

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM ANDERSON COUNTY
General Sessions Court

R. Scott Sprouse, Circuit Court Judge

Re: State of South Carolina v. Bobby Joe Arflin
Case No.: 2015-001900

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SC Court of Appeals

The State of South Carolina,		Respondent,
	v.	
Bobby Joe Arflin,		Appellant.

RECORD ON APPEAL
Volume 3 of 3

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1 down.

2 Call your next witness.

3 MS. WHITE: May we approach?

4 THE COURT: Yes, ma'am.

5 (WHEREUPON, a bench conference was held off the
6 record in the presence of the jury, but out of the
7 hearing of the jury.)

8 THE COURT: Ladies and gentlemen of the jury, I
9 have had a conference at the bench with the attorneys,
10 and we have reached a natural stopping point in the
11 case. There are a number of matters of law that I need
12 to take up with the attorneys before we proceed, so
13 we're going to have a little bit longer lunch today.

14 I'm going to go ahead and let you break for lunch.
15 You're going to have a little bit more time today
16 because, like I said, we have several issues that we're
17 going to have to deal with before we resume.

18 So be back here shortly before 2 o'clock. We will
19 recommence the case at 2 o'clock. And while you're
20 out, you know my instruction: Don't discuss with third
21 parties, no independent research, no deliberations.

22 (WHEREUPON, the jury exited open court at
23 11:14 a.m.)

24 THE COURT: Anything from the State?

25 MS. PRICE: Nothing from the State.

1 THE COURT: Anything from the defense at this
2 point?

3 MS. WHITE: No, sir.

4 THE COURT: All right. Let's do this.

5 MS. WHITE: Your Honor, I would like to move for a
6 directed verdict again -- oh, well, I haven't
7 officially rested.

8 THE COURT: Yeah, you haven't rested yet.

9 Let's go ahead and break. And the attorneys, you
10 be back at 1:30 and then we will go over potential jury
11 charges.

12 MS. WHITE: Judge, we kind of have to know for
13 preparing our argument.

14 THE COURT: Do you have your submissions? Does
15 each side have specific submissions that I could look
16 at now?

17 MS. WHITE: I haven't numbered them. I will
18 number them.

19 THE COURT: If you want to do that. I can tell
20 you -- we can go ahead and do it now.

21 The charges that we will do in any criminal case,
22 I mean, I have a general charge. I have a charge on
23 direct and circumstantial evidence. I have a charge on
24 credibility of witnesses, presumption of innocence,
25 reasonable doubt, criminal intent, the standard charge

1 on the charge, indictment not being evidence. We have
2 a standard charge on expert witnesses. I have already
3 given an abbreviated version of that with each expert,
4 but I plan to give it again.

5 I have the standard self-defense that's been put
6 into the record. I have a self-defense charge. I also
7 have a standard charge on the statement of the
8 defendant since there was a statement of the defendant
9 admitted into evidence. We will have standard charges
10 on murder, possession of weapon during the commission
11 of a violent crime, and then a charge on solicitation
12 to commit a felony. Those are case-specific charges
13 that we would have.

14 The question that I have is, does the defense seek
15 a charge of voluntary manslaughter?

16 MS. WHITE: No, sir. He ruled it out from his
17 testimony.

18 MS. PRICE: Your Honor, may it please the Court.

19 THE COURT: Yes, ma'am.

20 MS. PRICE: I don't know that he did rule it out
21 from his testimony. Just out of an abundance of
22 caution, I'm not opposed to a voluntary charge. There
23 has been testimony about a push and the cussing and the
24 fussing. I don't want this coming back on any
25 technicalities, and so I don't intend to really beat

1 that horse in my closing. However, I think that out of
2 an abundance of caution, the jury should have that
3 option.

4 THE COURT: Well, the defense is saying they don't
5 want the charge, and he's charged with murder. And I
6 think the defense is entitled to a charge on the
7 offense charged, and I'm not going to charge voluntary
8 manslaughter.

9 MS. PRICE: Okay.

10 THE COURT: The defense is requesting. I call
11 this an all-or-nothing case.

12 MS. PRICE: Yes, sir.

13 THE COURT: That's -- if there is evidence in the
14 record that the defense requested that charge, then I
15 would give it, but they are saying they don't want that
16 charge, so I'm going to honor the defense's request to
17 not charge voluntary manslaughter.

18 MS. PRICE: Yes, sir.

19 MS. WHITE: Your Honor, I have gone over that
20 extensively with my client, all the ramifications, the
21 various sentences, his age, all of these other things,
22 and actually my client has made that decision in this
23 case.

24 And I would like to point out the latest case law
25 actually says that if they testify that there is no

1 heat of passion, in fact, they were only acting in
2 self-defense, that that could very well rule out
3 voluntary manslaughter, and that's exactly what he
4 testified to.

5 THE COURT: Thank you, Ms. White.

6 Okay. Now, other than the charges that I have
7 mentioned, are there other specific charges that State
8 requests?

9 MS. PRICE: Your Honor, from the State, and I'm
10 sorry, I haven't typed it out but I will during the
11 break, but I do have the cases to cite.

12 Your Honor, the charge from *State v. Edwards*, I
13 submitted that to the Court during our pretrial
14 motions, that evidence of witness intimidation is also
15 evidence of guilt in the primary charge, sir. And
16 that's it from the State in terms of specific requests.

17 May I hand this to the Court, your Honor?

18 THE COURT: Yes, ma'am.

19 MS. PRICE: Again, I apologize.

20 THE COURT: Please provide Ms. White a copy.

21 MS. PRICE: I will.

22 MS. WHITE: Your Honor, I'm just putting numbers
23 on mine so that -- I couldn't number them until I was
24 sure what all the testimony showed. But I'm putting
25 numbers on them so we'll know what we're talking about

1 when we come back.

2 Your Honor, may I approach?

3 THE COURT: Yes, ma'am.

4 MS. WHITE: And I'll look over lunch, too, and see
5 if anything in the testimony came up that I didn't
6 anticipate, but this is what I anticipate, your Honor.

7 THE COURT: Okay.

8 MS. PRICE: May it please the Court.

9 THE COURT: Yes, ma'am.

10 MS. PRICE: For these, some of these charges that
11 are standard, like expert witness and murder that
12 Ms. White is just handing you, I just ask the Court use
13 the bench book.

14 MS. WHITE: That is bench book.

15 THE COURT: Looks like these are straight out of
16 the bench book. I haven't read all of them yet. I'm
17 going to go over them at lunch. But it certainly looks
18 like one, that's right out of the bench book.

19 Solicitation, number two; number three, self-defense;
20 act on appearances, number four; expert witness, number
21 five; size and age, number six; seven and eight, those
22 are both being incorporated into my standard charge.
23 Possession of weapon during the commission of a violent
24 crime, number nine. Again that's right out. Multiple
25 charges. Number ten is different, and that looks like

1 that is a standard charge. Credibility of witnesses is
2 covered. Direct and circumstantial evidence is
3 covered. Charge, arrest, indictment is not evidence.
4 That's covered.

5 MS. WHITE: Your Honor, I think I have two copies
6 of 14 and 15, and I think they're the same thing. I
7 just noticed there are two copies.

8 THE COURT: Let me read.

9 MS. WHITE: We'll take out 15 and leave 14.
10 They're the same.

11 THE COURT: Number 14. Ms. Price, it appears that
12 Ms. White is requested *State v. Frazier* charge. Have
13 you read number 14?

14 MS. PRICE: I'm reading it right now, sir.

15 MS. WHITE: Your Honor, I attached the case.

16 MS. PRICE: I see it. No objection.

17 THE COURT: Okay. And, Ms. White, do you have any
18 objection to the *State v. Edwards* charge?

19 MS. WHITE: May I be directed to the area that
20 we're going to be charging?

21 THE COURT: That was going to be my next question.

22 MS. PRICE: Well, I gave you both my copies.

23 MS. WHITE: I'm sorry.

24 MS. PRICE: And I haven't gone through it yet.

25 THE COURT: The case basically addresses the

1 admissibility of witness intimidation evidence to show
2 consciousness of guilt.

3 MS. PRICE: Sir, page -- it is -- and we have a
4 different copy than you do, unfortunately, but they
5 quote -- it's under subsection B, "Our approach follows
6 the majority of jurisdictions that have addressed the
7 issue. For example, in the *United States v. Hayden*,
8 the court noted that evidence of witness intimidation
9 is admissible to prove consciousness of guilt and
10 criminal intent if the evidence related to the offense
11 charged and is reliable."

12 THE COURT: I've read that, but my question is
13 what do you want charged to the jury since --

14 MS. PRICE: The jury may consider the evidence of
15 witness intimidation as evidence of guilt.

16 MS. WHITE: I'm going to object to that, your
17 Honor. I mean, obviously it's in evidence. Why would
18 we highlight that?

19 MS. PRICE: Why are we highlighting *State v.*
20 *Frazier*?

21 MS. WHITE: Well, we're highlighting the others
22 because the court has said it must be done.

23 THE COURT: Hold on. One at a time.

24 Ms. White, you object -- because that's my
25 question. This case goes directly towards

1 admissibility. Since I'm going to be charging them the
2 law on the solicitation charge, I feel this -- the
3 possibility of confusion to the jury, and I'm not going
4 to charge the *State v. Edwards* charge. That goes
5 toward the admissibility of the evidence and the
6 evidence was admitted. And I'm going to give them the
7 charge on the solicitation of a felony, so I'm not
8 going to charge that.

9 Ms. White, what about your statement -- now,
10 you're objecting to the *State v. Frazier* charge?

11 MS. PRICE: No, your Honor. I'm not.

12 THE COURT: All right. Well, then, are there any
13 further charges requested from either side?

14 MS. WHITE: Your Honor, I want to go back and look
15 over the testimony. I can't anticipate any at all, but
16 I want to go back quick and look quickly. I may have
17 one or two, but I can't anticipate it.

18 THE COURT: Attorneys, be here early. We're going
19 to start back at 2 o'clock. Be here at 1:30 and any
20 other issues that could be brought up we can deal with
21 at that time.

22 Now, certainly, again back to the *State v.*
23 *Edwards*, Ms. Price, what I'm not doing is charging it
24 as law. Certainly that's a factual question that
25 you're certainly going to comment in your closing

1 argument on the facts just like Ms. White is going to
2 comment on her version of the facts, and what this
3 evidence shows is a factual dispute between the two of
4 you.

5 MS. PRICE: Yes, sir.

6 THE COURT: So I just don't -- I don't see this
7 case as a jury instruction. This case goes toward
8 whether or not the Court can admit the evidence and the
9 evidence was admitted, so I think the evidence speaks
10 for itself. And you can -- each attorney can argue
11 that evidence as they see fit.

12 MS. PRICE: May it please the Court.

13 THE COURT: Yes, ma'am.

14 MS. PRICE: Just not to run afoul of the Court's
15 instruction, then, is it appropriate -- would the Court
16 have a problem with me instructing the jury that under
17 the law, they can consider evidence of witness
18 intimidation as evidence of guilt of the primary charge
19 since it is --

20 THE COURT: I'm not charging it as the law. That
21 is a factual question, and how you interpret those
22 facts I'm sure is going to be radically different than
23 how Ms. White interprets those facts.

24 MS. PRICE: Yes, sir.

25 THE COURT: And each of you will be able to argue

1 your interpretation of those facts to the jury.

2 MS. PRICE: Yes, sir.

3 THE COURT: Anything further before we break?

4 MS. PRICE: Nothing from the State.

5 THE COURT: I'll see y'all back at 1:30.

6 (WHEREUPON, lunch recess was taken from
7 11:28 a.m. to 1:50 p.m.)

8 THE COURT: Is there anything from the State
9 before we bring our jury back?

10 MS. PRICE: Nothing from the State.

11 THE COURT: Anything from the defense?

12 MS. WHITE: No, sir. Oh, yes there is. Your
13 Honor, I think I moved to get in Defense Exhibit 14 and
14 15, but if I did not, I'm moving to introduce those.

15 MS. PRICE: Without objection.

16 THE COURT: So Defendant's Exhibit 14 and 15 would
17 be admitted without objection.

18 (WHEREUPON, Defendant's Exhibit Number 14 was
19 admitted into evidence.)

20 (WHEREUPON, Defendant's Exhibit Number 15 was
21 admitted into evidence.)

22 MS. WHITE: Your Honor, the defense rests, and I
23 would like to renew my motions for directed verdict and
24 renew all of my objections I made throughout the trial.

25 THE COURT: So noted, and they are still denied.

1 So, okay. Let's get our jury.

2 I'd like you to rest on the record in front of the
3 jury. I'll note for the record at that time that your
4 motions are renewed.

5 THE BAILIFF: We're missing one juror.

6 MS. PRICE: May it please the Court.

7 THE COURT: Yes, ma'am.

8 MS. PRICE: Your Honor, I believe that the
9 defendant's wife and the husband of the victim's
10 wife (sic) -- are both on our witness list and have
11 been excluded from the trial up to this point. If
12 there's not any objection by Ms. White to letting them
13 both come into the courtroom at this time.

14 MS. WHITE: I've rested, so we're done, so.

15 THE COURT: And there's no reply?

16 MS. PRICE: No reply.

17 THE COURT: So, well, that's fine. Once testimony
18 is finished, all witnesses can come back in.

19 (WHEREUPON, the jury entered open court at
20 1:54 p.m.)

21 THE COURT: Ladies and gentlemen, I hope everyone
22 had a good lunch, and we are ready to proceed.

23 MS. WHITE: Your Honor, the defense rests.

24 THE COURT: And the defense -- is there any reply
25 testimony?

1 MS. PRICE: No reply by the State, sir.

2 THE COURT: Okay. And as mentioned during the
3 break, the defense plans to renew all its motions?

4 MS. WHITE: Yes, your Honor.

5 THE COURT: And those are noted for the record and
6 the Court's ruling is unchanged.

7 MS. WHITE: Thank you.

8 THE COURT: Ladies and gentlemen of the jury, we
9 have reached the point in the case where the evidence
10 is concluded. This is the point in the case where the
11 attorneys will be able to make closing arguments to you
12 about the case. The defense will go first, make their
13 closing argument, then the State will go last. The
14 State has the burden of proof, so they go in the
15 concluding argument. We will begin with Ms. White.

16 MS. WHITE: Thank you, your Honor.

17 Ladies and gentlemen, we'd like to thank you for
18 sitting here for four days. That's a long time to take
19 out of your schedules, and we appreciate that.

20 At this time I'm going to talk to you a little bit
21 about the law in the case because you are actually what
22 we call the fact-finders. In other words, you've seen
23 all the evidence. The judge is going to say, "Now,
24 this is the law." You look at the facts and see
25 whether it violates the law or not. So nobody has told

1 you the law yet. So you know that there is an
2 indictment for murder. On that indictment there will
3 be a possession of firearm during the commission of a
4 violent crime, and, of course, three indictments for
5 solicitation of kidnapping.

6 So what does that mean? What do those things
7 mean? Murder is the following: The killing of another
8 person with malice aforethought. Malice is hatred or
9 ill will, an intent to do evil. So the killing of
10 another with malice aforethought.

11 Now, you're going to have a choice on some
12 verdicts. For instance, there's several defenses to
13 murder. One would be insanity. Obviously that's not
14 here. One would be I didn't do it. I wasn't there.
15 That's alibi. That's not here. One is self-defense.
16 And that's the defense that the -- that we have
17 presented to you as to why Bobby should be found not
18 guilty in this case.

19 So what's self-defense? In self-defense, the
20 person has got to be without fault in bringing about
21 the difficulty. In other words, if I do something that
22 should make somebody fight me, I can't then kill them
23 and say, "Oops, self-defense." No. I started it. I
24 robbed you. I did an armed robbery, and you pull out a
25 gun and I shoot you and say, "I was just defending

1 myself." No. So without fault in bringing about the
2 difficulty. That doesn't mean a wreck. If you get in
3 a wreck or traffic accident, no, that's not asking for
4 something -- that would not be at fault in bringing
5 about the difficulty.

6 The second element is that, and I'm going to read
7 you this one because this is pretty important. "The
8 second element of self-defense is that the defendant
9 was actually in imminent danger of death or serious
10 bodily injury, or that the defendant actually believed
11 he was in imminent danger of death or serious bodily
12 injury."

13 Now, the judge is going to tell you, and I'm going
14 to read you a little bit of the law so you will know
15 where the facts fit in the law. "You should consider
16 all of the facts and circumstances surrounding the
17 crime including the physical condition and
18 characteristics of the victim and the defendant." The
19 judge is going to tell you that the defendant does
20 not -- not -- have to show he was actually in danger.
21 "It is enough that the defendant" -- and I'm reading
22 you the law -- "it is enough if the defendant believed
23 he was in imminent danger and a reasonably prudent
24 person of ordinary, firmness in courage would have had
25 the same belief. The defendant has the right to act on

1 appearances, even though his beliefs may have been
2 mistaken."

3 Now, when you're determining, well, was it
4 reasonable for him to think that he was in imminent
5 danger, what can you consider? You can consider words
6 accompanied by hostile acts. Those may be enough for
7 self-defense. You may consider the relative sizes,
8 ages, weights, et cetera, those factors, all of those
9 factors, when you decide was there actual or
10 apparent -- either one is fine -- danger. Threats made
11 by the victim may be considered.

12 And I want to read you this language because it's
13 very important. "Once the right to fire in
14 self-defense arises, a person is not required to wait
15 until the adversary is on equal terms in order to
16 defend themselves. He is not required to risk serious
17 injury." A person does not have to wait until his
18 assailant gets the drop on him. He has the right to
19 act under law of self-preservation and prevent his
20 assailant from getting the drop on him.

21 And then, finally, so in other words, without
22 fault in bringing about the difficulty. I didn't rob
23 somebody or try to stab them, something like that.
24 Number two, there was imminent danger or it was
25 perceived to be and that's reasonable. And the last

1 thing that the -- that the portion -- and by the way,
2 let me make this clear. The defense does not have to
3 prove self-defense. The burden is not on us to prove
4 this. The State must prove beyond a reasonable
5 doubt -- it is their burden to prove there was no
6 self-defense.

7 By the way, what is a reasonable doubt? Because I
8 think you all probably know from watching TV, that's
9 your burden of proof. A reasonable doubt is defined
10 as: A doubt that would make a reasonable person
11 hesitate to act. So if you go back to the jury room
12 and you say, "Well, I really hesitate about whether or
13 not there was an apparent or perceived reasonable fear
14 here," then you must find the defendant not guilty.

15 Now, the last -- the last element of self-defense
16 which the State must prove, the defendant has a duty to
17 retreat if by doing so the danger of being killed or
18 harmed is -- would not increase. So in other words, I
19 have no duty to retreat if that increases the danger to
20 me. So that's murder, self-defense, which is the
21 defense.

22 Then we go to the next charge which is in that
23 indictment. Let me show you. And, normally, you will
24 all deliberate, and then the foreman will actually sign
25 on the back the verdict. See, this is the murder

1 indictment. And by the way, again, the defense isn't
2 even allowed to be here. In Anderson County each
3 indictment takes the Grand Jury a minute and a half to
4 look at that case. That's how much they know about it.

5 But you will notice there is a second one under
6 here, possession of a weapon during the commission of a
7 violent crime. If you find that the defendant has
8 committed murder, that is a violent crime. So if you
9 find he possessed a firearm -- and, let's face it, this
10 is going to qualify as a firearm (indicating). If you
11 find that he possessed a firearm at the time that he
12 committed murder, then he would be guilty of that.

13 Now, we also have solicitation to commit a felony.
14 Let's look at the law on that a little bit. You are
15 going to be instructed that the State must prove beyond
16 a reasonable doubt -- they have got to prove beyond a
17 reasonable doubt everything in the case -- that the
18 defendant asked, enticed, advised, invited, ordered,
19 counseled, persuaded, or otherwise encouraged another
20 person to commit the kidnapping. It must be shown that
21 the defendant intended -- intended -- intended that the
22 other person commit the kidnapping. There has to be
23 intent.

24 All right. So I think, let me just look through
25 here -- I think that's about all the law that you're

1 going to hear. I'm going to talk about when I get to
2 Dr. Woodard, who will -- some of his opinions and how
3 the other evidence and all completely contradicts what
4 he said, but at any rate, I'll talk to you about the
5 law on expert testimony at this point because certainly
6 you do not have to believe any of it if other evidence
7 prevents it.

8 All right. So, let's talk, then, about the facts
9 in this case. Ladies and gentlemen, Bobby had no idea
10 that December 11, 2013, was going to change his life
11 forever. He's just doing his little hum-drum life like
12 the rest of us, going through the motions with his wife
13 of a long time. He had a long career. He's got health
14 issues. You know, they're living this quiet life at
15 the end of a road, never been arrested, no problems.

16 Now, they have got issues with the Williamsons.
17 Not with any of the other neighbors, but with the
18 Williamsons. But it's pretty much a quiet life. So
19 he's minding his own business, go to see his mom, comes
20 and turns down the road.

21 Now, I'm going to go through what he told you, and
22 I want you to act as a detective. You know, let's look
23 at this evidence. Let's see, does this support it or
24 does it not, what he told you. So let's go through
25 that and look.

1 For instance, Dr. Woodard, he had to be
2 straddling. Oh, really? Was he shot in the crotch,
3 Dr. Woodard? Because that's the angle of the bullet
4 that would have been required if he was standing over
5 him spread-eagle like he had him. So we're going to go
6 through this evidence and we're going to take a look.

7 All right. Bobby says, "I turned down the road."
8 Bobby says, "When I get down there, it's dark." Bobby
9 says, "When I get down there, there is a truck that is
10 in the road and I don't know if I can get by it."
11 Okay. We have pictures. Everything is corroborated.
12 It's there.

13 Bobby then says there was an accident. How do we
14 know this was an accident? We have a very narrow road
15 compared to what they require today, especially. It is
16 very dark. There was a drop-off. You have got a
17 picture in there. It's like four to five inches of a
18 drop-off. The ground is wet. An ambulance spun out in
19 it, too. There are no streetlights. And look at the
20 damage on the vehicle. If I'm intending to ram into
21 your vehicle, do you think I'm going to hit your mirror
22 and then barely hit your bumper? And look at his
23 actions afterwards. He calls 911. He doesn't run. He
24 doesn't leave, even though he really doesn't want to
25 stay where he is, in the midst of all the Williamsons,

1 but he does.

2 Now, he has a camper back. His mirror is broken,
3 as you see. Everything he says pans out. You know,
4 had the State called MAIT out that night and they said,
5 "MAIT, you don't come to murder scenes, do you?" Well,
6 duh, because vehicles are hardly ever involved in
7 killings, in shootings. So of course you're going to
8 call MAIT this night.

9 Anyway, MAIT gets called about a year or so later.
10 And once they do their report, of course, he was, you
11 know, charged with malicious injury to personal
12 property and intentional doing this to the vehicles,
13 and, of course, they're not proceeding on that. That's
14 because there's nothing to it. Bobby was telling the
15 truth. This was an accident.

16 Now, Bobby says there's been prior hostility.
17 "I'm not comfortable getting out in this area."
18 There's been hostility. We know that's true. Law
19 enforcement has been called by both sides in this area.
20 We know, too, that this is a completely legitimate
21 fear. And how do we know this? What is the first
22 thing Brenda does when Brenda goes outside and sees the
23 damage? The very first thing she does is run back
24 inside. Why? Because her parents are in there. And
25 remember what she said in her first statement? She ran

1 back into the house and told them all to stay in and
2 not let her dad out because her dad and Bobby had had
3 words before. In her courtroom testimony a month
4 later, she went inside and made sure no one came out
5 because of the bad history between the parties. Now,
6 if she was that concerned, why on earth wouldn't Bobby
7 be that concerned? But he was out there alone. They
8 had their whole family there. He had no one.

9 All right. Bobby then tells you, "I wasn't in a
10 bad mood. I wasn't hostile. I wasn't doing anything
11 like that." And what do we know? We heard this 911
12 tape. Did he seem angry or hostile or upset on that
13 911 tape? No. He called to report an accident.
14 That's exactly what he said.

15 Look at Brenda's first conversation that night
16 with police. When she's asked was Bobby
17 confrontational and she says, "No, he was on the phone.
18 He was reporting the accident." Bobby did nothing to
19 agitate this at all. If everybody would have just let
20 the police come and take care of it, we wouldn't be
21 here today.

22 Bobby tells that you Jody's demeanor was extremely
23 hostile. He was angry. Okay. What did we find out?
24 This is his new truck. It's not brand-new, obviously,
25 because it's a 2011, but it's new to him. And what did

1 we find out? We know from Jamie's 911 call when he
2 gets on the call with his wife, he says that Bobby ran
3 into Jody's truck and then Jody, quote, confronted him
4 about it, unquote. Who confronted him about it? Jody
5 confronted him about it.

6 Why did he use that word? Words matter. And the
7 interesting thing is that same night when Brenda gave
8 her taped statement, she said Jody confronted,
9 quote/unquote, Bobby about his truck. Now, of course,
10 we're hearing, Oh, no, no, no. That night they both
11 said he came out and confronted. All right.

12 Next thing is was Jody primed for confrontation?
13 How do we know he was? How do we know he did come out
14 hostile? Remember what Brenda said in their first
15 statement, Jody and Bobby had never met before. Quote,
16 he just only heard stories we told him about things
17 that Bobby has done, unquote. Brenda, in that same
18 statement, Jody told Bobby he didn't know him, but they
19 told him about Bobby and now he sees what a hateful
20 person he is.

21 Bobby tells us that Jamie and Jody end up getting
22 into the truck, the silver truck, and there's some
23 activity there in the front driver's door. How do we
24 know that's true? He says, "It's dark. They're
25 confrontational. I'm trying to call in this 911, and

1 they're getting something out of that truck. All I
2 know is it's dark. I don't know what it is, what the
3 object is. I couldn't see." How do we know that's
4 true? Remember, Jamie said in one statement, "Yeah, he
5 got his phone and he had his phone in his hand." He
6 didn't have his phone. And then when he came in here
7 and testified, if I'm not mistaken, I thought I was
8 hearing things but I don't think I was, he said that
9 Jamie came and got in the truck and checked his text
10 messages or something like that and then put his phone
11 back in. Well, we know that's not true. The phone was
12 found in his pocket.

13 Next thing he said is Bobby told you the threats
14 were made. There was cussing. What do we have to
15 verify this? First of all, the 911 tape that Bobby
16 made. Remember how the 911 operator asked him, Is
17 there any injury or something like that, words to that
18 effect? And he said, "No, not yet." And then remember
19 how he told you this conversation was happening here at
20 the truck about wanting to beat him up and things like
21 that? And by the end of this conversation, when it's
22 just a simple fender bender, he ends up saying, "You
23 better hurry." Why would he say that? That confirms
24 what he said. Remember how Brenda said in her first
25 taped statement that night, quote, It was like dark.

1 Jody just pushed Bobby and, quote, was like cussing
2 him. Now, of course, he's cussing. That was the word
3 used that night.

4 Bobby tells you he felt threatened. What do we
5 know about the environment? We know it's a very
6 hostile environment. It's dark. He's in poor health.
7 There are people in and out of this house. He doesn't
8 know how many are in there. There are being threats
9 made. They're thinking it was deliberate.

10 Remember, Jody never got over, according to all
11 the witnesses. He said, Huh-uh. The first time could
12 have been an accident, not the second time. He never
13 thought anything but this was deliberate. It was three
14 outside at one point compared to one. God only knows
15 how many others in the house.

16 And let's look at the condition of Jamie and Jody.
17 As you know, from the law I read you, you are allowed
18 to look at the physical conditions and ages of the
19 parties. Why? Because if Bobby goes up to Jody and
20 says, "I want to fight," Jody ain't going to be worried
21 about that. He's going to kick his rear end. It's not
22 so true the opposite way. Remember, we aren't talking
23 equal in size and age and physical condition. That's
24 not what we're talking about. And you are allowed to
25 consider this. Is that a match?

1 Now, let's throw Jamie in the mix because Jamie is
2 right there behind him. Remember, he moves packages
3 for a living. I'll say he's 41 years old. Is that
4 even normal? Jamie is right there with him. Jamie is
5 a roofer. You saw his size, over six feet, in good
6 shape. They're both young. You know, it's really,
7 really easy for us to Monday morning quarterback in a
8 courtroom, isn't it? But imagine being there that
9 night under those circumstances. How would it be to
10 have somebody a year and a half later examine
11 everything when you had about six seconds to do it all?

12 Now, the next thing is Bobby says that Jody got in
13 his face, got up on him. Remember how Brenda
14 demonstrated. Even closer. Brenda demonstrated like
15 (indicating). And this is the interesting thing. She
16 says she tried to squeeze between them. But let's look
17 at what she said. Let's look at what Jamie said. Who
18 were they trying to talk down? Do you ever hear them
19 talking about talking Bobby down? No. What we have is
20 Jamie, even in his March statement, Brenda said just
21 drop it. The cops were called. Let them handle it.
22 At the bond hearing what does Brenda say one month
23 after this occurred? "I tried to squeeze between them
24 and, quote, tell Jody it was okay, unquote. Bobby
25 said, quote, he had already called the law, so they

1 were on their way." They're not talking Bobby down.
2 They're talking Jody down.

3 And then even March of 2015 Brenda, she tried to
4 get between them. She was saying to Jody, "The police
5 have been called. Everything is okay." What did Bobby
6 tell you about his reaction? He didn't want to fight.
7 He'd be an idiot to fight. Are you crazy? In his
8 condition, do you think he's going to want to fight
9 Jamie and Jody? He's not crazy. He says, "I don't
10 want to fight. Leave me alone."

11 Now, of course, we hear, "Oh, I got something for
12 you, Boy." Well, let's see. Jamie must be a fisherman
13 because his story gets bigger and bigger and bigger,
14 and I think we heard that, what, a few months ago from
15 him. Why didn't he say it that whole first time. He
16 was standing right there? Because they didn't think
17 about it. They were nervous. They didn't want to pick
18 up the phone and call the sheriff's department and say,
19 "Oh, by the way, I got some critical information I need
20 to give you." All right.

21 So Bobby says Jody becomes physically aggressive.
22 He's bumping into him. He says, you know, he's pushing
23 against me, he's getting in my space now. Every one of
24 them say that. But they try to minimize it. How
25 realistic do you think it is that this man, who thinks

1 somebody has deliberately ran into his brand-new car
2 and who can't be talked down and who is in someone's
3 face, how do you really think that he says, "Will you
4 please step aside," and tapped him back like was
5 demonstrated in here. That's ridiculous. Everybody in
6 this courtroom knows that's not a reasonable amount of
7 force. It's not realistic.

8 Bobby tells you, "I was trying to get to my
9 truck." We know from the angle in the back of this
10 that there had to be a shot that was fired, and Jody
11 had to be somewhere in this plane, and the shooter had
12 to be back here, and we know Bobby's truck is this way.
13 So that matches up.

14 Bobby says, "He's going into me and he uppercuts
15 me." How do we know that's true? Ladies and
16 gentlemen, on the way back to his vehicle -- think
17 about it. If something terrible happens to you, and
18 you have got a good marriage -- he's been married
19 40-something years -- who's the first person you're
20 going to pick up? If it's not your mama, it's your
21 spouse probably. And that's who you're going to call.
22 And that's exactly what he did.

23 Now, Sheila comes up there. This is within one
24 minute. He's actually calling at the same time the 911
25 is being called. And what does he say to Sheila? He

1 tells her what happened. He was mouthing at him and he
2 shot. He talks to Billy within, what, six minutes was
3 it, I guess, and same thing.

4 Now, how do we know that he said that? Bobby
5 never got to talk to Sheila once she got up to the
6 scene. This isn't her word today telling you, "Oh,
7 yeah, that's what I said back then." The police
8 recorded her within five minutes or so of this
9 happening, and she was saying this is it. This wasn't
10 waiting to see medical evidence or waiting to hear
11 stuff. That was said that night. Billy came to the
12 scene. He's on the one end of the scene. They have
13 got it taped off. He's coming from this area, and
14 she's coming from the bottom and they're both saying
15 it.

16 You know, it's interesting to me. I don't even
17 want to tell you how many years I've been doing this,
18 but it's a lot of decades. And it's interesting to me
19 that people actually expect someone who is in what
20 they're perceiving as a fight for their life can
21 actually tell you everything that happened
22 step-by-step. It's crazy.

23 I will tell you this. If you get someone who can
24 come in and do that, they're lying because there's no
25 way when chaos breaks out, especially when it's dark,

1 not anybody can do that. This took, what, five,
2 ten seconds maybe altogether in the dark.

3 You know, we had stick figures up there standing
4 like this with rods through them. That's not how this
5 happens. People are twisting, they are running,
6 they're hitting, they're bending. That's what really
7 happens in real life.

8 Look at what Bobby was dealing with at that point.
9 He was dealing with it being very dark. He was dealing
10 with lots of different people, not just the three he
11 was dealing with. He's worried about other stuff, too.
12 He was dealing with listening to what they're saying.
13 It's a pretty crazy place. And I'm going to tell you
14 right now, he doesn't have any memory of this first
15 shot, but you and I both know he made the shot. He
16 knows that. There were two shell casings. Probably
17 what happened is he pulled out that pistol and shot
18 before he fell. That has to be what happened.
19 Because, otherwise, you would never get that angle.
20 But that would match up with everything that everybody
21 is saying where everybody was standing. Remember
22 Brenda testified if this is the vehicle, remember she
23 said that it was Jamie here, the house is back there,
24 it was Jody here, and she was here against the vehicle.
25 That was the order that they were standing in. That's

1 what she said. That would make sense. And she said he
2 was back here.

3 The bullet hole in the truck would go with that
4 because it's 49 inches up. It should have been 54 or
5 55, bending down a little bit. Exactly what he said.
6 He was being aggressive at that point. And we have
7 Brenda's testimony again about the position.

8 Now, the defense (sic) made a big issue about,
9 "Oh, what about the injuries?" He had a beard. He had
10 dentures. And inside, actually, on both sides were
11 hurting because it pinched. Where is our touch DNA?
12 Where is it? Why are we speculating? All you got to
13 do is shave that part of the beard. Sheila said within
14 five minutes of this he said he was hit in the jaw.
15 Right there at the scene. What on earth -- why would
16 you not shave that beard and send it in to DNA and say,
17 Okay. Let's compare. Is any of the touch DNA, the
18 skin cells, from this? Remember we heard it was going
19 to make this tremendous terrible thing. Why didn't you
20 do it? But my client didn't know that was a test. How
21 would he know? He's facing murder. And they don't do
22 a simple test that is done free down at SLED. Now they
23 want y'all to figure it out. They say, Well, you know,
24 we have some days waiting here when he comes in, he
25 doesn't write down that his mouth hurts. Do you think

1 he cares? He's got a hernia out to here, he's had
2 cancer, he's had all this stuff, he's been arrested for
3 murder, he's in jail, he's never been arrested before,
4 and you really think he's concerned about his mouth at
5 this point? And, besides, if it had happened the day
6 before, he would have put that down on his intake form.
7 Because he would have known it. But this is something
8 that kind of came up later. You're not thinking about
9 it when all of this happens. And there is a, surprise,
10 surprise, bureaucracy at the detention center. You
11 can't just go ask for the doctor. You got to go
12 through the nurse, you got to fill out forms, you got
13 to figure out how if you have never been in jail, you
14 have got to figure it all out because that's the way it
15 works at the detention center. And we know from the
16 clinical notes days later he still had swelling and
17 redness in his mouth.

18 All right. Why didn't Jamie and Brenda say that
19 there was a hit? Okay. Well, I think there are lots
20 of different reasons. Number one, they're biased.
21 Number two, they tried to minimize everything. I mean,
22 they got a nice tap on the chest when they're having
23 this huge argument. And, number three, it's dark.
24 This wasn't a punch like this (indicating). It's dark
25 outside. What's their angle? Do they even see? This

1 is this (indicating). So, I don't know. There are
2 lots of explanations, but sure if they saw him get
3 pummeled, I don't think they would say anything. They
4 had very, very, very changing stories. We went through
5 some of that with you the first day or two.

6 All right. So then Bobby tells you, "Next thing
7 that happens is I stumbled. I'm stumbling." What does
8 Brenda say in her initial statement the night that this
9 happens? She says, "Bobby stumbled back after Jody
10 pushed him." That's what she said that night.

11 Okay. So this brings us to the part that is
12 essential. So we have the back of the truck. We have
13 Brenda, we have Jody, and we have Jamie. And we have
14 our -- Bobby somewhere in here. Remember, it's a small
15 area. Let me show you this area again. This is
16 somebody standing, obviously, at the back of the truck
17 looking there. That's the angle, obviously, of who
18 took this picture. We're not talking about a big area
19 at all. It's very small, very, actually.

20 So, at this point, they're standing there at the
21 back. Bobby is stumbling, and what happens? We know
22 from Jamie and Brenda and Bobby that Jamie heads this
23 way. Jamie runs out this way to this side and runs
24 around. So he's out of it. He doesn't see anything at
25 that point, although later he does says from over here

1 he sees Bobby standing directly over him, shooting him
2 in the back in the ditch and there's no bullet
3 underneath him, and nothing goes with that, and Brenda
4 says that never happened and she was there, whatever.

5 Okay. Where does Brenda go? This is very
6 important. Brenda, remember Bobby has stumbled back
7 and is somewhere in the falling down. I don't even
8 know if he's down yet. She says she runs this way and
9 goes over here to the ditch. Obviously, she's first
10 because Jody is over here on this side. Jody has been
11 shot. Nobody knows that at that point. Remember,
12 Bobby had no idea if he had been shot, had no idea at
13 this point.

14 So she runs this way over to the ditch, according
15 to her. She says as she's going, she hears another
16 shot. Remember this is not a long distance at all.
17 And she says that then Jody comes this way. Ladies and
18 gentlemen, Bobby is on the ground right here. I don't
19 know if Jody was coming to him. I don't know. He
20 might have just been following Brenda. I don't know.
21 But everybody says that's what happened. Everybody
22 says that's where he goes. Bobby is down. He has no
23 idea he's going to run by him. He has no idea if he's
24 going to loop around. He has no idea about any of
25 that, given his threats. And he shoots.

1 Now, let's talk a little bit about this. Brenda
2 says she doesn't see him fall all the way. She sees
3 him stumble. Of course not. She's running. She's
4 already gone by. She doesn't see a thing. Jamie, of
5 course, you know, has a whole different scenario
6 including, "Let him die," at the end, which, again,
7 March of 2015 was the first time that was ever
8 mentioned. And then we have got Tonya Williamson.
9 Thank goodness the police took statements that night
10 because you heard, you know, "Oh, yeah, there was one
11 shot, and then I ran to the back of the house and this
12 happened and that happened."

13 Well, let's look at the 911 tape from that night.
14 "As soon as I walked in and turned back around to shut
15 the door, I heard -- heard a gun go off. I heard two
16 shots. I immediately called 911." Oh, and, "Ma'am,
17 why don't we hear that shot on the 911 tape?" "Oh,
18 it's because the kids were crying." Kids don't even
19 cry for the first half of that thing.

20 Okay. So how does Bobby act after the shots were
21 fired? Is he crazy? Is he hostile? Don't forget he's
22 armed with a big weapon. Remember the Williamsons are
23 the enemy and he's the enemy. So does he run from the
24 scene? No. Does he shoot anybody else? No. He gets
25 on the phone so he'll have someone who he can talk to

1 who's kind of monitoring things. He goes to his truck,
2 and given the fact that there were people pouring out
3 all over the place at this point, he reloads. He
4 doesn't hide his spent shell casing. He sits them
5 right there. He starts his car up just in case and he
6 stands right there. And then when the blue lights
7 comes down, very smartly, he puts the gun on the hood
8 of the car so he doesn't get shot. Does that sound
9 crazy? Does that sound wild or mean or vengeful? All
10 right.

11 So what happens when an officer gets there? Is he
12 still crazy? No, complies immediately. Take my GSR.
13 Take my picture. Swab my hands. Take my buccal swab
14 for DNA. Take my blood for toxicology. Did you ever
15 hear an officer say he was hard to deal with? No. He
16 complied with everything.

17 So, that takes us to Dr. Woodard. I want to talk
18 to you a little bit about Dr. Woodard. Wow. That was
19 stunning. And I'm going to talk to you about how the
20 other evidence completely contradicts and common sense
21 completely contradicts the State's expert witness.
22 Make no mistake about that. He testifies for the State
23 in cases. He is a State expert witness. The judge is
24 going to tell you, "You should consider any" -- and
25 this is the law that he'll be charging you. "You

1 should consider any expert opinion received in evidence
2 in this case, and like any other evidence, give it the
3 weight you think it deserves. If you decide that the
4 opinion of an expert witness is not based on sufficient
5 education or experience or if you conclude the reasons
6 given in support of the opinion are not sound, or that
7 the opinion is outweighed by other evidence, you may
8 disregard the opinion entirely. An expert witness'
9 testimony is to be given no greater weight than that of
10 any other witness simply because the witness is an
11 expert. Further, you're not required to accept an
12 expert's opinion even though it's not contradicted."

13 Okay. So how do we know that Dr. Woodard was
14 fully on the State's cord? Well, let's start with
15 this. "Yeah, I weigh him when I did the autopsy."
16 Now, he had no idea you had this picture. No idea. He
17 wasn't here. "Yeah, he's about my size." Uh-huh.
18 Yeah. He's about my size. Okay. That's how we start.

19 You think that's accurate testimony? Did you see
20 Dr. Woodard? Do you think that's fair testimony?
21 That's what he sat here and told you. I said, "Well
22 Dr. Woodard, did you weigh him?" "No." That's what
23 the State's expert said. What did you believe? He
24 still to this day probably has no idea you have seen
25 that picture. From May, by the way -- I mean 2013, by

1 the way, the same year this happened. That's what
2 their expert said.

3 What else does he say? He says, in his initial
4 statement with the prosecution, doesn't mention the
5 fact that he's got these -- he doesn't mention the fact
6 that bodies move, bodies bend, bodies run, bodies
7 pivot. Doesn't say a word of that until I get up. Oh,
8 and the other thing is, "Oh, yeah, because it's like
9 this," and he has no idea where this part of the arm
10 is, "it's defensive." Really? Because I thought if
11 you punched or if you went like this or if you jabbed,
12 I mean, he doesn't know the facts of this case. He did
13 the autopsy. And you're going to come in here and tell
14 a jury that's defensive when you don't even know where
15 this part of the arm is? Bam. Are you kidding?

16 Let's say it was defensive. Let's just say it
17 was. So what? If he had just pushed Bobby and hit him
18 and knocked Bobby back, who cares if he saw Bobby pull
19 a gun if he put his arm up in the dark. Who cares.
20 There's still a threat to Bobby. That doesn't
21 alleviate a threat to Bobby.

22 Okay. Where does he go next? And most of this is
23 just common sense, but also there are other experts who
24 contradict him, too. Distances. That was great. Oh,
25 yeah, yeah. "The distances, I can give you these

1 estimates of distances." When I got up, I said, Well,
2 wait a minute. Don't you have to have clothing? These
3 weren't contact or skin shots, right, because if it's a
4 skin shot, remember, you can tell from stippling.
5 Remember we heard about that cloud that comes out and
6 imbeds itself and you can kind of look at -- the
7 pattern I'm talking to you about on clothing that is
8 microscopic, you can see some of that on skin. "Oh,
9 well, yeah. You really do have to do tests on
10 clothing, yeah." "So to be accurate at all,
11 Dr. Woodard, on anything with these distances, we would
12 have had to test the clothes?" "Well, yeah, turns out
13 that's true too." Now, he wasn't going to mention that
14 to you either during his testimony.

15 And then the next thing. "Well, did he shoot his
16 butt in his face?" That was professional. That was
17 very professional for a pathologist. Only there is a
18 problem with that. And he's straddling him. Okay. Do
19 you remember their other expert, the ballistics expert?
20 Do you remember him when he talked about the angle in
21 the truck and how he said, Yes, he can show where a
22 shooter is and you can follow it back from this truck
23 because you just follow that plane of the two. You add
24 this entrance, this entrance hole, and remember how you
25 just saw the line and, of course, the shooter is back

1 in here. That's exactly what he said. Duh. You know,
2 I was in the Marine Corps many years ago, JAG. And we
3 all had to train, of course, in the Marine Corps, so I
4 shot about everything that's ever been shot. I have
5 never seen a bullet yet that doesn't go straight. They
6 don't go like this. And if somebody is on top of me,
7 that bullet is not going to go around and hit them in
8 the butt. And if they're facing me, it's not going to
9 go around and go this way.

10 Why wouldn't he ever mention to you -- remember
11 what the ballistics expert said. Look at the
12 trajectory. That's how it works. That's how a bullet
13 goes. They don't go around the moon get to the sun.
14 That's not what happens. That's ridiculous. And the
15 trajectory here is like this. Sorry. Other way.

16 Finally, he says that if you hit a fist against a
17 face, the fist -- now keep in mind it's this so your
18 head goes back. We're not slamming into a door or
19 wall. We're talking about this (indicating). What
20 does your head do if you're hit? He doesn't need to
21 know any of that. He never asked, you know, "Where was
22 he hit? How was he hit? Which part of the face?"
23 "No, no. You're always injured on the knuckles.
24 Always." Okay. He is a forensic pathologist. He
25 deals with dead bodies. He doesn't go see live fights

1 ever like police do. Two police officers said, No, no.
2 We do calls. We do domestic violence, and, yeah, you
3 can hit and get hit with a fist and not have any
4 injuries. But, again, it sure would have been nice to
5 have that touch DNA, wouldn't it? Oh, and the beard
6 would scratch. It would scratch. It's not stubble,
7 people. You don't have to put your common sense aside.
8 It's not stubble. It's a beard. It's a buffer.

9 And then, finally, the pelvis fracture. "Oh, he
10 couldn't run." Well, Doctor, would it interest you to
11 know that their witness Brenda said she was running
12 ahead and hears another shot and then he comes and he
13 falls into the ditch? "Oh, well. Well, yeah, yeah.
14 You could take a few steps."

15 Why? Why? Why is the prosecution doing this?
16 You remember when I asked Brenda about that taped
17 conversation at the hospital, and I said, Do you
18 remember the officer there right after this happened
19 before any investigation whatsoever said, "What this is
20 about at this point in time is building the evidence
21 toward prosecution." Nice to be investigated for
22 murder with that attitude, isn't it?

23 So they had an opportunity to get real physical
24 evidence. We asked them. We begged them, Please, send
25 this evidence to SLED. Get DNA. Get distance

1 determinations. These are tests that are done every
2 day. No, not going to do it. Instead they're going to
3 base their prosecution on biased witnesses who shape
4 and change their testimony as the wind blows. All
5 right.

6 So now let's go to the solicitation. All right.
7 So we go to solicitation, and Wolf comes in to tell
8 y'all about what's happened at the detention center.
9 Now, he's reliable. So if he told you he had a used
10 car that was reliable, would you get it checked out?
11 Probably. He has a nice little record. He served
12 20 years for armed robbery, grand larceny, forgeries.

13 Oh, by the way, "I know how the system works," he
14 says. We know that. Now, just so happens that Wolf is
15 facing some serious charges right now. And,
16 fortunately for him, the sheriff's department and this
17 solicitor's office are prosecuting them. So he knows
18 how the system works. He's facing 25 to life, no
19 parole, and he's facing sex offender registry,
20 electronic monitoring, a few other things that go along
21 with sex offenses, and he's not trying to get a deal?
22 Are you kidding me? He's not trying to curry favor?
23 Now, when he gets out, his relative is a constable who
24 apparently has a good relationship with the chief out
25 at the sheriff's department, and he's not trying to

1 curry favor? Ridiculous notion.

2 So, anyway, he says a bunch of stuff up there, and
3 finally I say, "Yeah, Roy, are you aware that all of
4 your conversations and all of your meetings were taped
5 and they have been transcribed?" He -- doesn't miss a
6 beat. It doesn't matter that he was caught in a lie.
7 "Oh, yeah, you're right," and switches over here. You
8 can't believe a word that man says.

9 So, anyway, Roy gets in the cell with Bobby.
10 Bobby has never been locked up in his life, never been
11 arrested. They spend 22 hours a day in this little
12 cell, and he is easy pickins. Easy pickins. So what
13 do they talk about? The case, the civil case, the
14 criminal case, et cetera. That's all they have to talk
15 about. They don't have anything in common.

16 And by the way, Larry Williamson, why is he on the
17 witness list? He wasn't even there that night. He is
18 not a witness. Did you see Larry Williamson? Did you
19 see him up here? Did he talk to you? No, he wasn't
20 even there. But he's in the hit list, too.

21 Anyway, Bobby goes to doctors appointments and
22 visits and other things, and he's got this huge stash
23 of stuff, and it doesn't take much to grab the stuff
24 out of there. Now, let's talk about the tape.
25 Remember that Roy tells inmate Sandoval to tell Bobby

1 to call him. So Bobby calls him. And he starts
2 talking about all this. This isn't anything new to
3 Bobby. This guy has been saying stuff like this. He's
4 not the most valid individual, if you can't tell that
5 from what you saw. So Bobby just kind of changes the
6 subject. He's not going to say anything. Why should
7 he confront? Then, though, this is important. You
8 have to have intent to commit the crime. Do you think
9 this kind of crime would not take planning, details,
10 money, all these other things? A tremendous amount.
11 He says, "Well, put me on the visitor list." He says,
12 "No." "Well, can we talk on the phone?" "No, I'm not
13 talking on the phone." "Will you write me?" "Never."
14 The sheriff's department is trying to tell you they may
15 have written. The sheriff's department runs the jail.
16 They monitor everything that goes out and everything
17 that comes in. That's ridiculous. So somehow this was
18 all going to get worked out in November of last year
19 and these people disappear for, what, eight, nine
20 months and it was all just going to happen? That's
21 ridiculous.

22 All right. So, that's it. Bobby is in your
23 hands. Murder, possession of a firearm during the
24 commission of a crime and solicitation. Ladies and
25 gentlemen, if you look at the evidence that is

1 reliable, don't put your common sense aside. Don't put
2 it aside. You know the deal with people like Roy
3 Lawrence. I mean, don't put your common sense aside.
4 You need to be looking at this evidence. You need to
5 be saying is this reasonable? Is that reasonable?
6 Does this fit? Does that fit? Have these people kept
7 the same testimony or have they switched all over the
8 place? This is is stuff why we have you here because
9 you're normal people who have been in the world.

10 And, ladies and gentlemen, at the conclusion of
11 this case, which is now, Bobby would like to ask you
12 for a verdict of not guilty because we can Monday
13 morning quarterback him all day long, but every piece
14 of evidence supports his testimony. Thank you.

15 THE COURT: Ms. Price.

16 MS. PRICE: Thank you, your Honor. May it please
17 the Court. Ms. White.

18 Ladies and gentlemen of the jury, I appreciate
19 your patience and attention as well. I promise to be
20 as brief as I can be. I promise to be as concise as I
21 can be, but as you're aware, this is important so I do
22 want to briefly go over some of the testimony that we
23 heard this week. There may be a little bit of overlap
24 on instruction on the law with what Ms. White told you,
25 so beg your indulgence on that. However, what

1 Ms. White just told you and what I'm about to tell you
2 is argument. It is not the law. What the judge is
3 going to tell you after we're both finished is the law.
4 That is what you're to use when you make your decision
5 when you begin your deliberations. So anything that
6 Ms. White just told you or anything that I'm about to
7 tell you differs in any way from what the judge tells
8 you, you have to go with what the judge is going to
9 tell you.

10 Now, you've heard a number of times and you'll
11 hear it again that this defendant comes into the
12 courtroom innocent. It's the State's burden of proof
13 to prove these charges beyond a reasonable doubt
14 against this defendant. Ladies and gentlemen of the
15 jury, the State embraces that burden. It's a
16 fundamental concept of American law, and we wouldn't
17 have it any other way. But I submit to you that we
18 have met that burden this week.

19 And, ladies and gentlemen of the jury, I also
20 would like to point out that every criminal charge from
21 seemingly the most insignificant charge of speeding to
22 the most serious crime of murder that you're looking at
23 today has the same burden. So if any jury has ever
24 convicted anyone of a crime, then the State has met
25 that burden. If it was an insurmountable burden, we

1 would never have any convictions.

2 So what's proof beyond a reasonable doubt? It's a
3 doubt that would cause a reasonably prudent person to
4 hesitate to act. It doesn't mean beyond all doubt. It
5 simply means that you're firmly convinced. There are
6 very few things in life we know with utmost certainty.

7 Now, ladies and gentlemen, in order to convict the
8 defendant, as Ms. White told you, it's the State's
9 burden to prove every element of the crime that he's
10 been charged with beyond a reasonable doubt. And as
11 Ms. White told you, and she's correct, it's the State's
12 burden to disprove self-defense in this case.

13 So let's begin with solicitation of a felony.
14 Ladies and gentlemen, a solicitation of a felony is the
15 defendant asking someone else to commit a felony on
16 their behalf. In this instance it was a kidnapping.
17 In fact, it was three.

18 Now, the request must be real. So the defendant
19 can't actually be joking about it. It has to be a
20 legitimate request to do this action. There has to be
21 some conduct that is in conjunction with the
22 invitation. So there has to be some kind of conduct on
23 the part of the defendant that solidifies that
24 invitation.

25 Now, it's not actually necessary that the crime be

1 committed. And it's not necessary to prove that any
2 payment was ever made to the individual who was
3 supposed to commit the crime. It's not also -- it's
4 also not required that we prove that the individual who
5 was asked ever intended to commit the crime. You heard
6 testimony from Roy Lawrence, Wolf, that Bobby Arflin
7 asked him first to kill and then to kidnap Brenda
8 Masters, Larry Williamson and James Madison. He
9 provided Roy with a map, and he provided him with a
10 list of those three names. The map showed the homes
11 that these individuals lived in and the surrounding
12 areas.

13 Roy testified that in exchange for kidnapping
14 those witnesses and keeping them a week prior to trial
15 so that we wouldn't be able to do what we've been doing
16 this week, he would get paid in property. He would get
17 paid in some acreage and a trailer. And you heard
18 testimony from Mr. Lawrence that the trailer was
19 particularly enticing to him because what he does for a
20 living is refurbish trailers for Clayton Homes.

21 Detective Gebing, after he was contacted by
22 Mr. Lawrence, confirmed the information he received
23 from Mr. Lawrence. He told you that the property
24 description was accurate. He told you that he
25 confirmed that the material that had been promised to

1 Mr. Lawrence was real. And he had the map and the list
2 of names tested for handwriting to make sure that it
3 was Mr. Arflin's handwriting. In fact, it is. Now
4 we're being told that potentially it was a stolen item,
5 so I believe that's not a contested issue that he wrote
6 these materials.

7 Ladies and gentlemen, also I want to clear up just
8 because the property couldn't be transferred in this
9 case doesn't mean that Mr. Arflin didn't make that
10 promise to Mr. Lawrence. Make no mistake about it,
11 when things like this happen, when crimes of this
12 nature are occurring, promises like this are made.
13 They're not done in any kind of formal contractual
14 setting. There's no obligation on either part of the
15 parties.

16 Now, you heard that Roy was asked how he would
17 have accomplished this. Ms. White asked him how he
18 would accomplish getting three, three people. And if
19 you recall, on the stand, he looked ashamed for a
20 minute and then said, "I know how to deal with that"
21 and basically alluded to his past history. And he is.
22 You would go to Wolf. You would go to somebody with a
23 nickname Wolf if you wanted to kidnap some folks. You
24 would go to somebody with a prior record. You would go
25 to somebody who had become friendly with you, who had

1 already done favors for you and vice versa.

2 Now, Roy also told you he knows how the system
3 works. He doesn't expect anything in return for his
4 testimony. So why would he make something up like
5 this? If he says that and you believe it, and
6 certainly his credibility is up to you, but if you
7 believe his testimony that he hasn't been promised
8 anything in exchange for his testimony, why on earth if
9 he had been friendly with Mr. Arflin before would he
10 make something up like this? How much would you have
11 to detest someone? How much would you have to hate
12 someone to invent a crime like this and accuse them of
13 it? You didn't hear any testimony that there was any
14 ill will between these two people, and in fact, on the
15 phone call, they're very friendly. Immediately
16 Mr. Arflin's, you know, "How you doing, Buddy?" It's a
17 very friendly relationship.

18 Now, you heard Roy Lawrence's version of events
19 completely checks out with law enforcement. You heard
20 during that phone call them being very friendly to each
21 other. In no way was Mr. Arflin acting like he was
22 opposed to having this conversation with Mr. Lawrence.
23 At no point in time did he say, "I don't want to talk
24 to you anymore," click. In fact, he made that phone
25 call. And I asked him, "Were you required to make this

1 phone call?" Absolutely not. He called of his own
2 free will.

3 Straight out of his own mouth, Mr. Arflin
4 immediately acknowledges on that tape that he knows
5 what Roy Lawrence is referring to when he says two of
6 the three are there, and does he want him to wait or go
7 ahead. They even specifically talk about the
8 34-year-old. It's on the list. 34-year-old is on that
9 list. So if that was a stolen thing, what's he talking
10 about?

11 Mr. Arflin, I submit to you, that throughout that
12 conversation Mr. Arflin realizes that something is
13 afoot. I believe that throughout that conversation he
14 gets suspicion and starts to dial it back. But if this
15 were innocent talk, why would Mr. Arflin even be
16 engaging -- or why would Mr. Arflin not engage in the
17 conversation? Why would he say, "While we're on this
18 thing, we can't really talk about it right now. We
19 can't really talk about this. We're being recorded."

20 Now, Roy was supposed to get a letter in the mail.
21 I don't know if a letter was ever sent. I do know that
22 Roy gave him the wrong zip code. So it's potentially
23 out there, but I don't believe you need that letter.
24 You have a map, you have the list of names, and you
25 have a recorded phone call from this defendant to

1 Mr. Lawrence, and that satisfies the necessary element
2 of additional conduct.

3 Now, ladies and gentlemen, there are portions of
4 that recorded call where Wolf and Mr. Arflin talk over
5 each other. The call is in evidence. You can listen
6 to it again during your deliberations. And when you
7 do, I ask that you pay particular attention to those
8 portions.

9 It's the State's contention that the only reason
10 that Mr. Arflin would have tried to have these
11 witnesses kidnapped is because they were so damaging to
12 his self-defense case. And we argue that that's
13 additional evidence of malice.

14 I don't believe for one second, ladies and
15 gentlemen, that Mr. Arflin was threatened by Jody
16 Powell, but I absolutely do believe he felt threatened
17 by the testimony of Brenda Masters and the testimony of
18 James Madison. I also believe that Larry's potential
19 testimony about their prior encounter is the reason
20 that he was going to have Larry kidnapped. If Larry
21 wasn't a potential witness also because we have had a
22 lot of contradictions from the defense, if Larry wasn't
23 a potential witness as you just heard all of a sudden,
24 then why was he on the reminder note? Remember
25 Mr. Arflin testified, "Oh, no, no, no. That's my

1 reminder note." Well, we just heard, "Wait. Larry's
2 not important. We don't care about Larry." "No, no.
3 That's my reminder note of people who are important in
4 my case to talk about with my attorney." Which is it?

5 Now, I one hundred percent agree with Ms. White
6 that possession of a weapon during commission of a
7 violent crime is a very easy offense to sort of go
8 through. If you believe that a violent crime was
9 committed in this case, the murder, and if you believe
10 that the revolver was used, then you have found him
11 guilty of possession of a weapon during the commission
12 of a violent crime. He possessed a weapon. Murder is
13 a violent crime. It's very simple. That's all I'm
14 going to say about that.

15 Murder is another matter entirely. I do have a
16 little bit to say on the murder, as you might imagine.
17 Murder is the killing of another person with malice
18 aforethought either express or implied. So the key to
19 the crime is malice.

20 What do we mean by malice? Well, let's talk about
21 what it doesn't mean first. Malice aforethought does
22 not mean that the crime had to be planned ahead of
23 time. You don't have to have somebody in a castle, you
24 know, then go, "Ha, ha, ha," you know, thinking,
25 plotting away. In fact, it doesn't have to be thought

1 about at all ahead of time. The necessary malice for
2 murder in the state of South Carolina can be conceived
3 at the very instance of the assault, at that very
4 moment.

5 What is malice, then? Malice is a legal term, and
6 it means hatred or ill will. It can be also described
7 as the intentional wrongdoing -- or the intentional
8 doing of a wrongful act without just cause or excuse.
9 So as the jury, how do you determine that a person has
10 malice? It's a state of mind. So how can you be
11 expected to read someone's mind, you may ask.

12 Well, the law specifies, as I just said, that
13 malice can be either expressed or it can be implied.
14 What are those two things? Express malice is direct
15 evidence that the defendant had ill will or hatred
16 toward the victim. So in some situations, the
17 defendant may say something that would be what we would
18 consider express malice because it's expressed. Then
19 you have what's called implied malice. The law doesn't
20 require you to read a person's mind. You can infer
21 implied malice from surrounding circumstances. As the
22 jury, you can find that both express malice and implied
23 malice are present and use that in your consideration.

24 Now, ladies and gentlemen, I submit to you that
25 Mr. Arflin is guilty of murder because he killed

1 Mr. Powell with malice aforethought. You have both
2 evidence of express malice and implied malice in the
3 case before you. You have testimony from Jamie Madison
4 that Mr. Arflin was already at the back of Jody's truck
5 when he got outside and that he did not return to his
6 own vehicle at any point during this encounter. That
7 means that he had the gun on his person before anyone
8 even came out of the house. That is evidence of
9 planning. Which is evidence of malice aforethought.
10 He knew something that Brenda, Jody and Jamie didn't
11 know. He was armed.

12 I submit to you, ladies and gentlemen, in fact,
13 that he was itching to use that gun. He even says to
14 the 911 dispatcher when asked if anyone is hurt, "Not
15 at this time, no." And he says, as we talked about
16 multiple times, "You better hurry." Brent Simpson says
17 he finds that odd. And I find it odd. What did
18 Mr. Arflin know that nobody else knew? He knew that he
19 was about to blow over.

20 You heard testimony from Brenda that the wreck
21 looked deliberate. Perhaps Mr. Arflin was upset about
22 the parking. His attorney has said that he was
23 frustrated by that situation in times past. Whatever
24 his motivation, ladies and gentlemen, I submit to you
25 that the malice was already forming in his mind before

1 he even encountered Jody.

2 Once Jody and Mr. Arflin were face-to-face, you
3 have additional evidence of malice, both express and
4 implied. You have the exchange that there was
5 testimony about from the State's witnesses between
6 Mr. Arflin And Jody Powell. James Madison told you
7 that Jody Powell said, "I don't know you, but now I can
8 see you're heartless." He testified this defendant
9 said, "I'm not heartless, I'm ruthless." This man is
10 self-described as ruthless. That's evidence of malice.

11 Then when Jody pushes Mr. Arflin, you heard
12 testimony from Brenda Masters that there was a change
13 in Mr. Arflin. She said it was like something flipped
14 with him. Right? She described a physical change in
15 him. And at that point in time Mr. Arflin took this,
16 and, ladies and gentlemen, you will be able to review
17 the evidence with you when you have it in your jury
18 room. This is a heavy gun. I'd ask that you feel the
19 weight of this weapon. Ladies and gentlemen, this is
20 not something you can pull out easily or I certainly
21 couldn't. He pulled out this weapon and he -- and I'm
22 not going to point the weapon, but he says, "I've got
23 something for you, Boy."

24 So what do we know is express malice? Words.
25 Words qualify as express malice. Aforethought. How

1 long did it take him to do that, even if he did it
2 quickly? "I've got something for you, Boy." That's
3 time. That's time to think about what you're doing.
4 It's time to make that decision before a trigger is
5 pulled. The time is there for him to conceive of this
6 crime, for there to be malice. The words indicate that
7 he's got a message and he's about to send it. And then
8 he shoots. And Jody runs.

9 And what happens next? The State submits to you
10 that Mr. Arflin pursued Jody and shot him again from
11 behind. Everyone was running, but Mr. Arflin followed
12 Jody. He didn't follow Jamie. He followed Jody. Why?
13 He's driven. His malice is fueling him. He wants to
14 finish the job. And why is he angry? Where is this
15 malice coming from? I submit to you there are
16 contributing factors from earlier certainly, but ladies
17 and gentlemen, it's retaliation for touching him. It's
18 retaliation for the parking situation. And for who
19 knows what else. You heard his wife. Her statement
20 was, "Things just get on his nerves so bad sometimes."
21 So it's for whatever was getting on his nerves that
22 day. But I submit to you that when they testified that
23 there was a change in his demeanor after he was
24 touched, "I've got something for you, Boy," is
25 retaliation. How dare you touch me, Boy? You also

1 have testimony from James Madison after Jody is on the
2 ground, "Let him die." Words. Express malice.

3 Now, self-defense is an issue in this case, folks.
4 And when self-defense becomes an issue in a case like
5 this one, I have to prove to you that the killing
6 didn't happen in self-defense. Again, that's my
7 burden. We're not shirking it. We embrace it in this
8 case. And as Ms. White alluded, there has to be four
9 elements present for self-defense to apply. But I want
10 to make it very clear all four elements have to be
11 present for self-defense to apply. If you don't have
12 one, then self-defense isn't here.

13 So, what are the four elements? And, again, this
14 is important, so even though they were talked about by
15 Ms. White, I'm going to go through them with you, so
16 beg your indulgence.

17 First, the defendant must be without fault in
18 bringing on the difficulty. Second, the defendant was
19 actually in imminent danger of serious bodily harm or
20 death or believed that he was. Third, a reasonably
21 prudent person of ordinary firmness and courage in like
22 or similar circumstances would also have struck the
23 final blow in order to save themselves from the danger.
24 And, finally, the defendant had no other probable means
25 of avoiding the danger. All four have to be there for

1 self-defense to apply.

2 Let's look at each of them. The defendant must be
3 without fault in bringing on the difficulty.

4 Mr. Arflin set this whole thing in motion. His actions
5 are what started this exchange in the first place. You
6 heard there was ample room on the road for him to pass.
7 He had been driving down this road for decades. We
8 keep hearing, "Oh, it was dark. It was wet. It was
9 dark and wet." This is where he lived for 40 years.
10 And any weather condition imaginable under any lighting
11 circumstances, I would expect if I had lived on a
12 street for 40 years I'd know it fairly well.

13 Mr. Arflin barreled through and clipped Jody's car.
14 That was his decision. He told you he made that
15 decision. He was conscious of that decision.

16 And then what did he do? He drew Jody Powell out
17 to him. You can hear it on the 911 call. You can hear
18 him tell Jamie, "Tell him to come outside." He got out
19 of his truck with an enormous gun. He got in Jody's
20 face. So how, folks, can it be said that he was
21 without fault in bringing on the difficulty when his
22 actions are the genesis of this entire incident?

23 Second element, the defendant was actually in
24 imminent danger of death or serious bodily injury or
25 believed that he was. Jody and Mr. Arflin were

1 exchanging words. Of course Jody was agitated. I
2 absolutely think that there was some heated words. He
3 had a brand-new truck. If somebody hit a car and it
4 was brand-new, you might be a little heated or
5 agitated, certainly. But what Jody couldn't understand
6 is why it had been thrown in reverse and backed into.
7 There is a history of parking issues. There is a
8 history of problems. Perhaps it was the point of
9 frustration that this defendant had reached that day,
10 was tired of it. He didn't want to deal with it
11 anymore. And after that, he was so mad he threw it in
12 reverse. It's up to you to decide. You're the triers
13 of fact.

14 But if you've already struck an object and you
15 stop, why would you reverse back into it? Why wouldn't
16 you pull over to the side of the road, ladies and
17 gentlemen? He says, "Oh, I didn't have a side mirror.
18 I didn't have a rearview mirror." But you could see
19 forward. There's nothing stopping you from pulling
20 forward at that moment.

21 So he drew Jody out of house. They're exchanging
22 words. And Mr. Arflin, according to witness
23 testimony -- and, again, it's up to you to decide
24 whether it's credible or not -- was in Jody's face. So
25 Jody pushed him out of his face.

1 The testimony you heard from Ms. Masters and the
2 testimony you saw from Jamie was that it was not a lot
3 of force used, that it was, "Get out of my personal
4 space." Again, it's up to you to determine if that's
5 accurate or not. But he pushed him back. Now, if
6 Mr. Arflin believed that he was actually in danger, why
7 would he have brought people out of the house? Why
8 would he have summoned anyone from the inside of the
9 house if he was concerned? He had called the police.
10 Lock your car door. Wait. Why bring people to you?
11 Why would you be at the back of this individual's
12 truck, walking toward them?

13 Ladies and gentlemen, he wasn't afraid of serious
14 bodily injury or death. He was the aggressor. Sure,
15 as it was testified, he was on blood thinners and he
16 had medical issues. Does a medical issue give an
17 individual a license to kill? I certainly hope not.
18 Does having cancer mean that you can pull a gun and
19 shoot whoever you feel like any day of the week? I
20 should say not. And if the medical condition is so
21 sensitive and you had just been in a wreck, if the
22 threat of bleeding is so intense, when you're asking if
23 anyone is hurt, would you not give more information to
24 the dispatcher? You'd want to get yourself checked out
25 if your situation is so precarious, wouldn't you?

1 Now, you heard, despite what Ms. White said,
2 testimony that Mr. Arflin was larger than Jody. His
3 clothing sizes are all bigger. He has at least two
4 inches in additional height. He was substantially
5 heavier than Mr. Powell. He had the size advantage.
6 Now, he also had the advantage of being armed, which is
7 a real advantage.

8 Mr. Arflin wasn't scared. Mr. Arflin didn't
9 believe he was in danger. Mr. Arflin was retaliating
10 with this comment, "I've got something for you, Boy."
11 How dare the boy touch him. How dare these people park
12 in the roadway. If he was afraid of Jamie, Jamie is a
13 factor, why didn't you shoot him, too? Didn't shoot
14 Jamie. Chased the man that touched him. Didn't
15 neutralize the threats.

16 And why not shoot Brenda? She's right there.
17 Because he was taking out his frustration on that
18 person who dared to touch him. And you have evidence
19 from the booking material that he has mood issues.
20 That's for what it's worth. And the words of Jamie
21 that night, "He shot him for nothing." So who was
22 scared, Mr. Arflin or Brenda? I agree with Ms. White
23 Brenda was scared. Brenda was scared of Mr. Arflin.
24 Who's scared of who? She ran inside and told everyone
25 to stay put. He's pulling people out of the house.

1 She's going, "Oh, no. This is a situation." If
2 someone was afraid, it wasn't Mr. Arflin.

3 Now, in order for you to believe that there was
4 self-defense, you would have to have, again, all four
5 elements, and the third element is a reasonably prudent
6 person of ordinary firmness and courage would have
7 entertained the same belief and would have struck the
8 fatal blow to save his own life. Has to be reasonable.
9 Right? Is it? Would a reasonable person believe they
10 could get in someone's face, and when that person says,
11 "Excuse me," pushes them without much pressure out of
12 their personal space, that, "Oh, it's reasonable.
13 Well, I have no choice but to shoot to kill." Whoa.
14 You have a gun. They don't. You can't take the gun
15 out and say, "You better back away"? No. Boom. Shot
16 not once, but twice. As the person is running away
17 from you towards their house, fleeing. Is that
18 reasonable?

19 Defendant had no other probable means of avoiding
20 the danger. This is the fourth element of
21 self-defense. Mr. Arflin had a lot of options. He
22 could have stayed inside and locked the doors in the
23 car. He could have waited for the police. He could
24 have driven home. He was close. He could have called
25 the police again and told them to meet him there for

1 safety reasons. That's reasonable behavior. He had a
2 phone. You know he had a phone. It was on his person.
3 He had already called for help. If he felt threatened,
4 the rational, reasonable thing to do would be to say,
5 "I'm leaving this area. Please come meet me at X
6 location." He had probable means of avoiding the
7 danger.

8 He had an opportunity to call other people as
9 well. He called Sheila and Billy right after this. He
10 could have called them then. He could have called his
11 big brother and said, "Billy, can you come on over
12 here?" He could have called for additional help.
13 Could have done a lot of things other than shoot to
14 kill.

15 Mr. Arflin didn't shoot Jody once. He shot him
16 twice. You heard testimony that Jody ran towards the
17 house to his left, that Brenda also ran, turned to the
18 left and that Jamie turned to the right. At that
19 point, certainly if there had been any threat, which I
20 don't believe there was, even if there was a
21 misperceived threat, that was neutralized. Boom.
22 First shot. Scattered. Threat neutralized, if there
23 was one. I submit there wasn't. But let's say there
24 was. Let's give him the benefit. I'm a generous
25 person. Threat neutralized. Whoa. What's the second

1 shot? At that time if Mr. Arflin had been afraid for
2 his life, genuinely afraid for his life, he would have
3 high-tailed it the other direction. That's not what he
4 did. He didn't run. He followed. He pursued. He was
5 the aggressor. He chased Jody Powell and he shot him
6 while he was fleeing. The fatal blow wasn't struck to
7 save this man from harm. Under any circumstance.
8 Under any -- any of the scenarios that you've seen.

9 Dr. Woodard told you the second shot was the fatal
10 blow, didn't he, ladies and gentlemen, right? So the
11 first shot, under any scenario, I submit again is
12 unjustified, but the second shot, fatal blow, is struck
13 to prove a point. The threat had been neutralized if
14 there ever was one, and I believe there wasn't, but
15 that second shot was unnecessary pursuit and kill.

16 Mr. Arflin never retreated or tried to avoid this
17 situation in any way the entire time. You have heard
18 no testimony about that whatsoever. He was advancing
19 the entire time, whereas Jody retreated as soon as he
20 saw the gun. How could there be any justification for
21 the second shot? A ruthless man is the kind of man who
22 would shoot someone twice without flinching, who would
23 say, "I've got something for you, Boy," and would
24 snatch a life in its prime.

25 And, by the way, this photograph is a photo of a

1 man who's taking care of himself because he wants to
2 live. Someone who's running, who's exercising. He
3 wanted to live, and someone took that from him. A
4 ruthless man is the kind of man who would callously
5 stand over a man as his girlfriend sobs and tries
6 desperately to save him. That's the very definition of
7 ruthlessness, showing no pity, showing no compassion,
8 then coldly and without any emotion moving his car and
9 reloading his gun. Propping his elbow up to wait.
10 Boy, that is ruthless, I agree with this defendant.

11 You heard Brenda and Jamie and Tonya describe this
12 man's demeanor. Who was scared for their lives? He
13 wasn't upset. He didn't show emotion. Ladies and
14 gentlemen, Jody Powell was retreating. He was running
15 away. So were Brenda and Jamie. And you heard
16 testimony from Dr. Woodard, and unlike Ms. White, I
17 believe that this evidence is valuable and corroborates
18 the testimony that you heard this week. Dr. Woodard
19 talked about how the first shot he examined would be
20 consistent with a turn to the left and with a raising
21 of the arms. Matches up exactly. He talked about how
22 the second shot he examined would be consistent with
23 someone falling and being lower to the ground. I
24 showed him a picture of the ditch where Jamie testified
25 he saw Jody when the second shot occurred. He

1 corroborated the positioning of the body would be
2 consistent with his finding.

3 Ms. White said physical evidence doesn't lie.
4 Well, all of the physical evidence in this case
5 supports the State's version of events. So if it
6 doesn't lie, then who's telling the truth? How can it
7 be possible that Jamie and Brenda could come up with
8 the exact same story which matches the forensics in
9 this case when they were separated from each other
10 almost immediately after the shooting. They didn't
11 have time to concoct an alternate version of the facts.
12 They have been telling the same story since that night.
13 They didn't have an opportunity to conspire with each
14 other because, quite frankly, they were trying to save
15 Jody Powell's life. Law enforcement got there while
16 they were still working on the body. Brenda went to
17 the hospital. Jamie stayed. Jamie gave a statement to
18 the police that night. At the scene. Brenda was
19 already at the hospital where she gave her statement.
20 There's no conspiracy here, people. There's only
21 grief.

22 Who had time to concoct a version of events?
23 Mr. Arflin had time to try to concoct a version of
24 events in this case. Dr. Woodard told you that there's
25 no way that the first shot occurred in an upward angle.

1 He also told you that there were no signs of bruising
2 or other evidence that Jody Powell had struck any sort
3 of blow the night of this incident. He told you that
4 if Mr. Arflin had been on blood thinners and had
5 received a blow, there would be evidence of bruising to
6 Mr. Arflin's jaw. And he told you that any bleeding
7 gums were reported as beginning before this incident
8 even took place, and I corroborated that with
9 Mr. Arflin himself. You heard he was prescribed
10 antibiotics. Antibiotics are for infection, not
11 trauma.

12 Dr. Woodard also told you that for Mr. Arflin to
13 have been under attack when the second shot occurred,
14 Jody Powell would have been coming at him butt first.
15 Unprofessional, maybe. Accurate, yes. None of what
16 Mr. Arflin has tried to tell you has made any sense or
17 has matched anything that was found at the scene. Why
18 would you then concoct a story like this? Why would
19 you kidnap the witnesses? You do it because you want
20 to cover up the truth. And you heard a witness -- and
21 I'm sorry, I can't remember which one -- refer to the
22 weapon as a Wild West-style gun. Anderson County isn't
23 the Wild West. You can't shoot someone down like a dog
24 in the middle of the highway.

25 The defense has been talking about initial

1 statements and how they're the most accurate because
2 they're contemporaneous with the event. The medical
3 records of the defendant have no mention of injury to
4 the mouth or jaw nor do the booking records.

5 Mr. Arflin was asked on at least two occasions almost
6 immediately after this event if anything had happened
7 to that area of his body. You can see that in the
8 records. He said no, and, yet, he had allegedly just
9 been assaulted and that's why he allegedly had no
10 choice but to shoot to kill somebody.

11 Listen to the most contemporaneous statements of
12 the event, those that are on the 911 call made by Tonya
13 when Jamie gets on the phone. Jamie says
14 contemporaneous with this event, Jamie says, "Yes,
15 ma'am. He shot. He shot him the first time and then
16 he -- and Jody took off running and fell and he shot at
17 him again." He also says, "He -- he run into the side
18 of his truck and then Jody confront -- Jody confronted
19 him about it, and he just pulled out a gun and shot
20 him." Contemporaneous with this event.

21 It's possible that this wreck was an accident.
22 What wasn't an accident was this defendant pulling out
23 a gun and shooting someone twice. What was intentional
24 was the ending of Jody Powell's life. That was a
25 decision made by this man, a decision full of malice

1 and hatred. The last words Jody said were, "Oh, my
2 God, I'm going to die." You heard that. Dr. Woodard
3 testified that Jody Powell would have enough time to
4 register what was happening to his body, to understand
5 that he was going to die because he had been shot after
6 a minor traffic incident. Jody Powell knew he was
7 going to die. What do you know? You're the deciders
8 of fact. What do you know now? What do you, as the
9 jury, believe now that you've seen all the testimony
10 and the evidence in this case? Focus on what you know
11 as you deliberate. Focus on what you saw this week.

12 Now, defense has tried to distract you from the
13 real evidence that's in front of you. To talk about
14 additional testing is smoke and mirrors. Keep your eye
15 on what's actually been put before you, and I believe
16 that you'll find we have proven every element of each
17 crime the defendant was charged with. And I submit to
18 you, ladies and gentlemen, that we've proven all these
19 charges beyond a reasonable doubt.

20 You've heard the term "Monday morning
21 quarterbacking" how many times throughout this case?
22 Too many, I wager. But I'm going to stick with the
23 football analogy. This is a Hail Mary pass by the
24 defense. We live in a country that's built on ideals
25 of fairness and justice. What happened on Williamson

1 Drive the night of December, 11, 2013, was not justice.
2 Mr. Arflin lost a side mirror. Jody Powell lost his
3 life. There was no justice that day. But you can make
4 sure that there's justice today. I submit to you we've
5 proven this case beyond a reasonable doubt and I ask
6 that you bring back the verdict that justice deserves,
7 a verdict of guilty. Thank you for your time and your
8 attention, ladies and gentlemen.

9 THE COURT: All right. Ladies and gentlemen, the
10 next phase will be the Court's instructions to you on
11 the law. This will be somewhat lengthy, so we're going
12 to take a short break. You have been sitting now for
13 an hour and a half. We're going to take about ten
14 minutes and give you a chance to stretch your legs,
15 then we'll do the instruction on the law.

16 So, Mr. Bailiff, if you will take the jury out.

17 (WHEREUPON, the jury exited open court at
18 3:29 p.m.)

19 THE COURT: Ladies, before we break, I want you to
20 review the verdict form I have prepared. It's a simple
21 format. I want you to look at it.

22 THE COURT: All right. Has each side been able to
23 review the verdict form as prepared by my law clerk?

24 MS. PRICE: Yes, sir, your Honor.

25 THE COURT: Any objection from the State?

1 MS. PRICE: Not from the State.

2 THE COURT: Any from the defense?

3 MS. WHITE: None as long as you're sending the
4 indictments back.

5 THE COURT: I intend to send the indictments back
6 since they have to be conformed by the foreman of the
7 jury.

8 Anything from the State before I bring the jury
9 back?

10 MS. PRICE: Nothing from the State.

11 THE COURT: Anything for the defense?

12 MS. WHITE: No, sir.

13 THE COURT: Mr. Bailiff, bring our jury back,
14 please.

15 (WHEREUPON, the jury entered open court at
16 3:50 p.m.)

17 THE COURT: All right. Ladies and gentlemen, we
18 have come to the point in the trial where I instruct
19 you on the law. My instructions will be somewhat
20 lengthy. They will be in three parts. First, the
21 instructions that govern your general rules that define
22 and control the jury's duties. Secondly, the
23 instructions that state the rules of law that you must
24 apply, what the State must prove to prove its case.
25 Third, there will be some rules for your deliberations.

1 The general rules begin with your duties as
2 jurors. It is your duty to find the facts from all the
3 evidence in the case. To those facts you must apply
4 the law as I give it to you. You shall not be
5 concerned with what the law should be but what it is,
6 and you must not be influenced by any personal likes or
7 dislikes, opinions, prejudices or undue sympathy. That
8 means you must decide the case solely on the evidence
9 before you in accordance with the law, the very thing
10 that you took an oath to do at the beginning of the
11 trial.

12 It is your responsibility and yours alone to
13 determine the facts of this case. I would, therefore,
14 charge you that if during the course of this trial or
15 during this charge you have been given or left with the
16 impression or feeling that I have a personal feeling
17 about the facts of the case or that I favor one side or
18 the other, I would specifically instruct you to
19 disregard that impression. Under our Constitution I am
20 not allowed to have an opinion about the facts of the
21 case. You should not be influenced by any objections
22 or the Court's ruling on them. You and you alone are
23 the judges of the facts. You determine the facts by
24 evaluating or weighing the evidence that you have heard
25 during the trial.

1 The evidence is defined as the sworn testimony
2 from witnesses and any exhibits that have been entered
3 into evidence. The statements by the attorneys are not
4 evidence. What they have said in opening statements,
5 closing arguments and at other times is intended to
6 help you interpret the evidence, but it is not
7 evidence.

8 There are two types of evidence which are
9 generally presented during a trial: Direct evidence
10 and circumstantial evidence. Direct evidence directly
11 proves the existence of a fact and does not require
12 deduction. Circumstantial evidence is proof of a chain
13 of facts and circumstances indicating the existence of
14 a fact. Crimes may be proven by circumstantial
15 evidence. The law makes no distinction between the
16 weight or value to be given to either direct or
17 circumstantial evidence. However, to the extent the
18 State relies on circumstantial evidence, all the
19 circumstances must be consistent with each other, and
20 when taken together, point conclusively to the guilt of
21 the accused beyond a reasonable doubt. If the
22 circumstances merely portray the defendant's behavior
23 as suspicious, the proof has failed.

24 The State has the burden of proving the defendant
25 guilty beyond a reasonable doubt. The burden rests

1 with the State regardless of whether the State relies
2 on direct evidence, circumstantial evidence or some
3 combination of the two. As judges of the facts, you
4 are the sole judges of the credibility, that is the
5 believability, of the witnesses who have testified in
6 this case.

7 In determining their credibility, you may take
8 into consideration many things such as the appearance
9 and manner of the witness on the stand sometimes
10 referred to as the demeanor of the witness, was the
11 witness able to see, hear or know the things about
12 which the witness testified, how well was the witness
13 able to recall and describe those things, did the
14 witness have a cause or reason to be biased and
15 prejudiced in favor of the testimony he or she gave,
16 how reasonable was the witness' testimony considered in
17 light of all the evidence in the case, was the witness'
18 testimony contradicted by what the witness had said or
19 done at another time or by the testimony of other
20 witnesses or by other evidence? These are just some of
21 the factors you may consider in deciding whether to
22 believe testimony.

23 As jurors, you have a right to believe all of the
24 testimony of a witness or none of the testimony of a
25 witness. You have a right to believe a portion of the

1 testimony of a witness and discard the rest. You may
2 believe the testimony of one witness over the many or
3 the many over the one. Most certainly you do not
4 determine the matter of credibility or believability by
5 counting up the number of witnesses who may have
6 testified on behalf of the parties in this case. Your
7 sole objective is to find the truth. It does not
8 matter whether the truth comes from a witness from the
9 State or a witness for the defendant.

10 The rules of evidence ordinarily do not permit
11 witnesses to testify to opinions or conclusions. An
12 exception to this rule exists for witnesses we call
13 expert witnesses. A witness who, by education and
14 experience, has become expert in some art, science,
15 profession or calling may state an opinion as to
16 relevant and material matter in which the witness
17 claims to be an expert and may also state the reasons
18 for the opinion. You should consider any expert
19 opinion received in evidence in this case, and like any
20 other evidence, give it the weight you think it
21 deserves.

22 If you decide that the opinion of an expert
23 witness is not based on sufficient education and
24 experience, or if you conclude that the reasons given
25 in support of the opinion are not sound or that the

1 opinion is outweighed by other evidence, you may
2 disregard the opinion entirely. An expert witness'
3 testimony is to be given no greater weight than that of
4 other witnesses simply because the witness is an
5 expert. Further, you are not required to accept an
6 expert opinion even though it is not contradicted.

7 A statement alleged to have been made by the
8 defendant has been admitted into evidence in this case.
9 While the Court has determined that the statement is
10 admissible, I instruct you that you make the ultimate
11 decision of whether or not the defendant made the
12 statement.

13 If the defendant did make the statement, you must
14 determine whether the statement was made by the
15 defendant voluntarily and of his own free will. This
16 means that the statement was not caused by pressure,
17 force, fear, threats, coercion or intimidation or by
18 hope or promise of leniency or a reward of any kind.

19 In determining whether the statement was
20 voluntary, you should consider both the characteristics
21 of the defendant and the details of the questioning.
22 Some of the factors you must consider are: The age of
23 the defendant, the defendant's education or lack of
24 education, the defendant's mental ability or capacity,
25 the defendant's IQ or intelligence, the defendant's

1 background and environment, the place and length of
2 detention, the nature of the questioning and the advice
3 or lack thereof to the defendant of his constitutional
4 rights including but not limited to the right to remain
5 silent, that any statement could be used against him in
6 a court of law, the right to have a lawyer present,
7 that if he could not afford a lawyer, a lawyer would be
8 appointed to represent him without any cost and that he
9 could stop making a statement at any time. You must
10 carefully consider all of the surrounding circumstances
11 before you give any weight to an alleged statement.

12 The State has the burden of proving beyond a
13 reasonable doubt that the alleged statement was
14 voluntary. If you determine it was, you may give the
15 statement any further consideration that you deem
16 proper. You must decide what weight, if any, should be
17 given to the alleged statement. If you determine the
18 alleged statement was not free and voluntary, you
19 should not consider the statement at all.

20 The defendant has pled not guilty to these
21 indictments, and that plea puts the burden on the State
22 to prove the defendant guilty. A person charged with
23 committing a criminal offense is never required to
24 prove himself innocent. I charge you that it is an
25 important rule of the law that a defendant in a

1 criminal trial, no matter what the seriousness of the
2 charge may be, will always be presumed innocent of the
3 crime for which the indictment was issued unless guilt
4 has been proven by evidence satisfying you of that
5 guilt beyond a reasonable doubt.

6 The presumption of innocence does not end when you
7 begin your deliberations, but it accompanies the
8 defendant throughout the trial until you reach a
9 verdict of guilt based on evidence satisfying you of
10 that guilt beyond a reasonable doubt. The presumption
11 of innocence is like a robe of righteousness placed
12 about the shoulders of the defendant which remains with
13 the defendant until it is stripped from the defendant
14 by evidence satisfying you of the defendant's guilt
15 beyond a reasonable doubt.

16 The presumption of innocence is not mere legal
17 theory. It is not just a legal phrase. It is a
18 substantial right to which every defendant is entitled
19 unless you, the jury, are satisfied from the evidence
20 of the defendant's guilt beyond a reasonable doubt.

21 What is a reasonable doubt under the law? A
22 reasonable doubt is the kind of doubt that would cause
23 a reasonable person to hesitate to act. Some of you
24 may have served as jurors in civil cases where you were
25 told that it is only necessary to prove that a fact is

1 more likely true than not true, such as by the greater
2 weight or preponderance of the evidence. In criminal
3 cases, the State's proof must be more powerful than
4 that. It must be beyond a reasonable doubt.

5 Proof beyond a reasonable doubt is proof that
6 leaves you firmly convinced of the defendant's guilt.
7 There are very few things in this world that we know
8 with absolute certainty. In criminal cases the law
9 does not require proof that overcomes every possible
10 doubt. If, based on your consideration of the
11 evidence, you are firmly convinced that the defendant
12 is guilty of the crime charged, then you must find the
13 defendant guilty. If, on the other hand, you think
14 there is a real possibility that the defendant is not
15 guilty, you must give the defendant the benefit of the
16 doubt and find him not guilty.

17 A reasonable doubt may arise from the evidence or
18 from a lack of evidence. The defendant is entitled to
19 every reasonable doubt that may arise in the case. If,
20 upon any issue of fact essential to a conviction and a
21 verdict of guilty of an offense, if you have any
22 reasonable doubt as to how that issue should be
23 resolved, it is your duty to resolve that doubt in
24 favor of the defendant. Suspicion, however strong, is
25 not enough to sustain a conviction. The evidence

1 presented by the State must be substantial evidence
2 that tends to prove the guilt of the defendant beyond a
3 reasonable doubt.

4 In order to establish criminal liability, criminal
5 intent is required. For example, the mental state
6 required to be proven by the state for a particular
7 crime might be purpose, intent, knowledge, recklessness
8 or criminal negligence. Criminal intent must be proven
9 by the State beyond a reasonable doubt. Criminal
10 intent is always a matter that must be determined by
11 the jury from the circumstances surrounding the
12 situation.

13 There's no way to prove intent to a mathematical
14 certainty. There's no way medical science can dissect
15 a person's brain and determine what the person had in
16 mind, so the law says that criminal intent may be
17 inferred from the circumstances shown to have existed.
18 This is how you make a determination of whether or not
19 the element requiring intent was present. It is not
20 necessary to establish intent by direct and positive
21 evidence, but intent may be established by inference in
22 the same way as any other fact, by taking into
23 consideration the acts of the parties and all the facts
24 and circumstances of the case.

25 Criminal intent is a mental state, a conscious

1 wrongdoing. It is up to you to determine what the
2 defendant intended to do based on the circumstances
3 shown to have existed. Criminal intent can arise from
4 action or a failure to act. It may arise from
5 negligence, recklessness, or an indifference to duty or
6 to consequences that is considered by law to be the
7 equivalent of criminal intent.

8 The indictments charge the defendant with murder,
9 possession of a weapon during the commission of a
10 violent crime, and solicitation of a felony. I remind
11 you that that the fact that the defendant was arrested,
12 charged and indicted in this case is not evidence in
13 this case and cannot be considered by you as evidence
14 of guilt in this case, nor does it create any
15 presumption or inference of guilt. The indictment is
16 simply the formal written instrument which contains the
17 charge made against the defendant. It is the formal
18 document by which the case is brought to court.

19 The indictment in this case alleges several
20 different offenses against the defendant as stated:
21 Murder, possession of a weapon during the commission of
22 a violent crime, and three charges of solicitation to
23 commit a felony, kidnapping. Each indictment charges a
24 separate and distinct offense. You must decide each
25 indictment separately on the evidence and the law

1 applicable to it uninfluenced by your decision to any
2 other indictment. The defendant may be convicted or
3 acquitted on any or all of the offenses charged with
4 the exception of a possession of a weapon during the
5 commission of a violent claim charge. You must find
6 the defendant guilty of murder before you could find
7 him guilty of possession of a weapon during the
8 commission of a violent crime.

9 You will be asked to write a separate verdict of
10 guilty or not guilty for each indictment on the verdict
11 form, which I'm going to go over with you in just a
12 minute.

13 The defendant is charged with murder. The State
14 must prove beyond a reasonable doubt that the defendant
15 killed another person with malice aforethought. Malice
16 is hatred, ill will or hostility toward another person.
17 It is the intentional doing of a wrongful act without
18 just cause or excuse and with an intent to inflict an
19 injury or under circumstances that the law will infer
20 as evil intent.

21 Malice aforethought does not require that malice
22 exist for any particular time before the act is
23 committed, but malice must exist in the mind of the
24 defendant just before and at the time of the act that
25 he's committed. Therefore, there must be a combination

1 of previous evil intent and the act.

2 Malice aforethought may be express or inferred.
3 The terms "express" and "inferred" do not mean
4 different kinds of malice but merely the manner in
5 which malice may be shown to exist, that is, either by
6 direct evidence or by inference from facts and
7 circumstances which are proved.

8 Express malice is shown when a person speaks words
9 which express hatred or ill will for another or when
10 the person prepared beforehand to do the act which was
11 later accomplished. For example, lying in wait for a
12 person or any other acts of preparation going to show
13 that the deed was within the defendant's mind would
14 express -- would be express malice. Malice may be
15 inferred from conduct showing a total -- malice may be
16 inferred from conduct showing a total disregard for
17 human life.

18 The defendant is charged with solicitation to
19 commit kidnapping. The State must prove beyond a
20 reasonable doubt that the defendant asked, enticed,
21 advised, invited, ordered, counseled, persuaded or
22 otherwise encouraged another person to commit the
23 kidnapping. It must be shown that the defendant
24 intended that the other person committed the
25 kidnapping.

1 In order to prove solicitation, it is not
2 necessary that the State prove that money was actually
3 paid by the defendant, that the person asked to commit
4 the crime actually intended to carry out the crime,
5 that the person asked to commit the crime agreed to do
6 so, or that the crime was ever committed. Solicitation
7 requires only that the defendant had the intent to have
8 someone else commit the crime and that the defendant do
9 an act which is a step toward the commission of that
10 crime. This step may be any conduct such as giving the
11 other person the means to commit the crime or words
12 which communicate to another person the idea to commit
13 the crime. Intent means a purpose or aim or the state
14 of a person's mind which directs the person's actions
15 toward a specific object.

16 The defendant is charged with possession of a
17 weapon during the commission of or attempt to commit a
18 violent crime. The State must prove beyond a
19 reasonable doubt that the defendant was in possession
20 of a firearm or visibly displayed what to be a firearm
21 during the commission of a violent crime. A firearm
22 means any machine gun, automatic rifle, revolver,
23 pistol or any weapon which will, is designed to, or may
24 be readily converted to expel a projectile.

25 In order to find the defendant guilty of

1 possession of a weapon during the commission of a
2 violent crime, you must first find the defendant guilty
3 of either committing a violent crime or attempting to
4 commit a violent crime. Murder is a violent crime.
5 The State must prove beyond a reasonable doubt that the
6 weapon further advanced or helped in the commission of
7 that crime.

8 The defendant has raised self-defense -- has
9 raised the defense of self-defense. Self-defense is a
10 complete defense, and if it is established, you must
11 find the defendant not guilty. The State has the
12 burden of disproving self-defense by proof beyond a
13 reasonable doubt.

14 If you have a reasonable doubt of the defendant's
15 guilt after considering all of the evidence including
16 the evidence of self-defense, then you must find the
17 defendant not guilty. On the other hand, if you have
18 no reasonable doubt of the defendant's guilt after
19 considering all the evidence including the evidence of
20 self-defense, then you must find the defendant guilty.

21 The following elements are required to establish
22 self-defense: First, the defendant must be without
23 fault in bringing on the difficulty. If the
24 defendant's conduct was the type which was reasonably
25 calculated to and did provoke a deadly assault, the

1 defendant would be at fault in bringing on the
2 difficulty and would not be entitled to an acquittal
3 based on self-defense.

4 The second element of self-defense is that the
5 defendant was actually in imminent danger of death or
6 serious bodily injury or that the defendant actually
7 believed he was in imminent danger of death or serious
8 bodily injury.

9 If the defendant was actually in imminent danger,
10 it must be shown that the circumstances would have
11 warranted a person of ordinary firmness and courage to
12 strike the fatal blow to prevent death or serious
13 bodily injury. If the defendant believed he was in
14 imminent danger of death or serious bodily injury, it
15 must be shown that a reasonable, prudent person of
16 ordinary firmness and courage would have had the same
17 belief.

18 In deciding whether the defendant actually was or
19 believed he was in imminent danger of death or serious
20 bodily injury, you should consider all the facts and
21 circumstances surrounding the crime including the
22 physical condition and characteristics of the defendant
23 and the victim. The defendant does not have to show
24 that he was actually in danger. It is enough if the
25 defendant believed he was in imminent danger and a

1 reasonably prudent person of ordinary firmness and
2 courage would have had the same belief.

3 The defendant has the right to act on appearances
4 even though the defendant's beliefs may have been
5 mistaken. It is for you to decide whether the
6 defendant's fear of immediate danger or death or
7 serious bodily injury was reasonable and would have
8 been felt by an ordinary person in the same situation.

9 Words accompanied by hostile acts may, depending
10 on the circumstances, establish self-defense. The
11 relative sizes, ages and weights of the defendant and
12 the victim may be considered in deciding the apparent
13 or actual need for force in self-defense and the amount
14 of force needed. Threats made by the victim may be
15 considered in determining whether the defendant
16 actually was or believed he was in imminent danger.

17 The final element of self-defense is that the
18 defendant had no other probable way to avoid the danger
19 or death -- danger of death or serious bodily injury
20 than to act as the defendant did in this particular
21 instance. The defendant had no duty to retreat if, by
22 doing so, the danger of being killed or suffering
23 serious bodily injury would increase.

24 Once the right to fire in self-defense arises, a
25 person is not required to wait until his adversary is

1 on equal terms in order to defend himself. He is not
2 required to risk serious injury. A person does not
3 have to wait until his assailant gets the drop on him.
4 He has the right to act under the law of
5 self-preservation and prevent his assailant from
6 getting the drop on him.

7 Ladies and gentlemen, we're almost to the point
8 where I will send you to the jury room to begin your
9 deliberations. This has been a long instruction on the
10 law, but I want to leave you with some final thoughts.
11 You were chosen as jurors because both sides believed
12 that you could be fair and impartial in deciding this
13 case. I instruct you to make use of your life
14 experiences, your good common sense and your sense of
15 logic and reason in evaluating the evidence in this
16 case. You are not partisans or advocates for either
17 side. You have no friends to reward nor enemies to
18 punish. You are the judges of the facts. Your sole
19 interest is to find the truth from the evidence
20 presented in the case. Be courteous with one another,
21 listen to the views of your fellow jurors, take the
22 amount of time necessary for you to thoroughly evaluate
23 the evidence. This case is important to both sides,
24 and this is their only day in court.

25 All right. Mr. Foreman, I'm going to go over the

1 verdict form with you. Now, the actual indictments
2 will be sent back with the verdict form. The verdict
3 form has the indictment listed, and it has it broken
4 down. Indictment Number 426 says, "We, the jury,
5 unanimously find on Indictment Number 2014-GS-04-00426
6 that the defendant, Bobby Joe Arflin, is," and it gives
7 you two options, "guilty of murder or not guilty of
8 murder."

9 Then you go to the second page, and it lists the
10 next charge -- now, the first indictment has two
11 charges. It has murder and possession of a weapon
12 during the commission of a violent crime. You have the
13 same choices, guilty or not guilty. Again, as I've
14 stated before, you have to have found him guilty of
15 murder in order to be able to find him guilty of
16 possession of a weapon during the commission of a
17 violent crime.

18 The next three indictments are solicitation to
19 commit a felony. You have the same options, guilty or
20 not guilty. You are to place no significance on the
21 order in which the choices are placed on the paper.
22 One simply had to go on the page before the other.
23 Whether to find him guilty or not guilty is solely up
24 to you as the jury based on your evaluation of the case
25 and what the State has proven or not proven in your

1 eyes. You evaluate the facts.

2 But what I'm going to have you do is go to the
3 jury room now. I'm going to make sure all the exhibits
4 are gathered up. We will send the verdict form back.
5 Do not begin your deliberations until I send the
6 verdict form, the indictments and the exhibits back to
7 the jury room.

8 So, Mr. Bailiff, if you will take our jury back.
9 And, Mr. Alternate -- send him back with them right now
10 because they're not going to start deliberating.

11 (WHEREUPON, the jury exited open court at
12 4:15 p.m.)

13 THE COURT: Any exceptions to the jury charge from
14 the State?

15 MS. PRICE: Not from the State, your Honor.

16 THE COURT: Any exceptions from the defense?

17 MS. WHITE: Your Honor, maybe I just didn't hear
18 it, but I didn't hear our Defense Exhibit 6 charge.
19 Did I miss that?

20 THE COURT: Which one was that?

21 MS. WHITE: It's self-defense, size and age. I
22 know you did size and age.

23 THE COURT: All right. That is included -- it is
24 actually in the self-defense charge.

25 MS. WHITE: Judge, did you know that one of our

1 jurors is out here? Is that okay, our alternate?

2 THE BAILIFF: This is our alternate.

3 THE COURT: Well, I was getting ready to release
4 him.

5 If you could take him back right now.

6 MS. WHITE: Judge, as you know, the case law holds
7 that, you know, if there are certain facts in a certain
8 case, those should be added as well. And I had just
9 added the ones that were pertinent in this case, and I
10 would ask that this one -- I think it was, what was it,
11 four, is that the one that said each case, their
12 individual facts should be added in?

13 THE COURT: Well, your proposed jury charge six --

14 MS. WHITE: It's similar, but it adds --

15 THE COURT: It says relative size, ages and
16 weights, health, number of potential adversaries,
17 lighting conditions, prior difficulty of the defendant
18 and the victim may be considered in deciding the
19 apparent need for force -- need for force in
20 self-defense and the amount of force needed. The
21 actual charge said the relative sizes, ages and weights
22 of the defendant and the victim may be considered in
23 deciding the apparent or actual need for force in
24 self-defense and the amount of force needed.

25 MS. WHITE: I had added the others in accordance

1 with the case law that, you know, were particular to
2 this case, so I would would ask that those be --

3 THE COURT: Just let me look that case up.

4 All right. Ms. White.

5 MS. WHITE: Yes, sir.

6 THE COURT: I am looking at the case you cited,
7 *State vs. Dickey*, and I think the language that you're
8 wanting charged as an offense is lighting conditions,
9 potential adversaries and prior difficulties. And just
10 if you could expedite this, where in that case does
11 that provide that?

12 MS. WHITE: Your Honor, that -- I added into your
13 standard charge those things. I think -- isn't it four
14 that said that each self-defense case, you've got to
15 put the individual facts in? And I do have -- I'm not
16 positive that it's four, but I know the law changed in
17 the cases after that, said, no, the individual things
18 have got to be put in. But I've got four actually
19 cited in here somewhere.

20 Let me see where this is because I think that's
21 the one. Four would be -- and I may be mistaken on it,
22 Judge. I know it was a case a while back that changed
23 it from henceforth. It's *Fuller*, F-u-l-l-e-r, 1989
24 case. It's 297 S.C. 440. I hope I'm citing the right
25 case. I'm doing that from memory.

1 You know, Judge, I think it's in the judge's
2 instructions as well, jury instructions. I think there
3 is a little note in there that says to add that and it
4 cites the case, if I'm not mistaken.

5 THE COURT: All right. Ms. White, out of -- in
6 reading this case, out of an abundance of caution, I
7 will give your charge six. If we can get the jury back
8 in. I think -- the case does say, you are correct, in
9 what *Fuller* says, that when defense counsel requests
10 specific elements. Just out of an abundance of
11 caution, I will charge that.

12 MS. WHITE: Thank you.

13 THE COURT: Any other exceptions by either party?

14 MS. PRICE: Not from the State.

15 MS. WHITE: No, sir.

16 (WHEREUPON, the jury entered open court at
17 4:22 p.m.)

18 THE COURT: Ladies and gentlemen, I'm going to
19 give you one additional jury charge. The relative
20 sizes, ages and weights, health, number of potential
21 adversaries, lighting conditions and prior difficulties
22 of the defendant and the victim may be considered in
23 deciding the apparent or actual need for force and
24 self-defense and the amount of force needed. So that
25 would be the final jury instruction.

1 So, Mr. Bailiff, you can take our jury back to the
2 jury room.

3 (WHEREUPON, the jury exited open court at
4 4:23 p.m.)

5 THE COURT: Any further exceptions?

6 MS. PRICE: No, sir, your Honor.

7 MS. WHITE: No, sir, your Honor.

8 THE COURT: All right. Let's gather up -- go get
9 our alternate now.

10 Get the alternate now.

11 Let's gather up -- well, before we do that, I want
12 to commend each side for working very hard this week.
13 I know this has been a stressful week, and the Court
14 appreciates the hard work and the efforts of the
15 attorneys involved. This has been a lot of witnesses,
16 a lot of material to get through, and, ladies, you have
17 gotten through it in a very competent professional
18 manner, and the Court appreciates that.

19 So let's get our exhibits and make sure all the
20 exhibits are ready, and then we will send it back to
21 the jury room.

22 You have to listen to this stuff all week and then
23 you don't get to make a decision, so you will not be
24 able to participate in the deliberations since all of
25 the 12 were able to make it through trial, but if you

1 wish to stay just to find out what happens, I mean,
2 that's up to you. If you want to, you would be
3 dismissed. So that's entirely up to you.

4 ALTERNATE JUROR: Okay.

5 THE COURT: But we thank you for your service. I
6 know it's been a long week.

7 ALTERNATE JUROR: Yes, sir.

8 (WHEREUPON, the alternate juror left the
9 courtroom.)

10 THE COURT: Are all the exhibits there? All
11 right. Clerk, you may instruct the jury they can begin
12 their deliberations.

13 THE CLERK: Thank you, your Honor.

14 THE COURT: We will now be in recess.

15 (Court in recess, pending verdict, from
16 4:26 p.m. until 4:37 p.m.)

17 THE COURT: We have received a question from the
18 jury which states, "Can we have a list of the four
19 self-defense stipulations?"

20 My thought is just I can recharge them the law of
21 self-defense.

22 MS. PRICE: Sure.

23 THE COURT: Does either side have any objection to
24 that course?

25 MS. PRICE: No objection, sir.

1 MS. WHITE: No, sir. I would like to make sure.
2 I think the end of it ends with, It's got to be proven
3 beyond a reasonable doubt anyway, but I would like for
4 that to be as part of that charge.

5 THE COURT: All right. Let me turn back to it
6 here.

7 MS. WHITE: I think it might be --

8 THE COURT: It's in there. Yes. It's in there.
9 It's at the beginning that it has to be disproven,
10 self-defense, by proof beyond a reasonable doubt.

11 So if you will get our jury.

12 (WHEREUPON, the jury entered open court at
13 4:43 p.m.)

14 THE COURT: All right. Ladies and gentlemen, I
15 have received your question regarding the law of
16 self-defense, and what I'm going to do is give you the
17 self-defense charge again and we'll proceed from there.

18 The defendant has raised the defense of
19 self-defense. Self-defense is a complete defense, and
20 if it is established, you must find the defendant not
21 guilty. The State has the burden of disproving
22 self-defense by proof beyond a reasonable doubt. If
23 you have a reasonable doubt of the defendant's guilt
24 after considering all of the evidence including the
25 evidence of self-defense, then you must find the

1 defendant not guilty. On the other hand, if you have
2 no reasonable doubt of the defendant's guilt after
3 considering all the evidence including the evidence of
4 self-defense, then you must find the defendant guilty.

5 The following elements are required to establish
6 self-defense: First, the defendant must be without
7 fault in bringing on the difficulty. If the
8 defendant's conduct was the type which was reasonably
9 calculated to and did provoke a deadly assault, the
10 defendant would be at fault in bringing on the
11 difficulty and would not be entitled to an acquittal
12 based on self-defense.

13 The second element of self-defense is that the
14 defendant was actually in imminent danger of death or
15 serious bodily injury or that the defendant actually
16 believed he was in imminent danger of death or serious
17 bodily injury. If the defendant was actually in
18 imminent danger, it must be shown that the
19 circumstances would have warranted a person of ordinary
20 firmness and courage to strike the fatal blow to
21 prevent death or serious bodily injury. If the
22 defendant believed he was in imminent danger of death
23 or serious bodily injury, it must be shown that a
24 reasonably prudent person of ordinary firmness and
25 courage would have had the same belief.

1 In deciding whether the defendant actually was or
2 believed he was in imminent danger of death or serious
3 bodily injury, you should consider all the facts and
4 circumstances surrounding the crime including the
5 physical condition and characteristics of the defendant
6 and the victim. The defendant does not to have show
7 that he actually was in danger. It is enough if the
8 defendant believed he was in imminent danger and a
9 reasonably prudent person of ordinary firmness and
10 courage would have had the same belief.

11 The defendant has the right to act on appearances,
12 even though the defendant's beliefs may have been
13 mistaken. It is for you to decide whether the
14 defendant's fear of immediate danger of death or
15 serious bodily injury was reasonable and would have
16 been felt by an ordinary person in the same situation.

17 Words accompanied by hostile acts may, depending
18 on the circumstances, establish self-defense. The
19 relative sizes, ages and weights of the defendant and
20 the victim may be considered in deciding the apparent
21 or actual need for force in self-defense and the amount
22 of force needed. Threats made by the victim may be
23 considered in determining whether the defendant
24 actually was or believed he was in imminent danger.

25 The final element under self-defense is that the

1 defendant had no other probable way to avoid danger of
2 death or serious bodily injury than to act as the
3 defendant did in this particular instance. The
4 defendant had no duty to retreat if by doing so the
5 danger of being killed or suffering a serious bodily
6 injury would increase.

7 Once the right to fire in self-defense arises, a
8 person is not required to wait until his adversary is
9 on equal terms in order to defend himself. He is not
10 required to risk serious injury. A person does not
11 have to wait until his assailant gets the drop on him.
12 He has the right to act under the law of
13 self-preservation and prevent his assailant from
14 getting the drop on him. The relative sizes, ages,
15 weights, health, number of potential adversaries,
16 lighting conditions and prior difficulties of the
17 defendant and victim may be considered in deciding the
18 apparent or actual need for force in self-defense and
19 the amount of force needed.

20 So those are the charges on self-defense. Now,
21 ladies and gentlemen, I'm going to ask you to return to
22 the jury room.

23 We can mark this question as a Court's exhibit.

24 (WHEREUPON, the jury exited open court at

25 4:48 p.m.)

1 THE COURT: Anything from the State?

2 THE COURT: Nothing from the State.

3 THE COURT: Anything from the defense?

4 MS. WHITE: No, sir.

5 THE COURT: All right. We will go back into
6 recess.

7 (Court in recess, pending verdict, from
8 4:49 p.m. until 4:59 p.m.)

9 THE COURT: All right. We have had another
10 question from the jury. And the question is: Can we
11 listen to Roy Lawrence, Exhibit Number 88.

12 So the jury has asked to rehear Exhibit 88, and my
13 inclination is just to bring them back in and replay
14 the tape.

15 THE CLERK: I have been informed, your Honor, by
16 the solicitor's office, if it please the Court, that I
17 can take the computer back to them. It has been
18 disabled from the Internet and I can take it. But
19 whatever you choose to do is fine with me.

20 THE COURT: It can be played in the jury room?

21 THE CLERK: Yes, sir. It won't have the speakers,
22 but it will have the speaker out of the actual --

23 MS. PRICE: Well, we can actually send those back
24 as well.

25 THE COURT: Okay. Well, if we have the technical

1 capability for them to listen to it in the jury room.
2 I don't like the evidence being separated, in other
3 words, having an exhibit out here. I want the evidence
4 to stay together.

5 Mr. Clerk, if you can do that and they can listen
6 to it in the jury room, I would prefer the evidence to
7 stay together.

8 THE CLERK: I'll go give it the college try and
9 see if I can get it.

10 THE COURT: Ms. White, if you would like to look
11 at the computer.

12 MS. WHITE: I was going to stand up and say are we
13 sure there's nothing from this case on there or I
14 mean --

15 THE COURT: You need to inspect the computer.

16 MS. WHITE: That gives me way too much whatever
17 because I don't know how to inspect a computer,
18 honestly. Computer illiterate is probably more my
19 speed.

20 MS. PRICE: Your Honor, our case management system
21 is now Internet based, and we have disabled the
22 Internet, so there's no way they could access anything.

23 THE COURT: Is there anything else on the
24 computer?

25 MS. PRICE: No, sir. I have all that material

1 myself.

2 THE COURT: Let me see the screen of the computer.

3 All right. It looks like there are some PDF files
4 saved on here, and out of an abundance of caution, I
5 don't want them looking at anything other than the
6 evidence in this case. Just bring them out here and
7 we'll let them listen to it out here.

8 MS. WHITE: I think it's like five or ten minutes.

9 THE COURT: I don't think it's that long either.
10 I don't like the evidence being separated, but there
11 are some saved files on that computer.

12 Ready to go?

13 Mr. Bailiff, you can bring our jury back.

14 (WHEREUPON, the jury entered open court at
15 5:11 p.m.)

16 THE COURT: All right. Ladies and gentlemen, I
17 have received your request to hear State's Exhibit
18 Number 88 replayed, so we have the computer set up and
19 they will replay that for you now.

20 (WHEREUPON, State's Exhibit 88 is being played
21 for the jury.

22 THE COURT: Ladies and gentlemen, I'm going to --

23 JURY FOREMAN: I have a question related to the
24 forms, and I was instructed to ask you, I guess.

25 THE COURT: Mr. Foreman, I'll allow you to ask the

1 question since both attorneys are here.

2 JURY FOREMAN: The indictment charges, are they
3 required to be filled out on the rear as far as the
4 guilty, not guilty?

5 THE COURT: Whatever your decision is. And you,
6 as Foreman, will sign the back of the indictment.

7 JURY FOREMAN: Sign these okay.

8 THE COURT: Based on what y'all decide.

9 JURY FOREMAN: As well as the other form?

10 THE COURT: Yes. Take that exhibit back with the
11 rest of them.

12 (WHEREUPON, the jury exited open court at
13 5:20 p.m.)

14 THE COURT: Anything from the State before we go
15 back into recess?

16 MS. PRICE: No, sir.

17 THE COURT: Anything from the defense?

18 MS. WHITE: No, sir.

19 THE CLERK: I do have a laptop that was issued to
20 me when we redid the computers downstairs that has
21 never been hooked up to anything. It doesn't have --

22 THE COURT: Well, isn't that the trend now, the
23 new courthouses, they have a player in the jury room to
24 avoid this kind of issue?

25 THE CLERK: Yes, sir.

1 THE COURT: So that might be -- that might be a
2 good investment to set that up.

3 THE CLERK: That will be my first thing Monday.
4 (Court in recess, pending verdict, from
5 5:21 p.m. until 5:34 p.m.)

6 THE COURT: I have been informed that we have a
7 verdict. So, Mr. Bailiff, if you will get our jury.

8 THE BAILIFF: Yes, sir.

9 (WHEREUPON, the jury entered open court at
10 5:35 p.m.).

11 THE COURT: All right. Mr. Foreman, has the jury
12 reached a verdict?

13 JURY FOREMAN: Yes, your Honor.

14 THE COURT: Would you please hand that verdict to
15 the bailiff.

16 Let me see it.

17 Would you publish the verdict.

18 THE CLERK: If it please the Court. This is in
19 the Court of General Sessions, the State of South
20 Carolina, County of Anderson, Indictment Number
21 2014-GS-04-00426, 2015-GS-04-00340, 2015-GS-04-00341,
22 and 2015-GS-04-00342: This is the case of the State of
23 South Carolina versus Bobby Joe Arflin, defendant.
24 This is the verdict form.

25 As to Indictment Number 2014-GS-04-00426, murder,

1 we, the jury, unanimously find on Indictment Number
2 2014-GS-04-00426 that the defendant, Bobby Joe Arflin,
3 is guilty of murder.

4 Indictment Number 2014-GS-04-00426, possession of
5 a weapon during the commission of a violent crime, to
6 find the defendant guilty of possession of a weapon
7 during the commission of a violent crime, the defendant
8 must be found guilty of murder. We, the jury,
9 unanimously find on the Indictment Number
10 2014-GS-04-00426 that the defendant, Bobby Joe Arflin,
11 is guilty of possession of a weapon during the
12 commission of a violent crime.

13 Under Indictment Number 2015-GS-04-00340
14 solicitation, solicitation to commit a felony, we, the
15 jury, unanimously find on Indictment Number
16 2015-GS-04-00340 that the defendant, Bobby Joe Arflin,
17 is guilty of solicitation, solicitation to commit a
18 felony.

19 Indictment number 2015-GS-04-00341, solicitation,
20 solicitation to commit a felony, we, the jury,
21 unanimously find on indictment number 2015-GS-04-00341,
22 that the defendant, Bobby Joe Arflin, is guilty of
23 solicitation or solicitation to commit a felony.

24 Under Indictment Number 2015-GS-04-00342,
25 solicitation, solicitation to commit a felony, we, the

1 jury, unanimously find on Indictment Number
2 2015-GS-04-00342 that the defendant, Bobby Joe Arflin,
3 is guilty of solicitation, solicitation to commit a
4 felony.

5 This is signed by the foreperson in Anderson,
6 South Carolina, dated today, August the 27th, 2015.

7 Members of the jury, if this is your verdict in
8 the jury room and now here in the courtroom, may I ask
9 you that you raise your hand.

10 Your Honor, all hands are raised.

11 THE COURT: Okay. Anything further from the jury
12 for the State?

13 MS. PRICE: No, sir, your Honor.

14 THE COURT: Anything from the defense?

15 MS. WHITE: Your Honor, I'd just ask for
16 individual polling.

17 THE COURT: Okay. Mr. Clerk.

18 THE CLERK: Ladies and gentlemen, I'm going to ask
19 that you tell us how you voted. I'm going to use your
20 jury number. If you don't remember your number, then
21 let me know and I can give you some assistance.

22 Juror Number 7.

23 JUROR NO. 7: Guilty. Guilty on all counts.

24 THE CLERK: Juror Number 32.

25 JUROR NO. 32: Guilty on all counts.

1 THE CLERK: Thank you.

2 Juror Number 34.

3 JUROR NO. 34: Guilty on all counts.

4 THE CLERK: Juror Number 68.

5 JUROR NO. 68: Guilty on all counts.

6 THE CLERK: Juror Number 70.

7 JUROR NO. 70: Guilty on all counts.

8 THE CLERK: Juror Number 71.

9 JUROR NO. 71: Guilty on all counts.

10 THE COURT: Juror Number 73.

11 JUROR NO. 73: Guilty on all counts.

12 THE CLERK: Juror Number 100.

13 JUROR NO. 100: Guilty on all counts.

14 THE CLERK: Juror Number 105.

15 JUROR NO. 105: Guilty on all counts.

16 THE CLERK: Juror Number 119.

17 JUROR NO 119: Guilty on all counts.

18 THE CLERK: And Juror 147.

19 JUROR NO. 147: Guilty on all counts.

20 THE CLERK: Your Honor, that's the 12 jurors.

21 THE COURT: Ladies and gentlemen, thank you for
22 your service. I'm going to have the bailiff take you
23 to the jury room one more time, and then you will be
24 dismissed from there. So very briefly, Mr. Bailiff.

25 MS. PRICE: Your Honor, may it please the Court.

1 THE CLERK: I did miss one. I'm sorry, your
2 Honor.

3 Juror 108.

4 JUROR NO. 108: Guilty on all counts.

5 THE CLERK: I apologize.

6 THE COURT: Thank you. Thank you for catching
7 that before I sent them out.

8 You can take the jury to the jury room.

9 (WHEREUPON, the jury exited open court at
10 5:41 p.m.)

11 THE COURT: Ms. Price and Ms. White, we'll let
12 them get out the door.

13 I understand you may have a number of people that
14 wish to say something at sentencing, so I'm going to
15 give you about five minutes to gather your thoughts and
16 what you'd like to present for sentencing. And we'll
17 be in recess for just a brief period and I'll be right
18 back and then we'll resume the sentencing.

19 MS. PRICE: Yes, sir.

20 (WHEREUPON, recess taken from 5:42 p.m.
21 to 5:49 p.m.).

22 THE COURT: We will begin.

23 Ms. Price, I'm going to allow the State to go
24 first, anyone that wishes to speak for sentencing
25 purposes, and then, Ms. White, I'll hear from you and

1 anyone you wish to present on your side.

2 MS. PRICE: Your Honor, may it please the Court.
3 The family of the victim is present and has been
4 present throughout the trial, but they do not wish to
5 be heard on sentencing.

6 THE COURT: All right. Thank you. What's the
7 State's position? Do you have anything?

8 MS. PRICE: Your Honor, the State's position is
9 life. This is a situation where this individual has
10 just been convicted of all of the counts that were
11 against him where he attempted to kidnap three
12 witnesses and committed murder.

13 With regard to any time period other than the life
14 sentence for murder, the maximum. And I believe law
15 enforcement, Detective Brent Simpson, who is the lead
16 investigator on this case, joins me in asking for the
17 maximum.

18 THE COURT: Thank you.

19 Ms. White.

20 MS. WHITE: Yes, sir. Your Honor, I think you
21 pretty much heard a whole lot in this case about
22 education and everything else. Let me just see, does
23 anybody from Bobby's family want to address the judge
24 at all? No? Okay.

25 Your Honor, they do not. I think you've heard

1 pretty much the basics about Mr. Arflin.

2 THE COURT: Does your client wish to say anything?

3 MS. WHITE: Your Honor, because of filing an
4 appeal, I have advised him not to speak at this time.

5 THE COURT: Okay.

6 Is there any prior record?

7 MS. PRICE: No, sir, your Honor.

8 THE COURT: What's the code section on the
9 solicitation for felony.

10 MS. PRICE: One moment, your Honor. It's actually
11 common law. It carries ten years.

12 THE COURT: Okay. All right. That's what I
13 thought, but I wanted to just verify.

14 MS. PRICE: Yes, sir.

15 THE COURT: Ms. White, you agree with that, that
16 it's --

17 MS. WHITE: Yes, sir.

18 THE COURT: This has been a long week in that we
19 have heard a story, a very tragic, tragic event.
20 There's no other way to describe this. I see two
21 families -- I see two families that have been here all
22 week, and they are permanently affected by what
23 happened on that evening. A young life was just taken
24 away and another life is permanently affected as well.

25 If there's nothing further, on 2014-GS-04-046,

1 defendant was convicted of murder. He will be confined
2 to the Department of Corrections for a term of
3 30 years.

4 On -- then on the same indictment, the possession
5 of a weapon during a violent crime charge, he will be
6 confined to the Department of Corrections for a term of
7 five years concurrent.

8 2014-GS-04-0340, defendant would be confined to
9 the Department of Corrections for a term of ten years
10 consecutive.

11 2015-GS-04-00341, be confined to the Department of
12 Corrections for a term of ten years concurrent.

13 And 2015-GS-04-00342, ten years concurrent.

14 That will adjourn our case. Good luck to you.

15 MS. WHITE: Thank you, Judge.

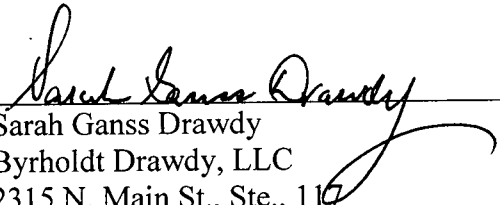
16 (WHEREUPON, the trial ended at 5:57 p.m.)

17 ***END OF REQUESTED TRANSCRIPT OF RECORD***
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CERTIFICATE OF COUNSEL

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

November 28, 2016


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