race: AFRICAN AME Sex: M Age: 58
 DOB: 1/1/1956 SS#: 123456789
 Address: _____
 City, State, Zip: _____
 DL#: _____ SID#: _____

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was
 TO: Weapons/Poss Weapon During Violent Crime, if not also sentenced to life with

in violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549
☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
 w/minor 1st or Lewd Act)

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

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

ATTEST: [Signature] 7/1/12
White, Elizabeth 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 5 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
 of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation 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. SEE DATES

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

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

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine:	\$
§ 14-1-206 (Assessments 107.5 %)	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100
§ 14-1-211(A)(2) (DUI Surcharge)	\$100
§ 56-5-2995 (DUI Assessment)	\$12
§ 56-1-286 (DUI Breath Test)	\$25
Proviso 47.9 (Public Def/Prob)	\$500
§ 14-1-212 (Law Enforce. Funding)	\$25
§ 14-1-213 (Drug Court Surcharge)	\$150
§ 50-21-114(BUI Breath Test Fee)	\$50
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea
Proviso 90.5 (SCCA Surcharge)	\$5
3% to County (if paid in installments)	\$
TOTAL	\$ 133.90

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

[Signature] Lynn W. Lancaster
[Signature] Joy Holston

IN THE COURT OF GENERAL SESSIONS

ROA 313

INDICTMENT/CASE#: 14GS30-1478

A/W#: 2014A3020400345

Date of Offense: 7/20/2014

S.C. Code § : 16-23-0490

CDR Code #: 0549

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

PTUP _____

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐

Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly
 pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

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

Presiding Judge

Judge Code: 2130

Sentence Date: 5/27/15

[Signature]
2130
5/27/15

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

ROA 314

COUNTY OF Laurens
 STATE VS.
Preston Shands Jr

AKA:

Race: AFRICAN AME Sex: M Age: 58DOB: SS#

Address:

City, State, Zip:

DL#: SID#:*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was
 TO: Assault / Assault & Battery, 1st degree

INDICTMENT/CASE#: 14GS30-1479A/W#: 2014A3020400346Date of Offense: 7/20/2014S.C. Code § : 16-03-0600CDR Code #: 3412

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADSin violation of § 16-03-0600 of the S.C. Code of Laws, bearing CDR Code # 3412

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS (CSC ☐ §17-25-45
 w/minor 1st or Lewd Act)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

White, Elizabeth

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of 10 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
 of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
 probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:

☒ 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. 311 Out

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

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

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

PTUP

Total: \$ _____ plus 20% fee: \$ _____

_____ days/hours Public Service Employment

Payment Terms: _____

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly
 pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

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

Recipient: _____

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ <u>100</u>
§ 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	\$ <u>25</u>
§ 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	\$ <u>5</u>
3% to County (if paid in installments)	\$	\$ <u>3.90</u>
TOTAL		\$ <u>133.90</u>

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

Presiding Judge

Judge Code:

Sentence Date:

2010
5/22/11

STATE OF SOUTH CAROLINA

COUNTY OF Laurens
 STATE VS.
Preston Shands Jr

AKA:

Race: AFRICAN AME Sex: M Age: 58DOB: SS#

Address:

City, State, Zip:

DL#: SID#*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was
 TO: Burglary (After June 20, 1985) - First degree

in violation of § 16-11-0311 of the S.C. Code of Laws, bearing CDR Code # 0079

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC §17-25-45
 w/minor 1st or Lewd Act)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.ATTEST: [Signature]White, ElizabethSC Bar#DefendantAttorney for DefendantSC Bar#

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of LIFE WITHOUT PAROLE 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. 311 Days

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

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

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine:	\$
§ 14-1-206 (Assessments 107.5 %)	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100
§ 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)	\$3.90
TOTAL	\$133.90

IN THE COURT OF GENERAL SESSIONS
ROA 315INDICTMENT/CASE#: 14GS30-1481A/W#: 2014A3020400348Date of Offense: 7/20/2014S.C. Code § : 16-11-0311CDR Code #: 0079

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

Presiding Judge

Judge Code:

Sentence Date:

[Signature]
2130
5/27/15

STATE OF SOUTH CAROLINA

COUNTY OF Laurens
 STATE VS.
Preston Shands Jr

AKA:

Race: AFRICAN AME Sex: M Age: 58DOB: SS#:

Address:

City, State, Zip:

DL#: SID#:*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was
 TO: Kidnapping

IN THE COURT OF GENERAL SESSIONS

ROA 316

INDICTMENT/CASE#: 14GS30-1482A/W#: 2014A3020400363Date of Offense: 7/20/2014S.C. Code § : 16-03-0910CDR Code #: 0095

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADSin violation of § 16-03-0910 of the S.C. Code of Laws, bearing CDR Code # 0095

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ § 17-25-45
 w/minor 1st or Lewd Act)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

White, Elizabeth

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 LIFE WITHOUT PAROLE 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. 30 Days

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

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

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS

Recipient: _____

*Fine:	\$
§ 14-1-206 (Assessments 107.5 %)	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100
§ 14-1-211(A)(2) (DUI Surcharge)	\$100
§ 56-5-2995 (DUI Assessment)	\$12
§ 56-1-286 (DUI Breath Test)	\$25
Proviso 47.9 (Public Def/Prob)	\$500
§ 14-1-212 (Law Enforce. Funding)	\$25
§ 14-1-213 (Drug Court Surcharge)	\$150
§ 50-21-114 (BUI Breath Test Fee)	\$50
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea
Proviso 90.5 (SCCA Surcharge)	\$5
3% to County (if paid in installments)	\$3.90
TOTAL	\$133.90

PTUP

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

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

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

Presiding Judge

Judge Code:

Sentence Date:

2130
5-27-15

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM LAURENS COUNTY
Court of General Sessions
Edward W. Miller, Circuit Court Judge

Court of Appeals Case No. 2015-001199

RECEIVED
SEP 01 2016
SC Court of Appeals

The State, ... Respondent

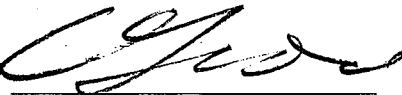
v.

Preston Shands, Jr., ... Appellant.

Rule 210(g), SCACR Certification

The Record on Appeal contains all material proposed to be included by any of the
parties and not any other material

Respectfully Submitted

By 

E. Charles Grose, Jr.
The Grose Law Firm, LLC
404 Main Street
Greenwood, SC 29646
(864) 538-4466

Attorney for Appellant

August 29, 2016
Greenwood, South Carolina