

VOLUME TWO OF TWO

STATE OF SOUTH CAROLINA  
COURT OF APPEALS

---

Appeal from Horry County  
Markley Dennis, Circuit Court Judge

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**ORIGINAL  
RECEIVED**

OCT 10 2016

SC Court of Appeals  
RESPONDENT,

THE STATE,

V.

MARQUIS MCDONALD,

APPELLANT

APPELLATE CASE NO. 2014-002181

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RECORD ON APPEAL

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1 doing, the person stood and the lawyer asked him to  
2 stand. And his response was, sir, you don't have to  
3 stand for me, I appreciate you doing it, but you don't  
4 have. Your lawyer has to because he's an officer of  
5 the Court, and that's the reason we have to stand.  
6 It's part of the formality that we have as a part of  
7 this process. But thank you, sir, for standing, I  
8 appreciate it. But if you want to be seated, you may  
9 be seated.

10 THE WITNESS: Thank you.

11 THE COURT: You have talked with your lawyer about  
12 your right to testify further after our discussion and  
13 my discussion with him about his objection concern  
14 about the conviction; is that correct?

15 THE WITNESS: Yes, sir.

16 THE COURT: He has advised me that it is still  
17 your desire to testify.

18 THE WITNESS: Yes, sir.

19 THE COURT: And I will assume that when in just a  
20 moment when we bring the jury out, I'm going to  
21 reiterate to them, remember, ladies and gentlemen, what  
22 I told you when we started. We now are at the point  
23 where the Defendant, while he doesn't have to prove or  
24 disapprove anything, they don't even have to present  
25 any evidence, but they still have the right to present

1 additional testimony if they choose.

2 Then I'm going to turn to your lawyer and I'm  
3 going to ask him, Mr. McCollum, does the Defendant wish  
4 to present any additional testimony for the jury's  
5 consideration. At that point he's going to call you.  
6 At that point it's final, okay. Well, it's final once  
7 you take -- raise your hand and you start testifying.

8 THE WITNESS: Yes, sir.

9 THE COURT: At any point between that when you  
10 raise your hand and you start testifying you change  
11 your mind, you just let your attorney know. I'll  
12 excuse the jury, and we'll return and have further  
13 discussion.

14 THE WITNESS: Okay.

15 THE COURT: If I don't hear anything from you,  
16 though, I'm going to assume that you stand by your  
17 decision and you're comfortable with that decision.

18 THE WITNESS: Yes, sir.

19 THE COURT: Is that fair?

20 THE WITNESS: Yes, sir.

21 THE COURT: Thank you so much. All right, let's  
22 bring in our jury, please.

23 (WHEREUPON, the jury came into open court at  
24 approximately 10:43 a.m.).

25 THE COURT: Thank you very much, ladies and

MARQUIS McDONALD-DIRECT BY MR. McCOLLUM

1 gentlemen. When we took our recess the State had  
2 concluded its evidentiary portion. As you recall,  
3 while the Defendant in this case has nothing to prove  
4 or disprove, as I told you, the only burden of proof,  
5 the only party with a burden of proof is the State, the  
6 Defendant still has a right to present any additional  
7 testimony for your consideration that he chooses to.

8 So, now, any additional testimony that the  
9 Defendant wishes to present at this point?

10 MR. McCOLLUM: Yes, Your Honor.

11 THE COURT: Very well. You may call your first  
12 witness.

13 MR. McCOLLUM: All right. Your Honor, at this  
14 time the defense calls Marquis McDonald.

15 THE COURT: Thank you, sir.

16 MARQUIS McDONALD, after being duly sworn,  
17 testified as follows:

18 CLERK OF COURT: Please be seated. State your  
19 full name, spell your last name for the Court, please.

20 THE WITNESS: Marquis McDonald, M-C-D-O-N-A-L-D.

21 DIRECT EXAMINATION

22 BY MR. McCOLLUM:

23 Q All right. Can you move that microphone just a  
24 little bit closer.

25 A (Complied.)

## MARQUIS McDONALD-DIRECT BY MR. McCOLLUM

- 1 Q All right. I don't want you to have to lean  
2 forward when you talk, but I want us to be able to hear  
3 you.
- 4 A Okay.
- 5 Q You kind of have a soft voice, so all right. Just  
6 state your name again.
- 7 A Marquis McDonald.
- 8 Q Okay, that's better. How are you doing today,  
9 Mr. McDonald?
- 10 A Fine.
- 11 Q All right. Are you nervous?
- 12 A Yes.
- 13 Q Now, where are you from originally, where did you  
14 grow up?
- 15 A Conway, South Carolina.
- 16 Q All right. Did you go to Conway High School?
- 17 A Yes, sir.
- 18 Q Okay. Did you finish?
- 19 A Yes, sir.
- 20 Q And does your family live here?
- 21 A Yes, sir.
- 22 Q And I think they were, your mother and your  
23 grandmother, some people here with us this week; right?
- 24 A Yes, sir.
- 25 Q All right. Now, in this particular case,

## MARQUIS McDONALD-DIRECT BY MR. McCOLLUM

1 obviously you've been charged with murder and armed  
2 robbery; right?

3 A Yes, sir.

4 Q And do you know somebody who has been referred to  
5 as Black?

6 A Yes, sir.

7 Q And how do you know Black; in other words, is he a  
8 distant cousin or something of yours?

9 A Yes, sir.

10 Q And explain how he's related to you.

11 A Well, his mother and my mother is first cousins.

12 Q Okay. On this particular evening, February the  
13 26th -- well, before I go any further, let me just ask  
14 you this. Do you have one prior felony conviction?

15 A Yes, sir.

16 Q You do?

17 A Yes, sir.

18 Q Okay. Now, on this particular evening, did you go  
19 to the Sunmart, I can't remember the exact name, the  
20 Sun Store or something like that?

21 A Yes, sir.

22 Q And did you go there with Black?

23 A Yes, sir.

24 Q Okay. At the time that you gave your statement,  
25 did you deny doing that?

## MARQUIS McDONALD-DIRECT BY MR. McCOLLUM

- 1 A Yes, sir.
- 2 Q And why was that?
- 3 A Because I was scared.
- 4 Q Okay. And at the time you gave your statement to
- 5 the police, you said that during the incident that you
- 6 had physically punched Black out of the passenger seat
- 7 of the car; right?
- 8 A Yes, sir.
- 9 Q Is that true?
- 10 A No, sir.
- 11 Q You said that it wasn't true; right?
- 12 A Yes, sir.
- 13 Q Okay. And do you know why you did that?
- 14 A Just scared, didn't know what to do.
- 15 Q All right. You also stated in your statement that
- 16 when you arrived at Coastal Carolina University, that
- 17 you arrived there without Black?
- 18 A Yes, sir.
- 19 Q Okay. Is that true?
- 20 A No, sir.
- 21 Q So did Black arrive there with you?
- 22 A Yes, sir.
- 23 Q Okay. Now, did you know Anthony Liddell?
- 24 A Yes, sir.
- 25 Q And what name did you know him by, or what did you

## MARQUIS McDONALD-DIRECT BY MR. McCOLLUM

1 call him?

2 A Ant.

3 Q Ant?

4 A Um-hum.

5 Q Is that like A-N-T short for Anthony?

6 A Yes, sir.

7 Q And how long did you know Ant?

8 A Two years.

9 Q Two years?

10 A Yes, sir.

11 Q Okay. And had you bought marijuana from him on  
12 previous occasions?

13 A Yes, sir.

14 Q And were you going there on February 26th to buy  
15 marijuana from him?

16 A Yes, sir.

17 Q And tell me about why you met him, where you met  
18 him.

19 A Because that's the -- that's the location we  
20 usually meet.

21 Q And you've been sitting here in the trial, and  
22 obviously you were there. When you arrived there, were  
23 you driving the Acura?

24 A Yes, sir.

25 Q And who's -- who was that car registered to?

## MARQUIS McDONALD-DIRECT BY MR. McCOLLUM

- 1 A My Uncle Doug.
- 2 Q Your Uncle Doug?
- 3 A Um-hum.
- 4 Q Is that a car that he let you use?
- 5 A Yes, sir.
- 6 Q When you drove into the apartment complex or the
- 7 student housing complex, what route did you drive --
- 8 did you use to come in there?
- 9 A I came off of 544 and turned by the store and went
- 10 straight and made a right into the complex, and I
- 11 parked.
- 12 Q When you parked, did you back the car in?
- 13 A No, sir.
- 14 Q Did you pull it into the parking space?
- 15 A Yes, sir.
- 16 Q And which direction was your car pointed, was it
- 17 pointed toward the residential building, or was it
- 18 pointed toward the tree line?
- 19 A The tree line.
- 20 Q And when you pulled in there, was Black in the car
- 21 with you?
- 22 A Yes, sir.
- 23 Q Was anybody else in the car when you drove up?
- 24 A No, sir.
- 25 Q At some point -- and do you remember if you left

## MARQUIS McDONALD-DIRECT BY MR. McCOLLUM

1 the car running or not?

2 A No, sir.

3 Q No, you didn't leave it running, or no, you don't  
4 remember?

5 A No, I didn't leave it running.

6 Q Okay. And did you have your phone with you?

7 A Yes, sir.

8 Q And as you were sitting in the car, were you  
9 sitting in the driver's seat?

10 A Yes, sir.

11 Q And where was Black sitting?

12 A In the passenger.

13 Q And as you were sitting there, at some point did  
14 Ant or Mr. Liddell, did he get into your car?

15 A Yes, sir.

16 Q And which part of the car did he get into?

17 A The back seat.

18 Q And once he got in the back seat, what did -- what  
19 was the purpose for him being there?

20 A To sell me the weed, the marijuana.

21 Q All right. And was the -- was there some  
22 discussion about the quality of the marijuana?

23 A Yes, sir.

24 Q And from that discussion did you think that Black  
25 was somehow dissatisfied with the quality of the

MARQUIS McDONALD-DIRECT BY MR. McCOLLUM

1 marijuana?

2 MR. RICHARDSON: Your Honor, I am going to object  
3 to the leading questions.

4 THE COURT: Sustained.

5 MR. McCOLLUM: All right.

6 Q In terms of you're there -- let me just say it  
7 this way. Just briefly tell me what happened starting  
8 with when Ant got in the car.

9 A Well, he got in the car, we shook hands and we  
10 started talking. He handed me the weed and I asked  
11 Black for his -- to use his scale, and he said, okay.  
12 So I put the scale on the middle console, and I put the  
13 weed, was weighing the weed. He was like, well, yeah,  
14 this is some good stuff.

15 So I said, okay, well, you know, it looked kind of  
16 strange, usually the good weed will be in balls. So he  
17 said, no, it smoke real good, I sell it to my friends  
18 up here for like \$30 a gram. So I said, okay. And  
19 then Black was like, well, you selling it 35 -- \$30 a  
20 gram, that's kind of high. He was like, no, that's how  
21 good it is.

22 MR. RICHARDSON: Your Honor, I'm going to object  
23 to any hearsay that he's testifying to, about what  
24 Black said or what Anthony said.

25 THE COURT: I'll sustain the objection if that's

MARQUIS McDONALD-DIRECT BY MR. McCOLLUM

1 what you want to do. Sustain the objection.

2 Q At some point, did any kind of argument occur?

3 A Yes, sir.

4 Q And who was arguing?

5 A Black and Ant.

6 Q Black and what was the other?

7 A Anthony.

8 Q And were you arguing?

9 A No, sir.

10 Q Okay. And as you sat there, what were they  
11 arguing about?

12 A It was from -- it was like he was arguing about  
13 the weed, about how he was coming off and how Anthony  
14 was coming off to Black about the weed.

15 Q Did Black appear to think that he was being ripped  
16 off or cheated or something?

17 A No.

18 Q Okay. How far did the argument go between Ant, or  
19 Anthony, and Black?

20 A It went very far. It escalated out of hand for no  
21 reason.

22 Q All right. Did Black become mad or angry?

23 A Yes.

24 Q And without saying what the parties said, what was  
25 Black mad about?

## MARQUIS McDONALD-DIRECT BY MR. McCOLLUM

1 A Because he felt like he was -- he felt like  
2 Anthony was trying to act hard or act like something he  
3 wasn't, because he was selling the weed at a high  
4 price.

5 Q Now, when you say that Anthony was trying to act  
6 like he was hard, what does that mean?

7 A It just -- he's very confident in his weed, which  
8 everyone should be, well, if you going to purchase or  
9 sell marijuana.

10 Q And did Black -- was Black in any way challenged  
11 by Anthony's attitude or appearing hard or confident or  
12 whatever he was appearing?

13 A Yes.

14 Q And how did Black take that, did he -- how did he  
15 react, how did he take being offended?

16 A He got mad, and he was just trying to prove his  
17 ego. So as he tried to prove his ego, he was -- he  
18 just thinking that he's a small schoolboy, and he  
19 trying to act tough, like a tough guy. So he pulled a  
20 gun out just to show him like I can just take your weed  
21 and you not do nothing about it.

22 So when he pulled his gun out to try to just be  
23 like, well, you need to get up out the car, I'm taking  
24 this, I can take this. And Ant was like, you ain't  
25 taking nothing, so --

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1 Q All right. And did you know that Black was going  
2 to do that?

3 A No.

4 Q Did you go there with the intention of robbing Ant  
5 of the marijuana?

6 A No, not at all.

7 Q Now, what happened next?

8 A When he pulled out the gun and said, you know, I  
9 can take your weed because, you know, you ain't built  
10 like that, Ant was like, no, you can't take nothing.  
11 So when he pulled out the gun, he just grabbed the gun.  
12 And when they start tussling over the gun, the gun went  
13 off and it hit my seat and shook my seat. And my cell  
14 phone, my cigarettes, everything was in my lap, and I  
15 dove out the car.

16 When I dove out the car, I got up. And then when  
17 I got up I seen Ant still struggling with the gun with  
18 his feet outside the car. When he's trying to pull the  
19 gun away from him, I hear two more gunshots, boom,  
20 boom. So when the gunshots occurred, Ant let the gun  
21 go and just walked off from the car. And I got back in  
22 the car and I left.

23 Q To your knowledge, did the bullets pass through  
24 the seat that you had been sitting in, the driver's  
25 seat?

## MARQUIS McDONALD-DIRECT BY MR. McCOLLUM

1 A It hit my headrest and shook it.

2 Q Did that scare you?

3 A Yeah.

4 Q Did that startle you?

5 A Yes.

6 Q Okay. And tell us again, where were your  
7 cigarettes?

8 A They was in my lap.

9 Q And where was your phone?

10 A In my lap.

11 Q So you were just sitting there with stuff in your  
12 lap?

13 A Yes, sir.

14 Q And you jumped out of the car?

15 A Dived out the car.

16 Q All right. And when you got out of the car, this  
17 is kind of an obvious question, but did you open the  
18 door?

19 A Yes.

20 Q So your car door was opened?

21 A Yes.

22 Q On the front driver's side of the Acura?

23 A Yes.

24 Q All right. And this is kind of, some of these  
25 questions are going to just kind of seem stupid, but

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1 this is the way we have to do it sometimes. When  
2 Anthony got out of the car, he opened his own car door?

3 A Yes.

4 Q And so when the shooting occurred or when you  
5 heard shots fired, was the back car door on the  
6 driver's side open?

7 A Yes.

8 Q Okay. And was Anthony, was he inside the car or  
9 outside the car or was he both, if you remember? If  
10 you don't remember, you don't remember.

11 A You said after the first shot?

12 Q To the best of your knowledge, did you -- to the  
13 best of your knowledge, if you know, where was Anthony  
14 when the shots were fired?

15 A When the first shot was fired, he was in the car.

16 Q Okay.

17 A But when the second shots were fired when I got up  
18 off the ground, he was -- he was still reaching in from  
19 the car, but his feet was on the ground. He was moving  
20 from in the car, but he was still trying to grab the  
21 gun.

22 Q All right. And so Anthony's hands were inside the  
23 car?

24 A Yes.

25 Q And how was he positioned; in other words, in

## MARQUIS McDONALD-DIRECT BY MR. McCOLLUM

1 terms of the struggle with Black, was Anthony's --

2 which side of Anthony's body was facing toward Black?

3 A Well, his middle chest was like -- his left foot  
4 front was in his right foot backwards trying to pull  
5 the gun.

6 Q And did you have any idea that Black was going to  
7 pull a gun?

8 A No.

9 Q Did you have any idea that he was going to shoot  
10 anybody?

11 A None.

12 Q After this occurred, what did you do?

13 A I got in the car and I left, I fled the scene.

14 Q And during this struggle, did you actually grab  
15 the gun and try to pull it away from either Ant or from  
16 Black?

17 A No.

18 Q Did you tell the police that you did that?

19 A Yes.

20 Q And why would you tell them that?

21 A Because just trying to -- just trying to put more  
22 to it, like I didn't -- to show them that I didn't have  
23 nothing to do with it.

24 Q After -- well, when you -- you're the one that  
25 drove off; right?

## MARQUIS McDONALD-DIRECT BY MR. McCOLLUM

1 A Yes, sir.

2 Q And your phone, your cigarettes were laying on the  
3 ground next to the car; right?

4 A Yes, sir.

5 Q And when you drove off, did you know at that time,  
6 you knew there had been gunfire, did you know that Ant  
7 or Anthony Liddell had been hit by the bullets?

8 A No, sir. He walked away from the car.

9 Q Okay. So you saw him walking?

10 A Yes, sir.

11 Q Correct?

12 A Yes, sir.

13 Q And so you thought since he was walking that he  
14 wasn't shot?

15 A Yes, sir.

16 Q So if you know somebody was shooting at him, why  
17 would you think he wasn't shot?

18 A Because I'm thinking if someone gets shot, the  
19 first thing they do is drop.

20 Q Like in the movies?

21 A Yes, sir.

22 Q And so you backed the car out?

23 A Yes, sir.

24 Q And turned and drove off?

25 A Yes, sir.

## MARQUIS McDONALD-DIRECT BY MR. McCOLLUM

1 Q And was Black in the car?

2 A Yes, sir.

3 Q And where did you and Black go?

4 A Back to Roland house.

5 Q To Roland's house. Roland Crooms; right?

6 A Yes, sir.

7 Q And when you got to Roland's house, what did you  
8 do?

9 A When I pulled up, I got out the car and walked in.  
10 Roland apartment.

11 Q And you just got out of the car and went in?

12 A Yes, sir.

13 Q And what did Black do?

14 A I left him in -- well, I left him when he was  
15 getting out the car, I just left him, I got out the car  
16 first and walked in there.

17 Q Were you upset?

18 A Yes, very.

19 Q And what were you upset about?

20 A Because that was very unnecessary.

21 Q And at that point did you tell Roland what had  
22 happened?

23 A No.

24 Q Did you say anything to Black afterward or when  
25 you got to Roland's house or when you were getting out

MARQUIS McDONALD-DIRECT BY MR. McCOLLUM

1 of the car?

2 A When I got out the car and when he finally came  
3 into the house, he's like, yo, don't say nothing, don't  
4 say nothing to nobody now. I was like, man, you  
5 tripping man, I'm not -- I walked back out the house,  
6 got back in my car and left.

7 Q All right. And you left Black there?

8 A Yes.

9 Q Okay. Now, at this time, did you know that Ant  
10 had been struck and shot by the bullets?

11 A No.

12 Q At some point later did you find out that he had  
13 in fact been shot?

14 A Yes.

15 Q And did you in fact find out not only had he been  
16 shot, but that he had died as a result of it?

17 A Yes.

18 Q And how did you find that out?

19 A When I called up my girlfriend and she told me it  
20 had been on the news and stuff like that.

21 Q And then also you learned that the police were  
22 looking for you?

23 A Yes.

24 Q Right? And so at some point did you speak to any  
25 of your relatives?

## MARQUIS McDONALD-DIRECT BY MR. McCOLLUM

1 A Yes.

2 Q And I think you -- did you call an uncle or  
3 somebody that you consider an uncle?

4 A Yes.

5 Q And what's his name?

6 A Tyrone Williams.

7 Q All right. And what did you do as a result of  
8 talking to him?

9 A I turned myself in.

10 Q And you turned yourself in in Conway?

11 A Yes.

12 Q Okay. Do you know how many times that you and Ant  
13 had met to either just meet and talk or to buy and/or  
14 sell marijuana?

15 A No, sir. A lot.

16 Q Did you have any kind of hatred or ill will for  
17 Ant?

18 A None.

19 Q Did you like him?

20 A Yeah.

21 Q At some point, I mean, you knew somebody had been  
22 shot at; right?

23 A Yes.

24 Q And you didn't have your phone, but when you got  
25 to Roland's house, you could have called the police;

## MARQUIS McDONALD-DIRECT BY MR. McCOLLUM

1 right?

2 A Yes.

3 Q And you didn't do that; right?

4 A No, sir.

5 Q As far as you know, after the incident what  
6 happened to the gun, in terms of did Black have the  
7 gun?

8 A Yes, he had the gun.

9 Q And what did he do with it?

10 A I don't have no clue.

11 Q What happened to Ant's cell phone?

12 A I don't know.

13 Q All right. When you went into Roland's house, do  
14 you know how long Black stayed in your car?

15 A No, sir. I was just pacing and mad and upset.

16 Q And then when you got in your car and left Black  
17 there, at some point did you take the car back to your  
18 uncle?

19 A Yes.

20 Q Okay. Did you leave it at his house?

21 A Yes.

22 Q Is there any -- now, when you went to meet with  
23 Anthony Liddell, clearly that was for some type of  
24 marijuana transaction; right?

25 A Yes, sir.

## MARQUIS McDONALD-DIRECT BY MR. McCOLLUM

1 Q And did Black know that there was going to be a  
2 marijuana transaction?

3 A Yes, sir.

4 Q Okay. And so is it safe to say that you and Black  
5 had arranged to go do that together; right?

6 A To go buy the weed?

7 Q Yeah.

8 A Yes, sir.

9 Q Okay. Because you knew you were going to buy the  
10 weed; right?

11 A Yes, sir.

12 Q And he knew you and he were going to buy the weed;  
13 right?

14 A Yes, sir.

15 Q Okay. Was there ever any indication to your  
16 knowledge prior to the shooting that you and Black were  
17 going to rob Anthony Liddell?

18 A No, sir, none.

19 Q Did you go there with any intention whatsoever to  
20 rob him?

21 A None.

22 Q Did you go there with any intention to try to kill  
23 him and murder him?

24 A None.

25 MR. McCOLLUM: Thank you, Your Honor. Those are

## MARQUIS McDONALD-CROSS BY MR. RICHARDSON

1 all the questions I have.

2 THE COURT: You may cross-examine, solicitor.

3 MR. RICHARDSON: Thank you, Your Honor.

4 CROSS-EXAMINATION

5 BY MR. RICHARDSON:

6 Q What day was it that you learned that Anthony had  
7 been murdered?

8 A Probably two days later.

9 Q Two days later. So you didn't see the stories on  
10 CNN?

11 A No. The trailer I was at ain't had no  
12 electricity, no cable, no nothing.

13 Q Where was that?

14 A On Highway 90.

15 Q On Highway 90. When did you go to Highway 90?

16 A The two days afterwards.

17 Q You went and stayed there for two days afterwards?

18 A No. I went there two days afterwards.

19 Q Okay. That's the trailer that didn't have no  
20 electricity or anything?

21 A Yes, sir.

22 Q So where you were at two days before you had  
23 electricity?

24 A I went from there, I went from my girlfriend  
25 house, she was arguing so I went to Lynette house and

## MARQUIS McDONALD-CROSS BY MR. RICHARDSON

1 stayed. And then after I left Lynette house, I went to  
2 Highway 90.

3 Q You didn't hear any word on the street about a  
4 murder?

5 A I didn't have my cell phone.

6 Q Speaking of cell phone, you went and just got a  
7 new cell phone at what was it, Dollar Tree?

8 A Yes, sir.

9 Q The next day?

10 A Yes, sir.

11 Q Okay. And Mr. McCollum asked you about, you could  
12 have borrowed Roland's phone to make a call; right?

13 A Yes, sir.

14 Q Actually, you did borrow Roland's phone that  
15 Wednesday, didn't you, made a couple calls when you  
16 went and saw Roland?

17 A Yes, sir.

18 Q And then on that Thursday you borrowed his phone  
19 because you hadn't got your phone at the Dollar Tree  
20 yet; correct?

21 A No, sir.

22 Q You didn't borrow his phone that day?

23 A No, sir.

24 Q But you did go to Roland's on that Thursday?

25 A No, sir.

## MARQUIS McDONALD-CROSS BY MR. RICHARDSON

1 Q You didn't, okay. When you went to Doug's house,  
2 that's over in Jamestown; right?

3 A On Temple Street.

4 Q Temple Street, Jamestown. No doubt about it,  
5 that's his car?

6 A Yes, sir.

7 Q You were driving?

8 A Yes, sir.

9 Q You drove from the Sunhouse to Coastal Carolina  
10 University that night?

11 A Yes, sir.

12 Q And you were the one that was texting with Anthony  
13 Liddell?

14 A Yes, sir.

15 Q State's No. 12, no doubt about it, that's your  
16 cell phone?

17 A Yes, sir.

18 Q And any records on that cell phone are yours?

19 A Yes, sir.

20 Q Any texts out from it are yours?

21 A Yes, sir.

22 Q Where were you working at the time of this crime?

23 A Well, I was on and off working with my uncle, he  
24 owned a landscaping company, cutting grass and stuff  
25 like that.

## MARQUIS McDONALD-CROSS BY MR. RICHARDSON

1 Q So you didn't have a solid job at the time?

2 A No, sir.

3 Q Okay. When you went to go speak with the police,  
4 that's three and a half days after the murder; right?

5 A Yes, sir.

6 Q So you didn't call him Wednesday, Thursday, Friday  
7 morning?

8 A Yes, sir.

9 Q It wasn't until Friday afternoon?

10 A Friday sometime. I'm not accurate.

11 Q During that whole time, you had possession of that  
12 Acura; didn't you?

13 A No, sir.

14 Q You had access to the Acura?

15 A No, sir.

16 Q Was that a car you frequently drove?

17 A No, sir.

18 Q It's not. You just happened to drive it that one  
19 night?

20 A No. I be driving it on like -- if I call him and  
21 ask him if he not working and if he not busy, he might  
22 let me get it, he might not.

23 Q But no doubt about it, the police didn't have that  
24 car for three days?

25 A I don't know.

## MARQUIS McDONALD-CROSS BY MR. RICHARDSON

1 Q You told the police where to find the car; didn't  
2 you?

3 A Yes, sir.

4 Q Okay. So you knew where it was?

5 A The last location to where I had it, where I left  
6 it.

7 Q When you went and talked with State Law  
8 Enforcement Division --

9 A Um-hum.

10 Q -- you didn't know what evidence they had; did  
11 you?

12 A No, sir.

13 Q You knew you dropped your cell phone there; right?

14 A I know I lost my cell phone.

15 Q Okay. You knew you lost your cell phone. Did you  
16 remember the last time you had it?

17 A Not accurately because I was -- my mind wasn't  
18 thinking right.

19 Q So you didn't know what the police had?

20 A Yes, sir.

21 Q You didn't know about any witness statements they  
22 had?

23 A No, sir.

24 Q Didn't know about the video they were going to get  
25 from the Sunhouse; did you?

## MARQUIS McDONALD-CROSS BY MR. RICHARDSON

1 A No, sir.

2 Q And you told a completely different story when you  
3 spoke with them?

4 A Yes, sir.

5 Q But since that time you know what the police have,  
6 what evidence they have?

7 A Yes, sir.

8 Q And you've heard the testimony here in court  
9 during the week; haven't you?

10 A Yes, sir.

11 Q And now you tell a completely different story?

12 A The truth.

13 Q Let's look at that Miranda form and your  
14 statement. I'm sorry, I actually think we had one that  
15 we've entered into evidence; I'll have him read from  
16 that one. Here we go.

17 THE COURT: 32.

18 MR. RICHARDSON: Thank you, Your Honor. 33 is  
19 what I have.

20 THE COURT: 33, right.

21 Q State's-33, can you read that typed portion down  
22 right here.

23 A I have read -- I have read each page of the  
24 statement consist of two pages. Each page of these  
25 bears my signature, and corrections, if any, bears my

## MARQUIS McDONALD-CROSS BY MR. RICHARDSON

1 initials. And I certify that the facts contained  
2 herein are true and correct.

3 Q Okay. So you certified then that that was true  
4 and correct?

5 A Yes, sir.

6 Q And now you're telling us you lied to the police?

7 A Yes, sir.

8 Q You didn't tell the police the identity of Black?

9 A Yes, sir.

10 Q You told them you didn't even know him?

11 A Yes, sir.

12 Q Black's your cousin, he's shorter than you are;  
13 right?

14 A No. We like the same height.

15 Q How tall are you?

16 A Six foot.

17 Q You're six foot. Black's five-ten; isn't he?

18 A I don't know, sir. We like the same height.

19 Q Five-ten would be shorter than you. Black is  
20 Stephon McLain, no doubt about it?

21 A Yes, sir.

22 Q And at no point did you call 911?

23 A No, sir.

24 Q At no point did you call police prior to the  
25 afternoon of Friday, March 1st, 2013?

## MARQUIS McDONALD-CROSS BY MR. RICHARDSON

1 A No, sir.

2 Q And you said that -- you said today that Anthony  
3 was leaned into the car, hand on the gun when he was  
4 shot?

5 A He had his hands around the gun.

6 Q He had his hands around the gun.

7 MR. RICHARDSON: Mr. Hyman, can you come up here.

8 Q I just want to make sure we have it right for the  
9 jury.

10 A All right.

11 Q So you said his feet were on the ground outside  
12 the door.

13 MR. RICHARDSON: Could you stand right there,  
14 Mr. Hyman, and face me.

15 Q You said his feet are on the ground outside the  
16 car; correct?

17 A Yes, sir.

18 Q And so where is Black at this point?

19 A In the passenger seat.

20 Q In the passenger seat. And he's seated?

21 A Yes, sir.

22 Q Okay. So Anthony is leaned over grabbing the gun  
23 that Black has?

24 A Shift that way.

25 Q Which way?

## MARQUIS McDONALD-CROSS BY MR. RICHARDSON

1 A This way (indicating).

2 Q This way?

3 A No. Both of y'all shift.

4 Q Okay. Like this?

5 A No, not in front of each other, shift like you in  
6 the back seat of that car.

7 Q Okay.

8 A No, man, shift. Put your body on this side, y'all  
9 just do the opposite. Yeah, right here. No, no. Go  
10 back this way. Pretend like this the car, you're in  
11 the passenger seat. Okay.

12 Q We'll make it a lot easier.

13 MR. RICHARDSON: Sorry about that, Your Honor. I  
14 thought it would slide. Let's do this, there's a  
15 console in the middle. Mr. Hyman, could you take a  
16 seat right there.

17 Q This is the back seat; right?

18 A Yes, sir.

19 Q And you just testified that when -- not when the  
20 first shot was fired but the next shots that are fired  
21 that Anthony's got his feet on the ground outside the  
22 car; right?

23 A When I got up off the ground, yes, sir.

24 Q Okay. He's got his feet on the ground and he's  
25 reached in grabbing the gun.

## MARQUIS McDONALD-CROSS BY MR. RICHARDSON

1 MR. RICHARDSON: Mr. Hyman, can you turn around  
2 right here.

3 Q So he's got the gun like this (indicating)?

4 A Yes, sir.

5 Q Okay. And so he shot this way (indicating)?

6 A No. Put your head up, put both hands on the gun.

7 Q I can't do that right now. But we can imagine my  
8 other hand's on the gun. So he's got both hands on the  
9 gun in this position?

10 A Yes, sir. And you pulling back -- and you moving  
11 back trying to get out the car.

12 Q Okay. So he was moved back, he was leaned over  
13 holding the gun?

14 A Pulling for the gun.

15 Q Pulling for the gun. And he's moving backwards,  
16 leaned over. Okay. When you got to Roland's house,  
17 was he there?

18 A Yes, sir.

19 Q He wasn't working at Waffle House on his 9 o'clock  
20 shift that night?

21 A No, sir.

22 Q Okay. Did you ride away with the weed?

23 A Yes, sir.

24 Q And those windows didn't get blown out or  
25 anything; right?

## MARQUIS McDONALD-CROSS BY MR. RICHARDSON

1 A No, sir.

2 Q Those windows are tinted; correct?

3 A Yes, sir.

4 Q Dark tint, okay.

5 MR. RICHARDSON: No further questions, Your Honor.

6 THE COURT: Very well. Redirect?

7 MR. McCOLLUM: I don't have any other questions,  
8 Your Honor.

9 THE COURT: Thank you, sir. You may step down,  
10 Mr. McDonald.

11 (Witness excused.)

12 THE COURT: Do you have any additional witnesses,  
13 Mr. McCollum?

14 MR. McCOLLUM: Your Honor, the defense rests.

15 THE COURT: Very well. Is there any reply  
16 testimony, solicitor?

17 MR. RICHARDSON: No, sir, Your Honor.

18 THE COURT: Thank you. Ladies and gentlemen, that  
19 would conclude the evidentiary portion of this process.  
20 There are still some matters of law now that I have to  
21 take up out of your presence. I'm going to ask you to  
22 go to your jury room. Don't begin your deliberations  
23 because it still would be inappropriate for you to  
24 discuss this case among yourselves.

25 When we return we will then complete the final two

1 portions. As you recall, the attorneys have a second  
2 opportunity to speak to you, and then I will give you  
3 the law. But, please, until you are given an  
4 instruction to begin your deliberations, do not  
5 individually or collectively discuss the case and  
6 decide any of the issues. We'll be with you as quickly  
7 as we can, thank you.

8 (WHEREUPON, the jury exited the courtroom at  
9 11:18 a.m.)

10 THE COURT: Any matters from the State at this  
11 point?

12 MR. RICHARDSON: No, sir, Your Honor.

13 THE COURT: Mr. McCollum?

14 MR. MCCOLLUM: Your Honor, at this time on behalf  
15 of the Defendant, Marquis McDonald, the defense would  
16 renew all objections previously made, renew all motions  
17 before the Court. At this time, Your Honor, I'd also  
18 renew the motion for a directed verdict of not guilty  
19 regarding the charge of armed robbery and the charge of  
20 murder.

21 THE COURT: Thank you, sir. Certainly, and we  
22 dealt with it the last time I articulated the reasons  
23 for the murder and the armed robbery. Now that the  
24 Defendant has testified, obviously we now have his  
25 testimony, and we also have further testimony that the

1 marijuana was taken away from the scene, which clearly  
2 now establishes another item of property in addition to  
3 the cell phone.

4 And, again, I'll have to -- that's a -- the jury  
5 could conclude that based on the testimony of believing  
6 some parts of a witness' testimony and not all of a  
7 witness' testimony. And I have to consider it in the  
8 light most favorable to the State, so I would  
9 respectfully deny your motions. And also the rulings  
10 previously made, I would stand by those rulings.

11 MR. McCOLLUM: Very well, Your Honor.

12 THE COURT: Thank you. And I think you've  
13 addressed and I think the hand of one part that you  
14 raised really does deal with that. And you brought out  
15 that, that it was -- if the jury concludes the only  
16 deal was to buy marijuana, then obviously he's no  
17 longer involved in a murder or an armed robbery or  
18 both.

19 But likewise, the State from the reasonable  
20 inferences to be drawn from it and credibility being a  
21 major issue can conclude that, yes, he was very much  
22 involved in it. And by his actions then, because we  
23 have testimony of someone striking the victim who was  
24 positioned where the driver would have been.

25 And so clearly if a jury concludes that, they

1 could believe that he was very much involved because he  
2 indicated he had no animosity or ill will, so there's  
3 no reason for him to strike the Defendant other than to  
4 perform -- to take the marijuana which led to then the  
5 other. And I think that's where we get into that gray  
6 area about hand of one and hand of all.

7 But there are a number of cases that cite if a  
8 murder is committed in the performance of an armed  
9 robbery, that would -- the hand of one and hand of all  
10 would support a conviction for murder notwithstanding  
11 the person did not actually fire the weapon.

12 So thank you very much. Okay. And I will charge  
13 the felony, I've incorporated that as an additional  
14 basis. I'm going to charge the weapon since there's no  
15 evidence of any self-defense here, charge that the use  
16 of a weapon is inference of malice as well as a  
17 commission of a felony likewise raises the inference of  
18 malice.

19 MR. RICHARDSON: Yes, sir, Your Honor.

20 THE COURT: But also add the part that says that's  
21 an inference they would consider, they weigh it and  
22 they can just -- they don't have to follow it if they  
23 don't want to.

24 Now, I could remove the statement, I don't think I  
25 need to go into any charge on the statement and the

1 voluntariness of the statement. Because he's testified  
2 and I think that negates that from having to be charged  
3 to the jury. Any objection from the State?

4 MR. RICHARDSON: Just I would request the charge  
5 on the inconsistent statements, Your Honor.

6 THE COURT: Well, I'm going to charge that, that  
7 in the credibility of a witness, was the testimony of  
8 the witness consistent or inconsistent. That's what I  
9 say about that. And you can elaborate all you want on  
10 that in your argument.

11 MR. RICHARDSON: Yes, sir.

12 THE COURT: Okay. Anything else?

13 MR. McCOLLUM: No, Your Honor.

14 THE COURT: All right. How long you need before  
15 we --

16 MR. RICHARDSON: Your Honor, if we could have  
17 about 15 minutes just to kind of get our feet up under.

18 THE COURT: You got it, no problem.

19 MR. RICHARDSON: Thank you, Your Honor.

20 THE COURT: I'll be back at about 25 to 12.

21 MR. McCOLLUM: Your Honor, I would just inquire,  
22 are they going to open on the law or just --

23 THE COURT: That's a good inquiry. You going to  
24 open on the law, or you just going to waive it --

25 MR. RICHARDSON: Your Honor, I'll just call

1 them -- I'll do it in one big bite.

2 THE COURT: All right, that's fine. Thank you  
3 very much. We'll be at ease.

4 (WHEREUPON, a brief recess was taken at  
5 11:23 a.m.)

6 THE COURT: Let the record reflect Mr. McDonald is  
7 present.

8 Solicitor, I will also probably charge if I  
9 understand, that just as I charge that a firearm is a  
10 weapon, I will charge as well illegal drugs may be the  
11 subject of an armed robbery.

12 MR. RICHARDSON: Thank you, Your Honor..

13 THE COURT: So there's no question about it being  
14 proper.

15 MR. RICHARDSON: Yes, sir, Your Honor..

16 THE COURT: Okay.

17 MR. McCOLLUM: Your Honor, obviously I plan to  
18 talk about Your Honor's instruction.

19 THE COURT: Sure.

20 MR. McCOLLUM: The solicitor does too. And he's  
21 got a couple of visual aids that he's going to put up,  
22 so is that --

23 THE COURT: I don't have a problem with it.

24 MR. McCOLLUM: Okay.

25 THE COURT: In fact, I'm not there yet, we could

1 talk about this. I think the day is coming when we're  
2 going to give the charge visually, so that the charge  
3 to the jury -- in fact, I know that Judge Newman does  
4 it as a matter of course now. I will give the charge  
5 to the jury when they ask for a recharge so they can  
6 see it and read it.

7       Because the problem that we have, and that's why  
8 we as lawyers spend money and energy to get visual  
9 obviously exhibits, because we know that if a person  
10 was visual, not auditory but visual, we can talk all  
11 day long, but they're not -- it's not going to sink in  
12 until they can actually see it. So I don't have any  
13 problem. It obviously will not go back to the jury.  
14 Again, I'm going to iterate, reiterate that your  
15 remarks, his remarks are not evidence.

16       And I will also, part of my charge, anything that  
17 either of you state is the law, and it's kind of  
18 preposterous to say that I'm -- my knowledge is  
19 superior to yours, it's not. And I know that and you  
20 know that. It's just my position, I'm the person who  
21 gets the final say right now. And I've even added this  
22 to my charge because we know that I'm not the sole  
23 judge of the law in this case. Columbia is. That's  
24 where the -- so I say for purposes of the proceeding  
25 today, I'm the sole judge of the law. And I think

1 that's a more accurate statement because it changes  
2 dramatically once it leaves this courtroom.

3 But anyway, having said that, I think it covers  
4 and protects you and protects your client. But if you  
5 want to object to it, feel free to. But I will  
6 overrule the objection more than likely.

7 MR. McCOLLUM: Okay, good. I don't want to  
8 object.

9 THE COURT: I know. I just wanted to give you an  
10 indication of that so you can make a strategic call as  
11 to whether you want to do it or not.

12 MR. McCOLLUM: Thank you.

13 THE COURT: Thank you.

14 MR. RICHARDSON: Thank you, Your Honor.

15 THE COURT: Okay. All right, let's bring in our  
16 jury, please.

17 (WHEREUPON, the jury came into open court at  
18 approximately 11:41 a.m.)

19 THE COURT: Thank you very much, ladies and  
20 gentlemen. We're now moving into the third phase of  
21 this process where you will hear from the attorneys  
22 now. And unlike the opening statement, you have heard  
23 the evidence. And of course it's that evidence that  
24 you ultimately will analyze very shortly when you begin  
25 your -- are instructed to begin your deliberations.

1 But it's very proper for the attorneys as officers  
2 of this court to discuss the evidence with you and  
3 suggest reasonable inferences that you may draw from  
4 that evidence. Please remember, though, that their  
5 remarks, while extremely beneficial and very important,  
6 they should not be considered evidence in any fashion.

7 Following the closing arguments, I will then  
8 instruct you on the law. And, again, you will not hear  
9 any evidence during that process either.

10 I also would inform you that we are ordering lunch  
11 for you, that should be here by the time we complete  
12 these two processes, so you can go ahead and have your  
13 lunch and deliberate -- and begin your deliberation as  
14 well. So thank you very much for your attention. I  
15 know it's almost 12 o'clock and we'll probably take an  
16 hour, an hour and a half to complete it. So we'll have  
17 it for you when you finish. So thank you very much.

18 As I understand, the State waives its opening; is  
19 that correct, on the law?

20 MR. RICHARDSON: Waive the opening on the law.

21 THE COURT: Very well. Mr. McCollum.

22 MR. MCCOLLUM: May it please the Court?

23 THE COURT: Yes, sir.

24 MR. MCCOLLUM: Thank you, Your Honor. Ladies and  
25 gentlemen of the jury, I want to thank you for your

1 service in this case. And I want you to think back  
2 when the case started. I stood right here just a few  
3 days ago and said that Marquis McDonald is not guilty  
4 of murder and armed robbery, okay. I said that the  
5 State did not elect to charge him with buying or  
6 selling or attempting to possess marijuana with intent  
7 to distribute it.

8 The State also did not elect to charge him with  
9 what's called accessory, in other words, accessory  
10 after the fact or accessory to a crime or doing  
11 something wrong after a crime has occurred. In  
12 addition, I said that the State initially would say  
13 that Marquis McDonald shot and killed Anthony Liddell.  
14 But then they would change that to if he didn't shoot  
15 him or he didn't shoot him, then he's still guilty  
16 because of hand of one is the hand of all.

17 And I told you that for the hand of one to be the  
18 hand of all, for someone to be guilty under that  
19 theory, then there had to be a prior arrangement, a  
20 prior plan, to do the robbery. It cannot be a prior  
21 plan to buy marijuana or do a marijuana deal. It can't  
22 even be a prior plan that if something terrible happens  
23 that I don't know what's going to happen, I'm going to  
24 do some improper steps, okay. It's got to be a plan to  
25 rob somebody, as one of the officers described it, a

1 rip or something like that, okay. So that's not there.

2 The State has the burden of proof. His Honor will  
3 tell you that in any criminal case the State has the  
4 burden of proof. In other words, they have to prove  
5 that Marquis McDonald committed a murder or committed  
6 an armed robbery.

7 The judge also tells you that standing here today  
8 seated in this courtroom, Marquis McDonald is presumed  
9 innocent, that he comes in here with a presumption of  
10 innocence that we all carry with us, and that the State  
11 must prove armed robbery and murder beyond a reasonable  
12 doubt.

13 Now, beyond a reasonable doubt is something that  
14 His Honor will define, okay. And beyond a reasonable  
15 doubt means that -- and the courts have tried to define  
16 this for a long time. Currently I think His Honor will  
17 tell you that it would cause a person to hesitate or  
18 hesitate to act.

19 And I would say that in order to understand that,  
20 if we were -- if we were going to make an important  
21 decision about a relative in order, let's say, to have  
22 some surgery or something that was extremely important.  
23 And we met with the doctor, and then we just didn't  
24 feel quite right about it, so we wanted to get a second  
25 opinion or something of that nature. Then we would

1 have a reasonable doubt, because we'd be hesitant.

2       You know, if you're talking to a grandmother or  
3 sometimes like, you know, grandmom, I'm just hesitant,  
4 I'm not sure this is the right thing to do, let's get a  
5 second opinion. That's a reasonable doubt.

6       Another way to look at it is this, in order to  
7 arrest somebody and charge a somebody with a crime, the  
8 State has to have probable cause. And that just means  
9 that it's a little bit more than suspicious. There's  
10 some fact or combination of facts which you think, make  
11 you think that somebody may have done something. They  
12 are suspect, they are -- it's suspicious, they're  
13 suspected.

14       To go from there, which is what it takes to get in  
15 here, okay, the probable cause that a crime was  
16 committed, to get in here, that's what it takes to be  
17 on trial, to be charged. To be arrested and charged  
18 with murder, to be arrested and charged with armed  
19 robbery, that's what it takes. It's a very, very low  
20 standard.

21       If you signed a contract with somebody and you  
22 thought they'd breached it because they owed you some  
23 money or something like that and you went to civil  
24 court, and this is not civil court clearly, then you'd  
25 have to prove by a preponderance of the evidence, okay.

1 And that's often described as just pictures of scales,  
2 and whoever puts more weight on the scales wins.

3 So if the scales are even and I'm trying to prove  
4 my case that this person owes me money, or I had a car  
5 wreck, it's my fault, I'm trying to prove that, then I  
6 got to put some weight on the scales, but I just have  
7 to move them. And that's a preponderance of the  
8 evidence.

9 And sometimes people say, well, it's got to be  
10 more than 50 percent or it's got to be 51 percent. Or  
11 it really doesn't even have to be 51 percent, it just  
12 has to be something, okay. Then you get into other  
13 serious issues like child custody and things like that  
14 which clearly we're not dealing with, but in family  
15 court figure out, you know, how are you going to  
16 determine something that important, and it's got to be  
17 clear and convincing, clear and convincing evidence.  
18 It's over here somewhere (indicating).

19 Reasonable doubt means as far as you can go as a  
20 human being. We don't have perfection, okay, so it's  
21 got to be as far as you can go, okay. And you can't  
22 just make up some doubt, or you can't just make up a  
23 reason. It has to be something that's real and  
24 present.

25 So if you look at this case, let's talk about

1 that, let's talk about reasonable doubt, okay. The  
2 State says that Marquis McDonald is what's called the  
3 shooter, it's the person who fired the weapon, who's  
4 the person who shot somebody, okay. The witnesses  
5 testified, and I submit that everybody doesn't see  
6 everything the same way, just like my example of the  
7 instant replay, okay. It's not always perfect, and  
8 there are going to be inconsistencies, so you want to  
9 look at the big picture.

10 Clearly, the witnesses said or one witness, she  
11 said she saw in the rearview mirror that a person  
12 believed to be Marquis McDonald was outside the car,  
13 outside the Acura, on the driver's side. The  
14 individual who was injured, Anthony Liddell, she didn't  
15 know him at the time, was outside the car.

16 Now, we know, His Honor told you earlier and you  
17 know, that we with just normal reasoning, common sense,  
18 we know that to get out of the car, and this seems so  
19 basic, you have to open the door. So the rear door is  
20 open, the front door is open. She sees what she  
21 thinks, but she doesn't know what's happening, it  
22 startled her. It startled her so much, she said she  
23 blacked out, okay.

24 So this is something that happened in the dark,  
25 and a couple of things that are important. One, she

1 said that the individual they believe was Marquis  
2 McDonald. Marquis McDonald, who said he was in the  
3 car, is facing back toward her, facing the person  
4 Anthony Liddell. Anthony Liddell is facing him. She  
5 thinks they are fighting.

6 They're not fighting, okay. They are standing  
7 next to each other while Anthony Liddell is being shot,  
8 okay. We know the bullet came from inside the car just  
9 because we know -- just because we know how the car  
10 door opens, just because we know where the bullet hit,  
11 that it hit in the back of the door. We also know that  
12 if Marquis McDonald were standing outside the car door  
13 shooting at this person, a couple of things would have  
14 happened.

15 One, we have to try to figure out how he could  
16 shoot over the car door, because we know he didn't  
17 shoot through it. Then we have to try to determine,  
18 had that happened, how did the bullets go into the car  
19 next door, how did it go into the SUV. And nobody's  
20 established where the cars were parked in terms of how  
21 far up or how far back.

22 The other thing is we said bullet holes in the car  
23 seat. Marquis McDonald, even if he didn't even testify  
24 and tell you that it shook his seat, where does that  
25 come from? It shook the seat, it startled me, I had my

1 phone in my lap, I had my cigarettes in my lap. Why is  
2 that? Because he wasn't going to rob anybody. He met  
3 with the man over and over and over. He wasn't there  
4 to rob him, he was startled, okay. The bullets are  
5 coming from that side of the car.

6 Now, if I'm seated in the driver's side of the  
7 car, it is impossible for me to have shot him, just as  
8 it's impossible for me to have shot him if I'm standing  
9 outside the car. If you look at the evidence, I'm  
10 inside the car, there's no way I can do that, it won't  
11 work, okay. What works, what works is what happened.

12 Now, the other thing we know from Dr. Proctor, the  
13 medical examiner, the pathologist, the forensic  
14 pathologist, said, look, if you're shot at close range,  
15 18 to 24 inches, there will always be stippling on the  
16 body, which is burning. And it isn't there, it's not  
17 there. So not only would Marquis McDonald have to  
18 somehow shoot through a car door to get the bullet to  
19 turn into the SUV, it would also cause stippling.

20 And then the doctor said, in some instances  
21 stippling could conceivably be prevented by the  
22 clothing. And when asked, well, if somebody had showed  
23 you the clothing, could you determine if the stippling  
24 would be there. He said, absolutely. And the term is  
25 to a reasonable degree of medical certainty, which

1 means science. Science is something that two plus two  
2 equals four. It's not some crazy theory that I thought  
3 up. It's that if you do this every time, time after  
4 time after time it will be the same. You could do it  
5 in America, you could do it in China, you can do it in  
6 the Bahamas, it doesn't matter where you do it. If you  
7 do it on earth, it is the same because it's science.

8       So who has the burden of proof? The State has the  
9 burden of proof. We don't have the clothes, we don't  
10 have the bullets. We don't have the crime lab, we  
11 don't have the experts. So the doctor when asked said,  
12 well, since clothing can sometimes keep stippling from  
13 being on the body, is it always in the clothes. Yes,  
14 it's always in the clothes, always, it's science.

15       Did you look at the clothes? No. I didn't have  
16 the clothes. No one asked me to look at the clothes.  
17 The burden of proof, the burden of proof. He said, if  
18 you showed me the clothes, if I'd examined the clothes,  
19 I could tell you if it's there. It's not there. We  
20 don't know, to this day I don't know, you don't know.  
21 The burden of proof.

22       Now, when you just look at that, the case is over,  
23 it's just over, okay. Because Marquis McDonald not  
24 only didn't do it, he could not have done it unless you  
25 repeal the natural laws of physics.

1 I have never in my life seen a case where law  
2 enforcement officials took a crime scene car and put  
3 those trajectory rods through it and pointed where  
4 those things were going and came into court and said,  
5 it might have been a screwdriver, somebody might have  
6 put a screwdriver through there. Wow. Wow. Wow.

7 Now, okay, couldn't have happened that way. So  
8 let's just say whatever happened, it's the hand of one  
9 is the hand of all. Let's just say that if we're the  
10 State, if everything we said isn't true, and we say  
11 there's blood in the console but we didn't test it,  
12 okay, and we say we swabbed for touch DNA, but we  
13 didn't test it, that there might have been stippling,  
14 but we didn't test it; if we could have reenacted the  
15 crime scene but we didn't do it, if we didn't do  
16 anything that we're supposed to do, then it's okay,  
17 jury, it's all right, because you could find him guilty  
18 anyway.

19 Because it doesn't matter if he shot him, it  
20 doesn't matter anything, he's there, the hand of one is  
21 the hand of all, and he's just as guilty as Black or  
22 O'Blake or McLain. No, it's not true. And it won't  
23 work.

24 And the things that I said have come true, the  
25 things I've told you about the case are in the case.

1 The physics of the case screams not guilty, it shouts  
2 not guilty. The hand of one is the hand of all. There  
3 is absolutely no evidence, it is inconsistent, it's not  
4 believable, period, that Marquis went to rob Anthony.  
5 It doesn't even make sense, okay.

6 So now what? Well, Marquis lied about it, Marquis  
7 did not act honorably. Marquis drove off and shouldn't  
8 have driven off. Clearly, clearly, he lied in his  
9 statement, okay, clearly. Lying in your statement  
10 because the police suspect of you murder, suspect you  
11 of robbery or whatever else causes people to lie  
12 sometimes.

13 There are instances in our life which sometimes  
14 aren't even important, like I backed into a pole or my  
15 wife drove the car into the washer and dryer, okay, in  
16 the garage and tore it all up, or I did something  
17 stupid or I did somebody I'm ashamed of, I did  
18 something I regret, I did something I don't want to  
19 even tell anybody about. We all do that. We  
20 shouldn't, I don't believe we should. But people do  
21 it.

22 But doing that doesn't change the physical aspect  
23 of the case. Doing that looks bad, doing that is  
24 regrettable, doing that is not advisable, fleeing and  
25 leaving is not advisable. But it doesn't change

1 everything that happened, it does not repeal the laws  
2 of physics.

3 Now, and as you look at me, I promise, I'm not  
4 going to talk all day, okay, I just want to get through  
5 this, and then you'll get this case. It's very  
6 important. I have a great deal of feeling and concern  
7 for Anthony Liddell's family. Because I defend Marquis  
8 McDonald and try to reach the truth in this case, I  
9 didn't know that young man, I feel for his family, I'm  
10 very sorry for them. I have children, we all have  
11 children. It's terrible what happened, that they would  
12 send him to college and this would happen.

13 And I don't -- I'm not blaming him, because he was  
14 doing stuff he shouldn't have been doing. And I'm --  
15 I'm not judging him because he was buying and/or  
16 selling marijuana while he went to college. It's an  
17 allegation, it's the facts of the case. It's only  
18 significant to me in the fact that it surrounds what  
19 happened. I don't approve of that, I don't -- because  
20 it's illegal, okay. I don't approve of Marquis  
21 McDonald and Black going and doing that.

22 I would tell anybody, look, I don't care what you  
23 think about it, it's illegal. If you want to do that,  
24 go to a state that it's not illegal, go there, if  
25 that's what you believe in and that's what you want to

1 do. But I'm not judging him for that, and in no way,  
2 shape or fashion am I saying that Anthony Liddell  
3 caused any of this. He was at the wrong place at the  
4 wrong time doing the wrong thing, okay. Marquis  
5 McDonald was at the wrong place at the wrong time doing  
6 the wrong thing.

7 If Marquis McDonald had been outside that car with  
8 a firearm and fired it, not only would it have broken  
9 the door or the window, there would have been some  
10 muzzle flash, just like with the stick. The reason it  
11 wasn't seen is because it came from inside the car.  
12 The State said, I think, in the very beginning of this  
13 case they had a footprint they were going to show you.

14 The State has made promises they haven't  
15 delivered. And the reason they haven't delivered is  
16 because they cannot deliver, they cannot deliver  
17 something that's not true. And what's not true is that  
18 this was not a common plan or scheme, okay. This was  
19 not the hand of one is the hand of all.

20 And briefly, what I would like to do with you is  
21 just talk about couple things in terms of the judge is  
22 going to tell you the law, and then that's -- I'm  
23 finished. In order for there to be murder, there must  
24 be malice aforethought. Aforethought means prior to,  
25 malice aforethought. Malice, malice is hatred, ill

1 will or hostility toward another person. There's no  
2 evidence whatsoever that Marquis McDonald had any  
3 hatred or ill will toward Anthony Liddell.

4 Hand of one is hand of all, prior knowledge alone  
5 is not sufficient. There must be a finding of a  
6 pre-arranged plan, a finding of a pre-arranged plan to  
7 commit armed robbery or murder is necessary. It's not  
8 there. Intent, His Honor will tell you about intent.  
9 Intent must be a common design or intent to commit the  
10 crime, with the intent to commit the crime. Not intent  
11 to sell marijuana, not intent to do something with  
12 so-called weed, okay, intent to commit armed robbery,  
13 intent to commit murder.

14 His Honor will also tell you in addition to your  
15 duties as jurors, that when you see something that  
16 raises a reasonable doubt you must, according to your  
17 oath, give the Defendant, Marquis McDonald, the benefit  
18 of that doubt. As doubts arise, you must give him the  
19 benefit of those doubts. And the language, I believe,  
20 is, and resolve those doubts in his favor. And if they  
21 are there, find him not guilty.

22 When you have done that, you will have served.  
23 When you have done that, you will have fulfilled your  
24 duty and your oath. When you have done that, you have  
25 not rewarded any friends or given consequences to any

1 enemies. Your focus is on this case, and the only  
2 thing that you can do is decide this case on evidence  
3 and lack of evidence. That's all you can do. That's  
4 all you're asked to do, and that's all your oath  
5 requires. It's not a time for you to think what if,  
6 what if the State had done more. You must look at it  
7 the case is the case. They've done all they can do and  
8 it clearly doesn't prove guilt.

9 At the conclusion of the case when you go back and  
10 deliberate, look at the evidence, discuss it with each  
11 other, and after you have reasoned it through, I'm  
12 confident that when you look at the circumstances and  
13 the case presented and the things that were not proved  
14 to you though they were promised, that you won't have  
15 any other choice but to reach two verdicts, one verdict  
16 of not guilty of murder, and another verdict of not  
17 guilty of armed robbery. And when you do that will you  
18 have discharged your duty, you will have done justice  
19 in this case, in this courtroom that was presented to  
20 you.

21 Again, thank you, thank you for your patience,  
22 thank you for your attention, thank you for your  
23 service.

24 THE COURT: Thank you, Mr. McCollum. Solicitor.

25 MR. RICHARDSON: Thank you, Your Honor. It's the

1 Defendant's choices that bring us here in this  
2 courtroom today, his deadly decisions, his cold,  
3 calculated determination that he was going to get that  
4 weed.

5       When he chose Anthony Liddell, Jr. as a soft  
6 target, old college boy, he lives on campus, he ain't  
7 going to have no gun, he's soft, college boy. I'm  
8 going to go rip him off of his marijuana. He's the one  
9 that told me he's got it, look at my cell phone. He's  
10 got some good bud, I'm going to steel it. Who's he  
11 going to tell, he can't run to the police and say, hey,  
12 they stole my marijuana.

13       When he chose him as a soft target, when he chose  
14 to arm himself not just with a handgun but with his  
15 accomplice, his codefendant, his cousin, Black, Stephon  
16 McLain, driving there, a little more force and  
17 intimidation. You know what's better than one thug in  
18 the car, two. Especially when Marquis has a gun.

19       And whenever the plan went awry, when the plan  
20 went awry and Anthony didn't give it up, maybe he got  
21 scared, maybe he tried to run and take the dope with  
22 him, when it went awry, the Defendant used that handgun  
23 for its intended purpose. Maybe they shot him one time  
24 in the hip, show him they meant business. And when it  
25 scared him enough to where he ran, jumping out of that

1 car, slammed the door as you would do trying to get  
2 away from gunfire, you don't sit there with it open and  
3 say, hey, hit me.

4 But when he chose to get out with that handgun on  
5 the driver's side and pin Anthony Liddell up and, boom,  
6 boom, silence the only witness he knew about, thinking  
7 he created the perfect crime as he chose to speed away  
8 in the night to leave Anthony Liddell lying, broken,  
9 bloody, dying on the cold, wet pavement of that parking  
10 lot. He made his choices.

11 Anthony Liddell lay dying, two hours away from his  
12 mom. And Sheila Gillespie will never see Anthony cross  
13 that stage at Coastal Carolina University, get his  
14 diploma, look out in that audience and (indicating),  
15 love you mama. This isn't the day she dreamed of when  
16 she sent him off in that -- in the fall of 2011, not  
17 coming here praying for justice.

18 She prayed, she hoped, Lord, please, let Anthony  
19 make good decisions. Please, help him make the right  
20 path. And Anthony probably did make some good ones, we  
21 heard from one of his friends yesterday, we seen his  
22 support. He's a good fellow, he was working at the  
23 college, was making decent grades.

24 But he made a couple poor decisions. He chose to  
25 get mixed up with marijuana, there's a lot of college

1 kids that do. But Anthony chose to smoke it, buy it  
2 obviously if he was going to smoke it, maybe sell a  
3 little bit. He wasn't a big time drug dealer, he was  
4 work delivering stuff for the school around campus.  
5 Look at his car, not some souped up Mercedes or SUV.  
6 Listen to what his friends said.

7 But what it did make him is it made him a target.  
8 And that's where his final fatal decision, the worst  
9 decision he could make, comes into play. Because he  
10 chose to trust this man, this defendant, a man who saw  
11 Anthony Liddell not as a friend, not as a business  
12 associate, but as a lamb ready for slaughter, an easy  
13 mark. And because he saw Anthony that way, because he  
14 saw Anthony as an easy mark, a soft target, easy to  
15 rip, he planned that armed robbery that night.

16 And he made his choice when he armed himself with  
17 a handgun and took his cousin along with him. All the  
18 shooting took place on his side. When the armed  
19 robbery went bad, he did exactly what that gun was  
20 meant for. He silenced that only witness, and he chose  
21 murder. And so I'm going to ask you to make the same  
22 choices. He chose armed robbery, he chose murder. I'm  
23 asking you to choose guilty, find him guilty for his  
24 choices, armed robbery and murder. It's what he  
25 planned, that's what he did.

1           Now, in just a moment, His Honor is going to talk  
2 to you again. He's going to remind you that from the  
3 time you swore your oath that you became the sole and  
4 only judges of the facts, testimony and evidence in  
5 this case. You get to weigh it out to reach a true and  
6 just verdict, that's your job.

7           But he's also going to tell you he's the judge of  
8 the law. And so he's going to give you the law to  
9 apply to the case, to the facts, the evidence, how do  
10 you weigh stuff out, the ground rules. He's going to  
11 talk to you about credibility and believability. And,  
12 quite frankly, that's something you do everyday, you  
13 use your good common sense. That's why you were  
14 picked, folks, because you got good common sense.

15           But in judging credibility you look up here at the  
16 witness stand, the witness testifying. What's their  
17 demeanor like? Does what they say have logic to it,  
18 does it make sense, is it corroborated by evidence.  
19 Have they made prior statements, is it consistent with  
20 that? Are they asking you to believe that one plus one  
21 is two, or say, no, no, no, one plus one must be seven.  
22 Do they have friends to reward or enemies to punish,  
23 why are they testifying?

24           And in doing that, the judge will tell you, you  
25 can take all of what a witness says, some of it or none

1 of it. It's your job, your duty, you get to weigh it  
2 out and give it what weight you determine.

3       The judge will talk to you about direct and  
4 circumstantial evidence. He'll tell you that direct  
5 evidence is the testimony of someone who claims to have  
6 actual knowledge of an event. Actual knowledge, I  
7 heard something, saw something, smelled something.  
8 When I was pulling into the parking lot I was looking  
9 ahead and I heard, boom, and it startled me. Didn't  
10 know somebody had hit something or I had hit something.

11       I look up in the rearview mirror, and I see two  
12 men fighting, not stuck in between doors but two men  
13 fighting, grappling, hugging, and then fists being  
14 thrown. Not leaned over in a car but standing up.  
15 That's direct testimony. We saw the Defendant back  
16 out, windows blacked out, tinted up, and strike the  
17 victim. That's direct testimony.

18       But circumstantial evidence is a little different.  
19 Circumstantial evidence is the proof of a chain of  
20 facts or circumstances to indicate the existence of yet  
21 another fact. It's evidence that immediately  
22 establishes collateral facts from which a main fact may  
23 be inferred, it's built off inferences.

24       It's like pieces of a puzzle. Any piece of that  
25 puzzle individually tells us nothing. May have a

1 thousand pieces, and if you look at one piece it tells  
2 us nothing. But as those pieces begin to snap  
3 together, the picture becomes clearer, and even before  
4 you finish the puzzle the picture is clear. And the  
5 picture in this case is the Defendant planned that  
6 armed robbery, and when it went bad he murdered Anthony  
7 Liddell, Jr., with his cousin sitting right beside him.

8         The judge will talk to you about the hand of one  
9 is the hand of all. And he'll tell you that if a crime  
10 is committed by two or more people who are acting  
11 together committing a crime, the act of one is the act  
12 of all. A person who joins with another to commit a  
13 criminal act or unlawful act is criminally responsible  
14 for everything done by the other person which happens  
15 as a probable, natural consequence of the acts that are  
16 in furtherance of or carrying out that initial crime.

17         And, folks, when you take that gun for an armed  
18 robbery, you could assume that somebody might fight  
19 back. Because that's why you take the gun to put them  
20 down if they do. And Mr. McCollum said that the State  
21 was going to change its theory. No. I'm not here to  
22 change theories, I'm not here to tell you that the  
23 Defendant didn't pull that trigger. I'm telling you  
24 he's guilty because he did pull the trigger. He's also  
25 guilty under the hand of one, hand of all. Because

1 Mr. Hyman said, as is Stephon McLain because he was  
2 there as the muscle. But we know the Defendant pulled  
3 the trigger because all the action happened on the  
4 driver's side where Amanda McTaggart saw them.

5 The judge will talk to you about armed robbery.  
6 He'll tell you it's the taking of another's property  
7 unlawfully by use of a deadly weapon with threats. And  
8 that's what happened here. The judge will tell you  
9 that illegal narcotics can be the subject of armed  
10 robbery as property. We may not like it, but that is  
11 the law. And also the cell phone was taken away.

12 The judge will talk to you about murder, that it's  
13 the unlawful killing of another with malice  
14 aforethought. Malice, as Mr. McCollum said, is hatred  
15 or ill will. It can be express or implied. Express  
16 malice, I hate you, I'm going to kill you. Implied  
17 malice, prior planning, prearrangement, the planning of  
18 a crime. Because that's felony murder, folks.

19 Whenever you plan to do one crime and you take a  
20 weapon, and during the commission of that crime a  
21 killing takes place, you can infer malice is there.  
22 Because that gun did exactly what it was supposed to  
23 do, it put a witness down.

24 But how does the State do this? The State proved  
25 its case, because you're going to hear that term beyond

1 a reasonable doubt throughout the judge's charges.  
2 What does it mean? We've all heard it, whether it's in  
3 movies, TV's, books, but what does it mean? The judge  
4 told you a little bit at the beginning, but the judge  
5 will tell you in his charge that to give you evidence  
6 beyond a reasonable doubt, the State must give you  
7 evidence that leaves you firmly convinced of the  
8 Defendant's guilt.

9 That's all. It's not some magic precipice that  
10 the State couldn't meet. The State's got to give you  
11 evidence that leaves you firmly convinced of the  
12 Defendant's guilt. And we do that by the presentation  
13 of the competent evidence, the admissible evidence, the  
14 relevant evidence. It's our only job, to give you the  
15 evidence that will assist you, the trier of fact, in  
16 rendering a true and just verdict.

17 Our job is not to talk about the irrelevant. DNA  
18 tests that might tell us who was there, but we have  
19 witness statements to tell us who were there. They  
20 talked about the absence of crime scene reconstruction.  
21 It's irrelevant. We didn't have the car for three or  
22 four days, the Defendant did. We can't do it.

23 We have testimony, folks, that's what we have.  
24 And that's what the State gave you, the competent, the  
25 admissible, the relevant evidence to assist you. So

1 let's take a look at that evidence. And I'm going to  
2 ask you not to start on the night of the murder, the  
3 26th.

4 Go back in those cell records, the Cellebrite  
5 records, and look at the texts back and forth. That's  
6 when the plan begins. That's whenever Anthony contacts  
7 the Defendant, and I don't know what call, if they ran  
8 into each other before, but says, hey, man, I got some  
9 weed. Rainy day perp on deck, or something to that  
10 effect. Good weed is what our drug agent said.  
11 Expensive.

12 And that's when the plan begins to formulate. And  
13 you can tell that as you look down those records  
14 because after the initial conversation with Anthony, he  
15 starts to -- the Defendant starts calling O'Blake, his  
16 cousin, Black, Stephon. They don't go and buy the dope  
17 that night. Why? Maybe O'Blake's busy, maybe they  
18 can't get the gun that night.

19 But the next day they are ready to go. And so we  
20 move forward, you see some more texts and conversations  
21 back and forth. But we know that around 7:15 Amanda  
22 McTaggart's driving over to University Place  
23 Apartments, Grand Strand E, 114. She's driving up,  
24 she's going over, maybe listening to the radio. It's  
25 dark. She lives about a half mile away, but it's dark

1 so she's driving. She's concentrating on what she's  
2 doing, she's going to watch Pretty Little Liars. And  
3 when she's in there, she's concentrating on parking her  
4 car and not hitting the curb.

5 And she hears that boom (indicating). And when  
6 she hears that boom, it startles her. Like what, I  
7 assume some of you may have been in a fender bender,  
8 run up on the curb before, thought you hit something,  
9 and it startles you. You don't know where to look at  
10 first, and she's looking around.

11 And finally she looks up, and in the rearview  
12 mirror, she doesn't see car doors open. She sees two  
13 guys outside of the car. She doesn't see the dome  
14 light on inside the car, as you would if the door was  
15 open. She sees two guys fighting, wrestling.

16 And the defendant's told you already that he was  
17 outside the car on that side. Anthony was outside the  
18 car on that side, he's had to change his story a little  
19 bit from his initial one. But she sees them, she  
20 thinks they are hugging at first, they're tight, no  
21 doors in between them, and she sees punches being  
22 thrown. She's heard that initial pop. And then as she  
23 watches she hears, boom, boom.

24 And she freezes. She doesn't see the Defendant  
25 get back in the car to drive away, she doesn't see

1 Anthony fall, and she doesn't see muzzle flash. She is  
2 frozen. And she told you she didn't see muzzle flash  
3 outside. She didn't see that car light up like the 4th  
4 of July either with muzzle flash. If you seen movies  
5 you've seen that. People shoot in a car, it looks  
6 likes a flash bulb went off. Looks likes Christmas or  
7 4th of July. She didn't see that because the gun is  
8 pressed.

9 Mr. McCollum wants to talk about the lack of  
10 stippling on the victim. Dr. Procter looked at it.  
11 And Dr. Procter said, well, I could have looked at the  
12 clothing. Well, I'm sorry we didn't go collect  
13 everything at the crime scene and take it over to Dr.  
14 Proctor. Dr. Procter is a forensic pathologist, his  
15 job is the body, not the clothes. It was night, it was  
16 a big sweatshirt and a tank top in between those  
17 bullets and the victim's body.

18 We got pictures, we can put them back up for you.  
19 And stippling is not going to be big. It's darkened  
20 with blood. But those shots were close, folks, that's  
21 why she doesn't see the muzzle flash. And Dr. Proctor  
22 is not an expert on stippling on clothes, he's an  
23 expert on stippling on the body and what happens.  
24 We'll come back to Dr. Proctor.

25 But Amanda was frozen. And so we turn our

1 attention to Janie and we turn our attention to  
2 Infiniti, and they both see basically the same thing.  
3 Janie who got a good view as does Infiniti, and they  
4 see the same thing. And the Defendant had to change  
5 his story. He said he did not black out before, but  
6 now he knows. Didn't know when he talked to us the  
7 first time, but he knows now.

8 Janie would have seen somebody getting out, they  
9 would have seen somebody on the floor. They didn't.  
10 They have independent witnesses with no friends to  
11 reward and no enemies to punish, so he's got to change  
12 his story. Infiniti likewise didn't see anything but  
13 the Defendant back his car up striking the victim, take  
14 off into the night.

15 The chaos erupts. You heard from Sergeant  
16 Farrell, you heard the 911 call. Crime scene is  
17 called, they start processing the scene. Now, when  
18 they process the scene, they pay particular attention  
19 over to that white Hyundai, because that's where Amanda  
20 said she saw them fighting. She saw them fighting over  
21 by the Hyundai. And they go up to the door of that  
22 Hyundai and they see those two bullet marks, two, not  
23 that far apart, not far apart at all.

24 And they look at them. And they know they're  
25 bullet marks. And they are not at a severe angle from

1 the side as if somebody was wrestling with a gun and it  
2 went through them. It's through and through, as if  
3 somebody had been pressed up against the car and  
4 they're shot in the chest with one exit up the ribs and  
5 turns, and the other shot goes into his chest popping  
6 through that car. And they tumble around in that door,  
7 and they look down and they find them. Three shots, we  
8 found two shells -- or two projectiles so far. And  
9 they looked down and they found that .40 caliber  
10 projectile, that empty cigarette pack and that cell  
11 phone.

12 I think that's what Mr. Hyman was talking about  
13 when he said the Defendant left his footprint, that  
14 cell phone is his footprint. We thought it was the  
15 victim's at first and we took it in. Well, let's see  
16 who the victim talked to last, maybe they know  
17 something. But when they took it to the drug agents,  
18 no, no, no, no, it's not the victim's. This phone  
19 called the victim, this is the last one that contacted  
20 the victim, who is it. It's Marquis McDonald, he's one  
21 of our confidential informants.

22 And he informed SLED, or Lynch does. They give  
23 him the CI packet, here's the addresses you can go to,  
24 and they start beating the bushes. This is Wednesday  
25 night now on into Thursday. They are beating the

1 bushes knocking on doors. Does the Defendant turn  
2 himself in that day? Nope. Wednesday, Thursday, no.  
3 Friday, morning, no. It's about 3 o'clock in the  
4 afternoon when he's had time to stage that car up  
5 right, when he's had time to come up with a story, that  
6 he turns himself in. When his Uncle Doug calls, not  
7 him but Uncle Doug. Maybe Uncle Doug's tired of people  
8 knocking on his door and said, boy, you better get in  
9 there and tell them something. Don't put the heat on  
10 me.

11 But he turns himself in. He's had that car for  
12 three days. And what does he do immediately upon him  
13 getting in, he goes and he starts talking. Before they  
14 can even read Miranda rights to him he wants to talk.  
15 There's a reason for that, folks. My pop always told  
16 me, lies are real hard to remember, truth's a lot  
17 easier because it's constant. You can remember the  
18 truth. Those lies you got to get out kind of quick,  
19 and you got to remember what your lies are. So he  
20 wanted to talk then, get that story out, what did I set  
21 up in this -- in the Acura I was driving.

22 And we'll come back to the Acura, but he goes and  
23 he gives that statement. You've heard the statement,  
24 you heard what he said here in court today. He gave  
25 that statement to law enforcement not knowing what

1 evidence they had at the time, not knowing what  
2 witnesses had seen him do, not knowing the physical  
3 evidence or trajectories or anything else.

4 And so he lied, didn't know we'd find him on video  
5 with Black, didn't know we'd discovered who Black was.  
6 Sunhouse was a throwaway line. So he told them what he  
7 thought was going to get him out of trouble again. And  
8 the police did not buy it. They didn't buy that he was  
9 Anthony's best friend because what are you doing when  
10 your best friend's shot, you get some help for him.

11 They didn't buy it that he didn't know Black that  
12 he -- like he told them. They didn't buy his  
13 reenactment of what happened in the car because it  
14 couldn't be. And when confronted this couldn't have  
15 happened this way, he just argued, well, it did because  
16 nothing else fits his lie. But he's had a year and a  
17 half to think about it now. And he told the police,  
18 hey, man, I'm wearing the exact same clothes I was  
19 wearing the night of the murder. Y'all can test it.  
20 These are the clothes I had on whenever I was over at  
21 CCU. Y'all can have them.

22 Look at the video from the Sunhouse. Why is he  
23 lying about his clothes? Because he's scared. Was he  
24 scared that night, no. He was eager to talk. And he  
25 pointed out the damage done on the Acura. He hits him.

1 You got to look at these bullet holes, but there's no  
2 stippling around those holes, no scorch marks. He's  
3 not deaf, he's not damaged. If gunfire goes off in a  
4 car, he's going to be deaf as a post. But he's not.

5 Those weren't bullet holes, folks, they found one  
6 projectile. How did it happen? Maybe Anthony did see  
7 the gun, maybe Anthony did try to escape, open that  
8 door and that's when he's shot in the hip. Not down.  
9 And he slams the door. Marquis can't let him out,  
10 can't let him go, can't let him tell police at that  
11 point.

12 So he gets out the car, closes it behind him, and  
13 then he tackles him, pins him up against that white  
14 SUV. And they're wrestling, that's what Amanda  
15 McTaggart sees. She's frozen watching them, something  
16 she doesn't watch normally. Not a doubt in her mind  
17 that they were fighting. And boom, boom, shots go off  
18 and she blacks out. That's how it happened.

19 Mr. McCollum wants you to believe that if the --  
20 Anthony is leaning in the car, as Marquis said today,  
21 his new story, Marquis leaned in the car grabbing that  
22 gun, and he's shot, that those bullets were going to  
23 hit him in the chest, take a big angle, go out his side  
24 straight through. Remember Dr. Procter told you those  
25 shots were pretty much straight through.

1 But that had to be believed that they came out,  
2 went through his body out his side, and then made some  
3 kind of U-turn or right turn or left turn and end up in  
4 the Hyundai, and the other one did the same thing.  
5 Folks, if he's shot as he's leaned over, those shots  
6 are going to have a different angle, different collar  
7 mark and they are going to come out somewhere around  
8 his posterior, not out his back, not out his side. The  
9 man lied to you. The police didn't believe his lies  
10 that night on March 1st, 2013, don't you believe them  
11 today. Don't believe him.

12 And we put up the GPS and everything. And you're  
13 wondering why, but folks, you heard the initial story  
14 said. We had to put him and Black together, and he  
15 knows we put them together. And he knows nobody saw  
16 Black outside the car, so he's got to come up with a  
17 new story. And he's seen the GPS. We know they were  
18 together, we know where the phone went to, we know  
19 where the dope went to, we know it all. We know it was  
20 planned it because he planned it, look at the cell  
21 phone records.

22 He doesn't come out and say we're going to do a  
23 robbery, he tricks Anthony. But we know from what  
24 happens he's the only man that could have done the  
25 shooting. By Amanda McTaggart, a girl who doesn't know

1 Anthony from Adam's house cat, doesn't know Marquis,  
2 doesn't know Black. She tells you what she saw. They  
3 were hugged up together. When she first saw them,  
4 Anthony's back's turned, but they were hugged up  
5 together when those shots go off (indicating). The  
6 Defendant and Anthony are hugged up together when those  
7 shots go off.

8 And the only way for those wounds to happen to  
9 Anthony without Marquis being damaged whatsoever is for  
10 him to be the shooter, him shooting as he grapples with  
11 him, cutting him from left to right, and when he turns  
12 shooting him through the chest, putting him down. And  
13 then he speeds away into the night, and but for that  
14 cell phone we would have never found him.

15 On February 26th, 2013 the Defendant made his  
16 choice. He chose armed robbery. And when it went bad,  
17 he made a decision. Anthony Liddell's life is worth  
18 less to me than \$350 worth of weed, and so I got to put  
19 him down. Got to put the only witness I know about  
20 down. And he did that. And when he did that, he  
21 committed murder. He made his choices. You've got the  
22 evidence to make your award. Find him guilty because  
23 that's what he is.

24 JURY CHARGE

25 THE COURT: Thank you, solicitor. Now, ladies and

1 gentlemen, if I could have your attention, it becomes  
2 my responsibility to give you the law which you of  
3 course have promised that you will accept and apply  
4 fairly and impartially to those facts that you will  
5 determine very shortly when you begin your  
6 deliberations in this case. Both the State and  
7 Mr. McDonald expect that you will when you're  
8 instructed analyze the evidence and decide what you  
9 find to be credible and believable and once deciding  
10 those facts take the law and apply it fairly and  
11 impartially.

12 And to that end I would submit that you will have  
13 honored the oath that you made when we started, and the  
14 State and Mr. McDonald will have received a fair and  
15 impartial determination in this process.

16 During this charge you may hear me use the word  
17 Defendant from time to time. That's a term that we use  
18 to designate the party against whom a claim is made.  
19 That's the sole significance of that term, it means  
20 nothing else. It's just another way of identifying  
21 Mr. McDonald, so when I do use the term, please  
22 understand I'm referring to him.

23 Mr. McDonald was accused in these two documents  
24 which I discussed with you when we started. They are  
25 what they appear to be, pieces of paper. They will not

1 accompany you to your jury room, they are not evidence.  
2 And he's accused of committing the offense of murder  
3 and armed robbery. To these indictments Mr. McDonald  
4 has entered a plea of not guilty which places then upon  
5 the State the burden of proving business his guilt  
6 beyond a reasonable doubt.

7 As I stated to you, in this state, in this  
8 country, persons accused of criminal offenses, such as  
9 Mr. McDonald here today, are never required to come in  
10 and prove or disprove anything at all. They don't have  
11 to explain anything, they don't even have to present  
12 any evidence. Because the law says when a state  
13 accuses one of an offense, they have to prove that.

14 And in fact, it goes further to say that everyone,  
15 and that would be you, must presume in this process,  
16 must actively presume that he is innocent. And I would  
17 tell you that that's a real presumption, that's not  
18 just -- those aren't just words. You have to have  
19 actively and must still actively presume that he is  
20 innocent of these charges. And that presumption may be  
21 only be set aside when through your deliberations you  
22 become firmly convinced that the State has established  
23 one or more of the crimes, and then and only then may  
24 that presumption be set aside.

25 And the State of course has to prove these

1 elements of the crime beyond a reasonable doubt. What  
2 is a reasonable doubt? A reasonable doubt is a doubt  
3 which would make an honest, sincere, conscientious  
4 juror in the search of a case to hesitate to act or  
5 take some action. Proof beyond a reasonable doubt is  
6 proof that leaves you firmly convinced of the  
7 Defendant's guilt.

8 I would tell you that there are very few things in  
9 this life and in this world that we know with absolute  
10 certainty. And in criminal disputes such as this our  
11 law does now require proof that overcomes every  
12 possible doubt. If based upon your consideration of  
13 the evidence you're firmly convinced that the Defendant  
14 is guilty of one or more of these crimes, then you must  
15 find him guilty.

16 If on the other hand, you think there's a real  
17 possibility that he's not guilty, then you must give  
18 him the benefit of that doubt and return a verdict of  
19 not guilty as to that particular offense.

20 A reasonable doubt, ladies and gentlemen, may  
21 arise from the evidence which is in the case or the  
22 lack or absence of evidence in the case. And I charge  
23 you that he is entitled to every reasonable doubt  
24 arising in the whole case. What do I mean by that?

25 If upon any issue of fact which is essential to a

1 conviction, that is a verdict of guilty, you should  
2 have a reasonable doubt as to how that issue should be  
3 resolved, it would be your duty to resolve that in  
4 Mr. McDonald's favor. The evidence, of course, which  
5 you must consider consists of the testimony of the  
6 witnesses and exhibits that have been offered and  
7 introduced during the trial. Please remember that you  
8 saw several occasions during this process an item may  
9 be, and I mentioned this to you when we started, that  
10 may be marked for identification, but it wasn't  
11 formally introduced. If that as to that item you  
12 certainly are to analyze the testimony concerning that  
13 document.

14 Many times it's used to refresh a witness'  
15 recollection so that they can testify to specific  
16 things. And you certainly will analyze that and  
17 analyze the fact that the witness had to refer to a  
18 document. But as for the document itself, you won't  
19 have that. Only those documents that were introduced  
20 into evidence will accompany you to your jury room.

21 Also, during the trial there were times when you  
22 heard attorneys say objection and you heard my ruling.  
23 I either overruled the objection or I sustained the  
24 objection.

25 If I overruled the objection, I meant -- it meant

1 that you were going to hear the question and answer.  
2 But if I sustained the objection then you did not hear  
3 the question -- the answer to the question. The fact  
4 that an attorney makes an objection and the fact that  
5 my ruling, neither of those should be considered. It's  
6 very proper for the attorneys as officers of this court  
7 to make those objections, and they have that  
8 responsibility to raise those matters of law which I  
9 must consider.

10 And my ruling, again, is not evidence, it's part  
11 of my responsibility as a judge of the law to make  
12 rulings on matters of law that do arise from time to  
13 time. Most of the time those are dealt with  
14 evidentiary matters or rules of evidence which govern  
15 the presentation of evidence in these proceedings.

16 Now, if I sustained the objection, please --  
17 excuse me, if I overruled the objection; please don't  
18 say, well, the judge allowed it, therefore I must  
19 accept it. Because if you do that, then you've let me  
20 step over into your area of responsibility. Just as  
21 you're not to consider if I excluded it. Because if  
22 you do start thinking about that, then you've invaded  
23 my province and you've stepped into my responsibility.

24 No, if I overruled it, it really demonstrates how  
25 we work together. I've said as a matter of law and our

1 rules, I was going to permit the testimony for your  
2 consideration. But then it shifts to you, you decide  
3 whether you believe it or not and if so how strongly  
4 you believe it. And that's how we work. You analyze  
5 the evidence and you decide what you find to be  
6 credible and believable.

7 Please remember that the remarks of the attorneys,  
8 while extremely helpful, never should be considered  
9 evidence. I would instruct you that if their remarks  
10 and their arguments about what a witness said or didn't  
11 say differs from your collective recollection of what  
12 that witness said, you're instructed to disregard their  
13 remarks and take your recollection. And the reason for  
14 that is you and you alone are the sole judges of the  
15 facts in this case.

16 Likewise, if any statement of law that they've  
17 raised or made during either the opening statements or  
18 closing arguments differs from the law as I give it to  
19 you, then you are instructed to disregard those remarks  
20 because for the purposes of this proceeding today, I'm  
21 the sole judge of the law.

22 Ladies and gentlemen, in these cases and really  
23 applies to whether it's a criminal dispute or civil  
24 dispute, when presenting a case is there are two types  
25 of evidence, direct evidence and circumstantial

1 evidence. Direct evidence, as the name would imply, is  
2 when a person generally testifies to a sensory  
3 perception, I saw something, I heard something, I felt  
4 something or the like. And if you are firmly convinced  
5 of the credibility of that testimony or that it's  
6 credible testimony, then it would establish that  
7 particular fact or circumstance.

8       Circumstantial evidence is proof of a chain of  
9 facts and circumstances indicating the existence of a  
10 fact. It is evidence which immediately establishes  
11 collateral facts from which the main fact may be  
12 inferred, either by deductive or inductive reasoning.  
13 And basically it says that as to each of those  
14 circumstances, if you are firmly convinced as to the  
15 credibility of each of those circumstances and you link  
16 them, they lead you to a logical conclusion, then that  
17 also is a proper way of establishing a particular fact  
18 of circumstance, if you are firmly convinced as to the  
19 logical conclusion.

20       I would tell you that in that regard the law makes  
21 absolutely no distinction between the weight or the  
22 value to be given to either direct or circumstantial  
23 evidence, nor is there any greater degree of certainty  
24 required of circumstantial evidence than direct  
25 evidence. You're instructed to weigh all of the

1 evidence in this case and decide what you find to be  
2 credible and believable.

3       However, to the extent that the State relies on  
4 circumstantial evidence, all of the circumstances must  
5 be consistent with each other, and when taken together  
6 point conclusively to the guilt of the accused, or the  
7 Defendant, beyond a reasonable doubt. If these  
8 circumstances merely portray the defendant's behavior  
9 as suspicious, then the proof has failed.

10       Because the mere fact that the circumstances  
11 brought out in a case are strongly suspicious of guilt  
12 or that the circumstances assert the Defendant's guilt  
13 is even probable, that that would not be enough to  
14 sustain a verdict or a conviction. Why, because the  
15 proof offered by the State has to be more than mere  
16 suspicion, it has to be more than somebody being  
17 probably guilty, it has to be proof that convinces you  
18 beyond a reasonable doubt.

19       How do you decide what you find to be credible and  
20 believable, how do you decide the true facts of the  
21 case? As we discussed when we qualified you and we  
22 discussed when I made my opening remarks, this is not  
23 foreign to you, you've done this and do this every day  
24 of your life. You read something or you hear something  
25 and you make a decision as to whether or not you

1 believe it.

2       And there are many, many factors that we use to  
3 assist us in making this type of decision. I'm going  
4 to discuss some of them now. But if I don't mention a  
5 method or a factor that you've considered and used in  
6 your life and you find -- have found it to be reliable,  
7 please employ it when you begin the process of  
8 analyzing the evidence.

9       But some of the factors that you may want to  
10 consider would be the appearance of the witness, how  
11 did they appear to you, straightforward or hesitant in  
12 answering a question. Was the testimony of a witness  
13 consistent or was it inconsistent. How did the witness  
14 come to know the facts that he or she testified to, and  
15 what was the ability of that witness to know those  
16 particular facts. Is there a reason for a witness to  
17 give testimony which may be helpful or hurt -- or  
18 detrimental to one side or the other; in other words,  
19 was the witness biassed or prejudice.

20       Also you've heard testimony in this case of a  
21 prior conviction of a witness. That is testimony that  
22 may be considered by you in evaluating the credibility  
23 of that witness. You would consider it the same as any  
24 other factors that you would use to evaluate the  
25 witness and may only consider it for the purpose of

1 evaluating credibility. And the fact that a person has  
2 a prior conviction does not make his testimony not  
3 credible or does it make it credible. It's just  
4 another factor that you must decide in determining the  
5 credibility of that particular witness.

6 In determining and evaluating the credibility and  
7 believability of witnesses, our law gives you very  
8 broad discretion. And please remember, we're not  
9 talking about counting witnesses, we're not talking  
10 about numbers. But you may consider many witnesses  
11 against one, you may consider one witness against  
12 several. You may consider all of a witness' testimony,  
13 you may -- as being credible, you may believe parts of  
14 a witness' testimony, or you may find that the witness'  
15 testimony is not credible in any fashion and you  
16 therefore don't believe it in its entirety.

17 Now, these are decisions you don't make  
18 arbitrarily, but if there's a reason in the record of  
19 this case that is evidence in this case for taking that  
20 position, you have that prerogative. Because your  
21 objective has been since you -- since we started to  
22 determine the truth regardless of the source of the  
23 evidence.

24 Now, while you enjoy a very wide latitude and  
25 broad discretions when it comes to determining the true

1 facts in this case, please remember that you don't  
2 enjoy the same with the law. Because as we discussed,  
3 you may hear a principle of law with which you differ.  
4 And I respect your right to feel that way. You may  
5 even feel that the law should be changed, and that's  
6 your right and your prerogative. But that's for  
7 another day.

8 For the purposes of today, you must accept the law  
9 as I give it to you, setting aside your personal belief  
10 as to what you think the law is or should be, and apply  
11 that law fairly and impartially to the facts. You are  
12 also instructed to consider the charge as a whole, and  
13 don't put any greater weight on any one aspect of the  
14 charge but apply the entire charge to the facts that  
15 you will determine when you begin your deliberations.

16 The fact that I give you an instruction on a  
17 particular aspect of this case is not to be considered  
18 by you as a suggestion of how you are to decide a  
19 factual issue because, as I've stated, nothing that I  
20 say or have said during this process or do should be  
21 considered by you as an indication of how you must  
22 resolve a factual issue. Also, the fact that I have it  
23 in some order means nothing, again, consider the charge  
24 as a whole.

25 Let's look at the two charges. First, I want to

1 talk about the offense of murder. He's accused in this  
2 indictment of committing the offense of murder, which  
3 is provided at Section 16-3-10 of our code of laws,  
4 defines murder as the killing of another person -- any  
5 person with malice aforethought, either expressed or  
6 implied. The State in order to obtain a conviction  
7 must prove that Defendant killed another person with  
8 malice aforethought.

9 Malice is hatred, ill will or hostility towards  
10 another person. It is the intentional doing of a  
11 wrongful act without just cause or excuse and with the  
12 intent to inflict an injury or under circumstances that  
13 the law will infer an evil intent. Malice indicates a  
14 formed purpose and is a design to do a wrongful act  
15 under circumstances that exclude any legal right to do  
16 it.

17 Further, there must be malice aforethought, which  
18 means that the malice must have been conceived in the  
19 mind of the Defendant prior to the act producing the  
20 fatal result. The word aforethought is usually  
21 understood to refer to the time when the evil is  
22 conceived. But the law does not require that the  
23 malice must exist for any appreciable length of time  
24 before the commission of the act. It may be -- it may  
25 be conceived at the very moment that the action is

1 taken, which results in the death of another.

2 Therefore, there must be a combination of a previous  
3 evil intent and the act. Malice aforethought may be  
4 expressed or inferred.

5       These terms expressed, inferred do not mean  
6 different kinds of malice but merely the manner in  
7 which the malice may be shown to exist, that is, either  
8 by direct evidence or inference from facts and  
9 circumstances which are proven. Express malice is  
10 shown when a person speaks words which express hatred  
11 or ill will for another, or when a person prepared  
12 beforehand to do the act which was later accomplished.

13       Malice may be inferred from conduct showing a  
14 total disregard for human life. Inferred malice may  
15 also arise when the deed is done with a deadly weapon.  
16 A deadly weapon is any article, instrument or substance  
17 which is likely to cause death or great bodily harm.  
18 Whether an instrument has been used as a deadly weapon  
19 depends on the facts and circumstances of each case. I  
20 would instruct you that a pistol under our law is a  
21 deadly weapon.

22       Also, if the facts proved beyond a reasonable  
23 doubt establish that one intentionally kills another  
24 during the commission of a felony, the inference of  
25 malice may also arise. Now, if facts are proved in a

1 case beyond a reasonable doubt sufficient to raise this  
2 inference of malice, then -- and it's you considering  
3 that, you are to consider that inference as simply an  
4 evidentiary fact which is to be taken into  
5 consideration together with all other facts and  
6 evidence in the case. And you may give it such weight  
7 as you find it should receive.

8       You as jurors are free to accept or reject the  
9 permissive inference depending on your view of the  
10 facts of the case. Now, if malice is present in the  
11 mind of one doing the killing any length of time before  
12 the act, then its presence would be sufficient to  
13 render the killing murder.

14       Let's look at the offense of armed robbery. The  
15 Defendant is also charged with this offense, and in  
16 order to prove this offense, the State must prove  
17 beyond a reasonable doubt that the Defendant took  
18 personal property from the person or presence of  
19 another person. Property is in the presence of a  
20 person if it is within the person's reach, inspection,  
21 observation or control, so that the person could, if  
22 not overcome with violence or prevented by fear, keep  
23 possession of the property.

24       The State must also prove beyond a reasonable  
25 doubt that the Defendant carried the property away

1 intending to permanently deprive the owner of the  
2 property and to keep the property for Defendant's own  
3 use.

4       The slightest removal of the property or the  
5 complete possession of the property even for an instant  
6 by the Defendant is sufficient to show a taking and  
7 carrying away of the property. In that regard, I would  
8 instruct you that illegal drugs are considered by our  
9 law to be property. The taking and carrying away of  
10 the property must have been done with violence or by  
11 putting the owner of the property in fear of violence.

12       Finally, the State must prove beyond a reasonable  
13 doubt that the Defendant was armed with a deadly weapon  
14 during the robbery. A deadly weapon is any, as I've  
15 just -- as I've earlier defined, is any article,  
16 instrument or substance which is likely to caught death  
17 or bodily harm. And in that regard, I would tell you a  
18 pistol may be a deadly weapon.

19       I would also instruct you, ladies and gentlemen,  
20 that if a crime is committed by two or more people who  
21 are acting together and committing a crime, the act of  
22 one is the act of all. A person who joins with another  
23 to accomplish an illegal purpose is criminally  
24 responsible for everything done by the other person  
25 which occurs as a natural consequence of the acts done

1 in carrying out the common plan and purpose.

2 If two or more people are together acting  
3 together, assisting each other in committing the  
4 offense, the act of one is the act of all. This is  
5 sometimes called the hand of one is the hand of all.

6 Prior knowledge that a crime is going to be  
7 committed without more is not sufficient to make a  
8 person guilty of the crime. Mere knowledge that  
9 another person is going to commit a crime, even if the  
10 Defendant is present when the crime is committed is not  
11 sufficient to convict the Defendant as a principal, nor  
12 does mere presence at the scene of a crime or mere  
13 association with a person who commits a crime make a  
14 defendant an accomplice or an aider or abettor, and  
15 abettor of person committing the crime.

16 Guilt as a principle is shown by actual or  
17 constructive presence at the crime as a result of a  
18 prior arrangement. Therefore, a finding of a prior  
19 arranged plan or common scheme is necessary for finding  
20 of guilt as a principal.

21 The State must prove beyond a reasonable doubt by  
22 competent evidence the theory of the hand of one is the  
23 hand of all. A principal in a crime who is one who  
24 either actually commits a crime or who is present  
25 aiding, abetting or assisting in committing the crime.

1           When a person does an act in the presence of and  
2 with the assistance of another, the act is done by  
3 both. Where two or more acting with a common plan or  
4 intent are present at the commission of a crime, it  
5 does not matter who actually commits the crime.  
6 Present at the commission of a crime means to be  
7 sufficiently near to aid and abet and assist in the  
8 commission of that crime.

9           The burden upon the State is to prove every  
10 element of the crime charged. If you find after  
11 reviewing all of the evidence that the State has proved  
12 the Defendant was only present at the scene and that --  
13 and they had not proved beyond a reasonable doubt any  
14 other participation in the crime, then you must find  
15 the Defendant not guilty. The law is that -- law is  
16 that the proof at the scene of the crime is not  
17 sufficient alone to establish guilt.

18           I would also instruct you that intent is a  
19 necessary element that the State must prove beyond a  
20 reasonable doubt. For there must have been a common  
21 design or intent to commit the crime, and the crime  
22 must have been committed pursuant thereto with the  
23 person aiding and abetting by some overt act.

24           Intent means intending the result which actually  
25 occurs, not accidentally or involuntarily. Intent may

1 be by acts and conduct of the Defendant and other  
2 circumstances from which you may naturally and  
3 reasonably infer intent. The State must prove these  
4 elements beyond a reasonable doubt.

5 Intent may be -- may be -- intent operates jointly  
6 with the commission of the act and may include those  
7 consequences which represent the very purpose for which  
8 the act is done or are known to be substantially  
9 certain to result regardless of one's desire.

10 Criminal intent is a mental state, a conscious --  
11 of a conscious wrongdoing. And it's up to you, ladies  
12 and gentlemen, in analyzing the evidence to decide  
13 whether or not the State has convinced you beyond a  
14 reasonable doubt that the Defendant was the person at  
15 the scene and the intent was carried out, and that was  
16 established beyond a reasonable doubt.

17 Throughout this entire process, ladies and  
18 gentlemen, you and I were selected as judges. We're  
19 not partisans or advocates for either the State or  
20 Mr. McDonald. We don't have any friends to reward, nor  
21 do we have enemies to punish. In fact, ladies and  
22 gentlemen, we have to do something and it's -- we have  
23 to be conscious of this, because as human beings it's  
24 not always easy to not be influenced by human emotion,  
25 which we all have.

1 But you have to -- you have promised that you will  
2 set aside all human emotions. You can't be motivated  
3 by any human emotion. And you must methodically apply  
4 your common sense, your sense of logic and reason in  
5 analyzing the facts, decide what you find to be the  
6 true facts, and then once deciding those facts apply  
7 the law and report your decision.

8 I would come down normally, but I'm not going to  
9 take the time to walk around again, forgive me for not  
10 doing that, ladies and gentlemen. As the presiding  
11 juror, I will be sending back two verdict forms. And  
12 you will note when you see them, I probably couldn't  
13 even see the paper from where you are, but there are  
14 two choices. The order in which they appear means  
15 absolutely nothing, I had to put them in some order.  
16 You'll note there's a caption on each one, one of them  
17 deals with the offense of murder, the other with armed  
18 robbery, two separate crimes.

19 And the caption is just to facilitate the filing  
20 of the document. That's the purpose of that. The body  
21 reads thusly, and this one happens to deal with armed  
22 robbery. We, the jury, in the above entitled action by  
23 unanimous consent -- what does that mean, all 12 of you  
24 have to agree. 11 to 1 is not sufficient, ten to two.  
25 12 to 0 -- find the Defendant, Marquis Spencer

1 McDonald, on the charge of armed robbery -- and again,  
2 the order means nothing -- first charge says guilty,  
3 second charge not guilty.

4 Then it will say presiding juror and a line and a  
5 blank for the date. I ask you to, whichever your  
6 choice, that you place a check in the line that  
7 precedes the choice and circle it. That way we know  
8 that's your choice. Once you've done that, sign it and  
9 you will have completed that form.

10 What will you be saying if it's guilty? You'll be  
11 saying that you and other jurors analyzed the evidence  
12 and are firmly convinced that the State established  
13 each element of the crime of armed robbery. And  
14 therefore your verdict is guilty. Not guilty says  
15 we've analyzed the evidence, and collectively the State  
16 has failed on one or more elements and therefore,  
17 pursuant to my instruction, you are instructed to  
18 return a verdict of not guilty.

19 The same -- you'll go through the same process for  
20 the offense of murder, and again, the elements that  
21 I've discussed. Guilt means the State is -- you are  
22 firmly convinced that the State has established beyond  
23 a reasonable doubt each of the elements of the crime of  
24 murder. So whichever it is, if you'll check it, circle  
25 it, sign it, date it, knock on the door once you've

1 finished both of them, we'll be happy to return you to  
2 the courtroom to receive your verdict.

3 I know you're anxious to get started, and you're  
4 almost there. First, I need to ask if any member of  
5 the jury panel, the first 12, we have Ms. Lightweis as  
6 well now, but the 12 jurors now on the jury, any one of  
7 you feel that you will be unable to continue? If so,  
8 please raise your right hand. Thank you very much.

9 Ms. Post, at this point it appears that the first  
10 12 jurors will be able to continue. I'm going to ask  
11 when the jury is excused that you not rejoin them in  
12 your jury room. They will take you to another room,  
13 and I'll be in very shortly to discuss with you how  
14 much longer you need to stay.

15 I have to excuse you to discuss my charge with the  
16 attorneys. It may be necessary that I return you to  
17 the courtroom to give you some additional instruction  
18 or clarification. If so, we will return all of you to  
19 the courtroom, including Ms. Post, to give that  
20 instruction.

21 But if there aren't any additions or corrections  
22 that need to be given, then we will gather the exhibits  
23 and the verdict forms and deliver them to you. When  
24 you receive those exhibits, then you may commence your  
25 deliberations but not before.

1           Now, once the deliberations commence, the only  
2 restriction that I place on the deliberations is this.  
3 If any juror has to leave the table for any reason, you  
4 must stop deliberating until all 12 of you are  
5 together. Other than that, you proceed as you deem fit  
6 and proper. I also would remind you that if during  
7 your deliberations you should have a difference of  
8 opinion about what a witness said or didn't say, if you  
9 will let me know that or if you need further  
10 clarification on any instruction, they will give you a  
11 pad. If you'll just write that, use an entire sheet  
12 because that will become an exhibit.

13           If you need further witnesses' testimony or  
14 rehearing witnesses' testimony, if you'll just indicate  
15 the witness, and we'll make arrangements to bring you  
16 in. Because as I told you, please remember, my court  
17 reporter is the sole -- is solely responsible for the  
18 record. And it's -- so if you do have a difference, we  
19 can resolve that very simply. Thank you very much for  
20 your attention. Please now retire to your jury room  
21 and await the exhibits before commencing your  
22 deliberations.

23           (WHEREUPON, the jury exited the courtroom at  
24 1:02 p.m.)

25           THE COURT: Exceptions, additions from the State?

1 MR. RICHARDSON: No, Your Honor.

2 THE COURT: Exceptions, additions from the  
3 Defendant?

4 MR. McCOLLUM: No, judge.

5 THE COURT: Thank you all very much, I appreciate  
6 it. It's been an honor and privilege to work with you,  
7 the professionals that you are. Good luck to all  
8 parties.

9 MR. McCOLLUM: Thank you, judge.

10 MR. RICHARDSON: Thank you, Your Honor.

11 THE COURT: And those of you that have been  
12 attending that are here for either side, thank you as  
13 well. I know this is a tough time for each one of you.  
14 My heart goes out to both sides in this situation. And  
15 I just thank you for the courtesies that you've  
16 extended and your professionalism in observing the  
17 proper decorum during this process. Thank you so much.  
18 We'll be at ease.

19 MR. RICHARDSON: Yes, sir, Your Honor.

20 (WHEREUPON, the jury begins to deliberate at 1:03  
21 p.m.)

22 (WHEREUPON, Court's Exhibit No. 1 was marked for  
23 identification.)

24 THE COURT: Thank you, let's bring in our jury  
25 panel. Let the record reflect that Mr. McDonald is

1 present.

2 (WHEREUPON, the jury came into open court at  
3 approximately 1:59 p.m.)

4 THE COURT: Thank you very much, ladies and  
5 gentlemen. What's now Court's Exhibit 1, we want all  
6 the photos of the cars, etcetera. You have them. The  
7 problem, and I told them I forgot to mention it to you,  
8 you have the disc. But there are no -- were not  
9 physically entered, they are on the Power Point. And  
10 we checked to see if we have a computer that can be  
11 taken by you and played in the jury room. We do not.

12 So we need to -- for you to let us know if you  
13 want to see the disc again or disc, any part of it.  
14 Let us know and we'll need you to bring the disc with  
15 you and we'll play it, and you can retire.

16 So with that, if you need to talk with them, go  
17 back to your jury room. If not, I just need you --  
18 somebody to get the disc for us. We need the disc.  
19 All right. Could we get the -- could you --

20 THE FOREPERSON: You want me to get it?

21 THE COURT: Yes, sir, that would be fine.  
22 Everybody else could just remain seated. We're ready  
23 to go forward, are we not, solicitor, with that?

24 MR. RICHARDSON: If I could just have some  
25 direction.

1 THE COURT: We're going to play it.

2 MR. RICHARDSON: There are three, I just...

3 THE COURT: Yeah. I would say we'll play all of  
4 them until they tell us otherwise.

5 MR. RICHARDSON: Your Honor, if it will work, I  
6 can hand them the remote, once it's plugged in they can  
7 flip forward and back. Or they can tell me to flip  
8 forward and back, and I can do the remote.

9 THE COURT: Okay. Well, when the presiding juror  
10 gets back, I'll find out what they want to do.

11 MR. RICHARDSON: Yes, sir, Your Honor.

12 THE COURT: Thank you. Thank you, sir. And what  
13 we'll do -- thank you very much -- is with a mark, you  
14 want all of them played, you want certain ones played,  
15 without disclosing what it is you're looking for?

16 THE FOREPERSON: I would like to see the bullet  
17 holes in the white SUV.

18 THE COURT: Okay, all right. And we'll be happy  
19 to -- you can fast forward.

20 MR. RICHARDSON: I know where those are, Your  
21 Honor.

22 THE COURT: That and any other parts, if you'll  
23 just let us know, then we'll be happy to play it for  
24 you.

25 MR. RICHARDSON: Thank you.

1 THE COURT: Let me do this, okay. If y'all need  
2 to go back and talk about that and then let us get a  
3 list of the ones, we can do that as well. But we'll  
4 just do it this way if that works for everybody.

5 MR. RICHARDSON: Your Honor, for the record, this  
6 is State's No. 10.

7 THE COURT: Very well, thank you.

8 (Discussion off the record.)

9 MR. RICHARDSON: For the record, Your Honor, I'll  
10 be starting at slide 59.

11 THE COURT: Okay.

12 MR. RICHARDSON: Your Honor, if the jury will tell  
13 me when they want me to stop.

14 THE COURT: Just show right now the request that  
15 this vehicle of the bullet holes, I think, so whatever  
16 you have, whatever photographs you have of that. Just  
17 go through those photographs for me.

18 MR. RICHARDSON: That was slide 58 through 65,  
19 Your Honor.

20 THE COURT: Okay, all right.

21 MR. RICHARDSON: That's with the tape around.

22 THE COURT: Any other photographs without the tape  
23 around?

24 MR. RICHARDSON: I believe there was one  
25 previously, Your Honor. I'm just reversing back, Your

1 Honor.

2 THE COURT: All right.

3 MR. RICHARDSON: There's one without the tape.

4 That is slide 48.

5 THE COURT: Okay.

6 MR. RICHARDSON: I believe that would be just  
7 about all of them.

8 THE COURT: All right. Any other photographs of  
9 the --

10 THE FOREPERSON: I mean, can you go forward from  
11 there, and I'll tell you when to stop.

12 MR. RICHARDSON: Sure, sure. Going up, okay.

13 THE FOREPERSON: Slowly just go. Right there.  
14 Okay. Keep going forward. Right there. So we're  
15 clear, Defendant's car would have been parked right in  
16 this --

17 THE COURT: Wait just one second. This, what's  
18 happening right now, would be a wonderful maybe  
19 addition one day. But right now, any discussion that  
20 we have, y'all cannot talk, y'all should only wait and  
21 talk in the jury room. We don't need to know what it  
22 is y'all are looking for.

23 THE FOREPERSON: Okay.

24 THE COURT: And unfortunately, we can't -- we  
25 can't comment on what we -- where we are now under the

1 rules. So thank you, sir.

2 THE FOREPERSON: I apologize.

3 THE COURT: Nothing wrong with what you did, I  
4 understand it, but we're not permitted to do that.

5 Y'all want to go back and talk, discuss it, then --

6 THE FOREPERSON: Can you go two more pictures.

7 MR. RICHARDSON: Sure.

8 THE FOREPERSON: All right, right there.

9 MR. RICHARDSON: Right there?

10 THE FOREPERSON: Okay. Everybody good?

11 THE COURT: All right. If you need to view more,  
12 just let us let us know.

13 THE FOREPERSON: All right.

14 THE COURT: Thank you very much, appreciate it.

15 Resume and continue your deliberations.

16 (WHEREUPON, the jury exited the courtroom at  
17 2:09 p.m.)

18 (WHEREUPON, the jury resumed deliberations at  
19 approximately 2:10 p.m.)

20 THE COURT: Any exceptions, additions from the  
21 State regarding comments of the Court to the jury?

22 MR. RICHARDSON: No, sir, Your Honor.

23 MR. McCOLLUM: None from the defense, Your Honor.

24 THE COURT: Thank you very much, and we're off the  
25 record.

1 (WHEREUPON, a brief recess was taken at 2:10 p.m.)

2 THE COURT: Thank you, please be seated. All  
3 right, let the record reflect Mr. McDonald is present.  
4 I'm advised the jury has reached a verdict. Is the  
5 State ready to receive the verdict?

6 MR. RICHARDSON: The State is prepared to go for  
7 it, Your Honor.

8 THE COURT: Very well. Is the defense ready to  
9 receive the verdict?

10 MR. McCOLLUM: The defense is ready, Your Honor.

11 THE COURT: Very well. Ladies and gentlemen,  
12 again, I thank you for the -- your professionalism in  
13 observing the proper courtroom decorum throughout this  
14 trial. I understand emotions. I've been doing this  
15 for 20 years and it's an emotional time, it still is.  
16 And I hope and pray if I'm fortunate enough to do it 20  
17 more years, it will always be because we're dealing  
18 with something that -- we're dealing with human life,  
19 and I understand that. And I respect anybody that  
20 would have deep feelings right now.

21 But if you remain, I'm going to expect you to  
22 continue to maintain this proper decorum. There will  
23 be no reaction to the verdict. And if you feel that  
24 you are unable to do that, then I would appreciate you  
25 just exiting the courtroom right now. Because if you

1 remain and there is any outburst, then I will have to  
2 deal with that because that would constitute direct  
3 contempt of court. So thank you very much again for  
4 your courtesy and acknowledgement of this process.

5 And, frankly, those 12 persons from this county  
6 have made a sacrifice to make this process work, and we  
7 need to keep the dignity of the process. So thanks  
8 again. Let's bring in our jury, please.

9 (WHEREUPON, the jury came into open court at  
10 approximately 4:01 p.m.)

11 THE COURT: Thank you very much, ladies and  
12 gentlemen. Mr. Hill, I've been advised the jury has  
13 reached a verdict; is that correct, sir?

14 THE FOREPERSON: (Nodding affirmatively.)

15 THE COURT: If you would pass the verdict form,  
16 please, to the bailiff, the verdict forms. Verdict  
17 forms have been properly completed. I would ask the  
18 Defendant to please rise. You may publish the verdict.

19 CLERK OF COURT: In the Court of General Sessions,  
20 Case 2014-GS-26-3820, the State of South Carolina,  
21 County of Horry, State of South Carolina versus Marquis  
22 Spencer McDonald, we, the jury, in the above entitled  
23 action by unanimous consent find the Defendant, Marquis  
24 Spencer McDonald, on the charge of armed robbery,  
25 guilty. Signed by foreperson John Hill, Horry County,

1 South Carolina, October 9, 2014.

2 In the Court of General Sessions, case number  
3 2013-GS-26-1478, the State of South Carolina, County of  
4 Horry, State of South Carolina versus Marquis Spencer  
5 McDonald, we, the jury, in the above-entitled action by  
6 unanimous consent find the Defendant, Marquis Spencer  
7 McDonald, on the charge of murder, guilty. Signed by  
8 foreperson John Hill, Horry County, South Carolina,  
9 October 9, 2014.

10 Ladies and gentlemen of the jury, if this is your  
11 verdict, so signify by raising your right hand.

12 (WHEREUPON, all jurors' right hands were raised.)

13 THE COURT: Thank you. You may put them down.  
14 Let the record reflect that each juror raised his or  
15 her right hand in response to the clerk's request. You  
16 may be seated. Anything further for the jury panel  
17 from the Defendant?

18 MR. McCOLLUM: No, Your Honor.

19 THE COURT: Very well. Ladies and gentlemen,  
20 thank you very much for your participation. I  
21 appreciate the service that you've rendered to your  
22 county and state. I ask you to return to your jury  
23 room for just a moment, and I'll be in in just a short  
24 while to discuss it with you. Thank you.

25 (WHEREUPON, the jury exited the courtroom at

1 4:03 p.m.)

2 THE COURT: Any matters from the State?

3 MR. RICHARDSON: No, sir, Your Honor.

4 THE COURT: Any motions or matters from the  
5 Defendant?

6 MR. McCOLLUM: Thank you, Your Honor.

7 THE COURT: Yes, sir.

8 MR. McCOLLUM: Your Honor, at this time on behalf  
9 of the Defendant, I would make a motion for a new  
10 trial. In addition, I would renew all motions  
11 previously made, renew all objections and renew the  
12 motion for a directed verdict.

13 THE COURT: Thank you so much, I appreciate that.  
14 And certainly the record reflects my positions with  
15 regarding the objections and the motions for directed  
16 verdict. With respect to the motion for new trial, it  
17 was clearly a matter for the jury to decide two  
18 positions presented from both sides and argued very,  
19 very clearly.

20 And the jury made a decision, and I think the  
21 verdict -- I think the evidence supports the verdict,  
22 and I therefore deny your motion. Thank you, sir. All  
23 right. We're prepared for sentencing?

24 MR. RICHARDSON: Yes, sir.

25 THE COURT: Prepare the sentencing sheets?

1 MR. RICHARDSON: Yes, sir.

2 THE COURT: We'll take a few minutes, and I'm  
3 going to go speak to the jury and dismiss them, and  
4 then I'll return and impose a sentence.

5 MR. RICHARDSON: I'll hand these up to you.

6 THE COURT: Thank you so much. We'll be at ease  
7 for a few moments.

8 (WHEREUPON, a brief recess was taken at 4:05 p.m.)

9 THE COURT: All right. Sorry to keep y'all  
10 waiting. All right. Anything from the State further?

11 MR. RICHARDSON: Your Honor, I've spoken to both  
12 Anthony Liddell, Sr., and Sheila Gillespie, Anthony  
13 Jr.'s mother and father. They are heartbroken, they  
14 don't wish to address the Court at this time. They  
15 don't -- they just -- they are emotionally overwhelmed  
16 this morning, Your Honor.

17 THE COURT: And I understand that perfectly well.

18 MR. RICHARDSON: Yes, sir, Your Honor.

19 THE COURT: And I appreciate that.

20 MR. RICHARDSON: And with regard to sentencing,  
21 the State just -- well, you've heard the case, Your  
22 Honor. He does have a prior record for assault and  
23 battery, high and aggravated nature. And murder, just  
24 to silence a witness over \$350 worth of marijuana.

25 THE COURT: Okay.

1 MR. RICHARDSON: I just ask for justice, Your  
2 Honor.

3 THE COURT: Thank you, sir.

4 MR. RICHARDSON: Yes, sir.

5 THE COURT: Mr. McCollum?

6 MR. MCCOLLUM: May it please the Court, Your  
7 Honor.

8 THE COURT: Yes, sir.

9 MR. MCCOLLUM: Obviously we've been in court on  
10 this case since Monday. So Your Honor is  
11 well-acquainted with most aspects of the case. I would  
12 just add that Marquis is a native of Conway, his family  
13 lives in Conway, they were -- many of them were in  
14 court, his grandmother, his mother, his girlfriend.  
15 His uncle was here at one point and his father was here  
16 part of the time as well.

17 He's got -- he has two children under the age of  
18 six that live with their mother in the State of North  
19 Carolina. As I said, he is a graduate of Conway High  
20 School. He has a one prior conviction of assault for  
21 which he received probation, I think, in the year 2010.  
22 And I've explained to him sentences and that there's  
23 certain mandatory minimums that must be imposed, but  
24 beyond that we would ask for whatever mercy is  
25 appropriate considering the length of the mandatory

1 minimums.

2 THE COURT: All right, sir. Is there anything you  
3 wish to say, Mr. McDonald?

4 THE DEFENDANT: Yes. I'm sorry for the family  
5 what they went through, and I hope they -- I hope  
6 they -- I hope they reach mercy on me somehow and  
7 forgive me. I know the truth that I didn't do it, but  
8 that's about it.

9 SENTENCE

10 THE COURT: Okay. I can't think of a more  
11 senseless act in what I've watched and witnessed,  
12 tragedy in every sense of the word. A young man that  
13 who knows what they could have provided to society now  
14 won't. And I don't know when we're going to learn.

15 I'm going to take into consideration all the  
16 aspects of it. One of the things that I've been  
17 stating all along, for some reason young people don't  
18 seem to understand two things, what can happen when you  
19 shoot somebody, but they don't understand the hand of  
20 one is the hand of all. And if there's ever a  
21 principle that needs to be taught to high schools  
22 across this state and this country, that is a principle  
23 of law that should be expressed.

24 The sentence of the Court on indictment 2014-3820  
25 as to armed robbery is 30 years. The sentence of the

1 Court on indictment 2013-1478, while I could impose a  
2 life sentence, I will not. Sentence of the Court is  
3 you be committed to the Department of Corrections for a  
4 term of 45 years. Good luck to you, sir.

5 MR. RICHARDSON: Thank you, Your Honor.

6 THE COURT: They are concurrent.

7 MR. RICHARDSON: Your Honor, may I approach?

8 THE COURT: Sure.

9 (Discussion off the record.)

10 THE COURT: That concludes this matter. Anything  
11 else.

12 MR. McCOLLUM: Nothing else on behalf of  
13 Defendant.

14 THE COURT: Thank you very much. Good luck to  
15 you; the attorneys as well, working with you.

16 MR. RICHARDSON: Yes, sir, Your Honor.

17 (WHEREUPON, the hearing concluded at approximately  
18 4:14 p.m.)

19 (End of Transcript of Record)  
20  
21  
22  
23  
24  
25

**WITNESSES**

Randall Truss S C Law Enforcement Division

**ARREST WARRANT NUMBER**

2014GS2603820

CDR: 0139 16-11-0330(A)

DOA: 3/6/2013

**ACTION OF GRAND JURY**

**TRUE BILL**

Foreperson of Grand Jury  
Date: SEP 17 2014

**VERDICT**

Foreperson of Petit Jury  
Date:

BUCKET NO. 2014-GS-26-03820

**The State of South Carolina**

**County of Horry**

Bradley C. Richardson  
13H01046

**COURT OF GENERAL SESSIONS**

**September, 2014 TERM**

**THE STATE**

**vs.**

Marquis Spencer McDonald  
B/ M  
6719 Friendfield Road  
Effingham, SC 29541  
DOB: 1992-03-28  
SSN: 248894768

**ATTORNEY: M. Gregory McCollum**

**Indictment for**

**ARMED ROBBERY**

**Jimmy A. Richardson, II, Solicitor**

**ORIGINAL**

610

FILED  
HORRY COUNTY

2014 SEP 17 PM 4:06

MELANIE HUGHES HARRIS  
CLERK OF COURT

DATE RECEIVED FROM

GRAND JURY

COURT DATE  
PLED GUILTY/TRIAL

2014 OCT -9 PM 5:20

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF HORRY )

INDICTMENT  
ARMED ROBBERY

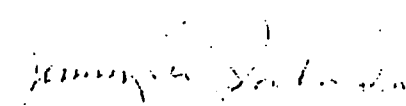
At a Court of General Sessions, convened on September 11, 2014, the Grand Jurors of Horry County present upon their oath:

ARMED ROBBERY

CDR: 0139 16-11-0330(A)

That Marquis Spencer McDonald and/ or his co-defendant did in Horry County on or about February 26, 2013, while armed with a deadly weapon, to wit: a handgun and/or firearm, take and carry away personal property of Anthony Liddell, Jr. from or in the immediate presence of Anthony Liddell, Jr. with intent to deprive Anthony Liddell, Jr. of possession by use of force, threats or intimidation, in violation of Section 16-11-0330(A), S. C. Code of Laws, 1976, as amended.

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

  
JIMMY A. RICHARDSON, II  
FIFTEENTH CIRCUIT SOLICITOR

NOTED  
JUL 1 2014  
JUL 1 2014

DOCKET NO. 2013-GS-26-01478

612

**WITNESSES**

Randall Truss S C Law Enforcement Division

**The State of South Carolina**

**County of Horry**

Bradley C. Richardson  
13H01046

**COURT OF GENERAL SESSIONS**

**April, 2013 TERM**

**COURT DATE  
PLED GUILTY/TRIAL**

**ARREST WARRANT NUMBER**

H269693

CDR: 0116 16-03-0010, 0020

DDA: 3/6/2013

**THE STATE**

**vs.**

Marquis Spencer McDonald  
140 Crestwood Rd  
Conway, SC 29527-3504  
DOB: 1992-03-28  
SSN: 248894768

**B/ M**

**ACTION OF GRAND JURY**

Foreperson of Grand Jury  
Date: *[Signature]*

**MAR 26 2013**

**VERDICT**

**ATTORNEY:**

**Indictment for**

**MURDER**

**Jimmy A. Richardson, II, Solicitor**

**ORIGINAL**

2014 OCT -9 PM 5:20

Foreperson of Petit Jury  
Date:

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF HORRY )

INDICTMENT  
MURDER

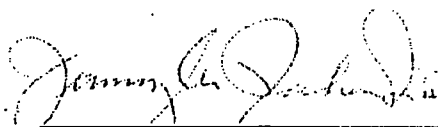
At a Court of General Sessions, convened on March 28, 2013, the Grand Jurors of Horry County present upon their oath:

MURDER

CDR: 0116 16-03-0010,0020

That Marquis Spencer McDonald and/or his Co-Defendant did in Horry County, on or about February 26, 2013, willfully, feloniously, and intentionally kill the victim, Anthony Darnell Liddell, with malice aforethought, either express or implied, by means of a shooting, and Anthony Darnell Liddell did die as a proximate result thereof on or about February 26, 2013, in Horry County, in violation of Section 16-03-0010, S. C. Code of Laws, 1976, as amended.

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



JIMMY A. RICHARDSON, II  
FIFTEENTH CIRCUIT SOLICITOR

COUNTY OF Horry  
STATE VS.  
Marquis Spencer McDonald

AKA:

Race: BLACK Sex: M Age: 22DOB: 03-28-1992 SS#: 248-89-4768Address: 6719 Friendfield RoadCity, State, Zip: Effingham, SC 29541DL#: 101198757 SID#:\*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was  
TO: Armed RobberyINDICTMENT/CASE#: 2014GS2603820A/W#: 2014GS2603820Date of Offense: 2/26/2013S.C. Code § : 16-11-0330(A)CDR Code #: 0139

## SENTENCE SHEET

☐ CONVICTED OF or ☐ PLEADSin violation of § 16-11-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The 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:

SCB68305

Richardson, Bradley C.

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,  
for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed \_\_\_\_\_ years  
and/or to pay a fine of \$ \_\_\_\_\_; provided that upon the service of \_\_\_\_\_ days/months/years and/or payment  
of \$ \_\_\_\_\_; plus costs and assessments as applicable\*; the balance is suspended with probation for \_\_\_\_\_

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on 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)

§ 14-1-211(A)(2) (DUI Surcharge)

§ 56-5-2995 (DUI Assessment)

§ 56-1-286 (DUI Breath Test)

Proviso 47.9 (Public Def/Prob)

§ 14-1-212 (Law Enforce. Funding)

§ 14-1-213 (Drug Court Surcharge)

§ 50-21-114(BUI Breath Test Fee)

§ 56-5-2942(J) (Vehicle Assessment)

Proviso 90.5 (SCCJA Surcharge)

3% to County (if paid in installments)

TOTAL

\$

\$

\$100

\$

\$100

\$

\$12

\$

\$25

\$

\$500

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\$25

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\$150

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\$50

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\$40/ca

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\_\_\_\_\_ 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 \$ 25.00 beginning 10/9/2014

\$ \_\_\_\_\_ 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

Melanie Huggins Ward

Teresa Bautz

Presiding Judge

Judge Code: 2060

10/9/14

COUNTY OF  
STATE

Horry

VS.

Marquis Spencer McDonald

INDICTMENT/CASE#: 2013GS2601478

A/W#: H269693

Date of Offense: 2/26/2013

S.C. Code §: 16-03-0010, 0020

CDR-Code #: 0116

AKA:

Race: BLACK Sex: M Age: 22

DOB: 03-28-1992 SS#: 248-89-4768

Address: 6719 Friendfield Road

City, State, Zip: Effingham, SC 29541

DL#: 101198757 SID#:

\*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Murder / Murder

## SENTENCE SHEET

☐ CONVICTED OF or ☐ PLEADS

in violation of § 16-03-0010, 0020 of the S.C. Code of Laws, bearing CDR Code # 0116

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The 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:

SCB68305

Richardson, Bradley C.

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 45 days/months/years or ☐ under the Youthful Offender Act not to exceed \_\_\_\_\_ years

and/or to pay a fine of \$ \_\_\_\_\_; provided that upon the service of \_\_\_\_\_ days/months/years and/or payment

of \$ \_\_\_\_\_; plus costs and assessments as applicable\*; the balance is suspended with probation for \_\_\_\_\_

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on 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   | \$ 100.00 |
| § 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 Enforc. Funding)       | \$25    | \$ 25.00  |
| § 14-1-213 (Drug Court Surcharge)      | \$150   | \$        |
| § 50-21-114 (BUI Breath Test Fee)      | \$50    | \$        |
| § 56-5-2942(J) (Vehicle Assessment)    | \$40/ca | \$        |
| Proviso 90.5 (SCCJA Surcharge)         | \$5     | \$ 5.00   |
| 3% to County (if paid in installments) | \$      | \$ 3.90   |
| TOTAL                                  | \$      | \$ 133.90 |

\_\_\_\_\_ 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 \$ 25.00 beginning 10/19/2009

\$ \_\_\_\_\_ 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

Melanie Huggins Ward

Teresa Bautz

Presiding Judge

Judge Code: 2060

10/19/14

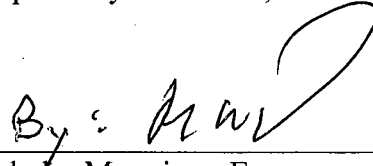
**RECEIVED**  
OCT 10 2016  
SC Court of Appeals

616

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,

By: 

Nicholas Mermiges, Esq.  
Law Offices of Nick Mermiges LLC  
1720 Main Street #202  
Columbia, SC 29201  
(803) 724-1258

Robert M. Dudek  
Chief Appellate Defender

This 10th day of October, 2016.

South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
PO Box 11589  
Columbia, S.C. 29211-158(803) 734-1330

ATTORNEY FOR APPELLANT

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

ORIGINAL  
RECEIVED

OCT 10 2016

Appeal from Horry County  
Honorable R. Markley Dennis, Circuit Court Judge SC Court of Appeals

THE STATE,

RESPONDENT,

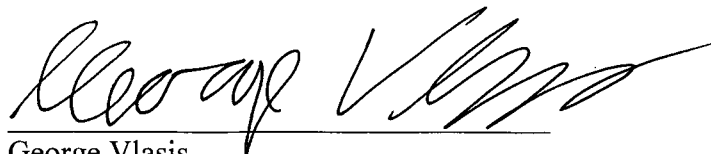
V.

MARQUIS SPENCER MCDONALD,

APPELLANT

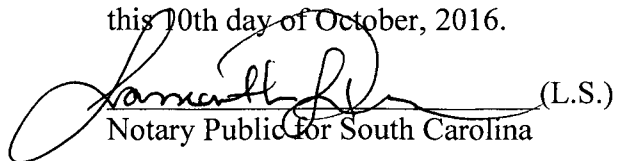
CERTIFICATE OF SERVICE

I certify that a copy of the Record on Appeal in the above-referenced case has been served upon Donald J. Zelenka, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 10th day of October, 2016.



George Vlasis  
Administrative Specialist

SUBSCRIBED AND SWORN TO before me  
this 10th day of October, 2016.



(L.S.)  
Notary Public for South Carolina

My Commission Expires April 27, 2016.