

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of General Sessions

Thomas W. Cooper, Jr., Circuit Court Judge

Appellate Case No. 2015-000508
Case Nos. 2012-GS-07-1932 & 2014-GS-07-1940

The State,

Respondent,

v.

Aaron Scott Young, Jr.,

Appellant.

RECORD ON APPEAL - VOLUME II

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1 he be excused.

2 MR. VAUX: No objection.

3 THE COURT: Thank you. Mr. Seifert, you can step down.
4 Thank you, sir.

5 (WITNESS LEAVING WITNESS STAND.)

6 SOLICITOR THORNTON: Captain Bob Bromage.

7 THE COURT: Captain Bromage, come forward please and
8 be sworn.

9 (WHEREUPON, ROBERT BROMAGE, BEING
10 FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

11 MADAM CLERK: If you'd be seated. State your full
12 name.

13 A. Robert Bromage. B-r-o-m-a-g-e.

14 DIRECT EXAMINATION

15 CAPTAIN ROBERT BROMAGE BY SOLICITOR THORNTON

16 Q. Captain Bromage, who do you work for?

17 A. Beaufort County Sheriff's Office.

18 Q. And did you work for the Beaufort County Sheriff's
19 Office on or about September the 1st of 2012?

20 A. I do.

21 Q. And did you have an occasion to work on the murder
22 of Khalil Singleton the case that we're here about today?

23 A. Yes, sir.

24 Q. And did you have an opportunity to - Obviously you
25 were in here and you heard Sergeant Seifert who indicated he

1 had done some preliminary questioning of Aaron Young, Junior
2 at the scene. Did you have an occasion to attempt to speak
3 to Aaron Young, Junior?

4 A. I did.

5 Q. And where was that at, sir?

6 A. At the Hilton Head office substation in Hilton Head
7 70 Shelter Cove Lane.

8 Q. And is that what was referenced earlier by Sergeant
9 Seifert?

10 A. It was.

11 Q. Did you remirandize him or did you know that he had
12 already been mirandized?

13 A. I was advised he was already mirandized.

14 Q. And did you attempt to speak with Aaron Young, Junior,
15 sir?

16 A. I did briefly.

17 Q. And what did you ask him if anything?

18 A. I ask him what happened down on Allen Road.

19 Q. And did he give you any response?

20 A. He said he wasn't even down there.

21 Q. And did - Is it a fair characterization to say that
22 he denied any involvement?

23 A. Yes, sir.

24 Q. Without going into specifics on what anybody told you,
25 as a result of your investigation did you receive a tip

1 about the gun, one of the guns used in this incident?

2 A. I did.

3 Q. And where did that information come from?

4 A. It came from Aaron Young, Senior.

5 Q. And did you followup on that information?

6 A. I did.

7 Q. And where did it lead you if anywhere?

8 A. 52 Redtip Lane which is off of Old Wild Horse Road.

9 Q. And who lives at 52 Redtip Lane off of Old Wild Horse
10 Road?

11 A. I know him as Benny Young. It's Aaron Young, Senior's
12 father.

13 Q. So how would he be related to Aaron Young, Junior the
14 defendant in this case?

15 A. He would be his grandfather.

16 Q. I'm gonna show you what's been marked as State's
17 Exhibit Nine, Ten and Eleven for identification and ask you
18 if you can identify those three photographs.

19 A. This is the bag containing the submachine gun, the
20 .9 millimeter submachine gun that Aaron Young, Senior
21 brought myself and another officer to.

22 Q. And was the black bag - Is the black bag also in -
23 Actually it appears to be in all three pictures; is that
24 correct?

25 A. Yes, sir.

1 Q. Now these photographs been altered or changed in any
2 way?

3 A. No. That's exactly how I found the bag right there.

4 Q. And is this an accurate depiction as to both - as to
5 all three photographs as to the contents, the bag itself and
6 the contents in the bag on September the 1st or early
7 morning hours September the 2nd of 2012?

8 A. Yes, sir.

9 SOLICITOR THORNTON: And, Your Honor, at this time I'd
10 ask State's Nine, Ten and Eleven be moved into evidence.

11 MR. VAUX: Those three pictures? No objection.

12 THE COURT: Thank you. Without objection.

13 (WHEREUPON, STATE'S EXHIBITS NINE, TEN AND ELEVEN,
14 PREMARKED FOR IDENTIFICATION, IDENTIFIED AND RECEIVED INTO
15 EVIDENCE.)

16 BY SOLICITOR THORNTON:

17 Q. All right, if you can describe - I'm gonna put up
18 State's Nine. Try to get this in some type of - We got it
19 now.. Can you go ahead now that I've it oriented properly
20 describe what's in State's Nine?

21 A. That's the black bag that contained - -

22 Q. And is this the bag that you're referring to?

23 A. Yes, sir.

24 Q. All right, sir. Go ahead.

25 A. The black bag that contained ammunition, the .9

1 millimeter submachine gun, and some lubricant.

2 Q. And State's Ten, is that a closer view of the bag with
3 what appears to be the can of lubricant in it?

4 A. Yes, sir.

5 Q. State's Eleven.

6 A. Yes, sir.

7 Q. All right. And what appears to be - Do you by the
8 way, Captain Bromage, if you know, do you know what this is?

9 A. It's a flash suppressor or a silencer.

10 Q. All right. A flash suppressor is that what goes on the
11 end of -

12 A. It would screw on the end of that submachine gun.

13 Q. So you found what appears to be all of these items as
14 well as a can of lubricant and what is the red box?

15 A. It's a red box of ammunition.

16 Q. And what if anything did you do with these items?

17 A. I turned over that scene to Corporal Cooler, he
18 actually photographed and processed.

19 Q. And then he would have turned it into evidence or
20 wherever it would have went after that?

21 A. That's correct. I did not take custody of the evidence.

22 SOLICITOR THORNTON: Thank you very much, Captain
23 Brumage.

24 Please answer any questions that Mr. Vaux has.

25 CROSS-EXAMINATION

1 CAPTAIN ROBERT BROMAGE BY MR. VAUX:

2 Q. Captain Bromage, how long you been working Hilton Head?

3 A. Twenty-five years now.

4 Q. You're pretty familiar with it?

5 A. I am.

6 Q. You remember that Wild Horse Road they now call it
7 Old Wild Horse road because when they put the road straight
8 ahead at Spanish Wells they put it around and closed it off;
9 isn't that right?

10 A. Its extremely confusing yes, sir.

11 Q. So Old Wild Horse Road now runs from 278 to New Wild
12 Horse Road; is that right?

13 A. Right. It kind of goes - -

14 Q. Comes around makes a little bow?

15 A. It does.

16 Q. Okay. And if I go basically if I leave 278 on Old
17 Wild Horse Road I'd be going north to get towards New Wild
18 Horse Road would I not?

19 A. Ask that question again please.

20 Q. All right, if I'm on 278 --

21 A. Right.

22 Q. I'll tell you what, let's look at this map of the
23 State's. If you'd come down for me and see if we can find
24 Wild Horse Road here.

25 (WITNESS LEAVING WITNESS STAND.)

1 Q. That's it right there, that's Old Wild Horse Road right
2 there isn't it?

3 A. That's correct.

4 Q. And this is New Wild Horse Road?

5 A. That is.

6 Q. And somewhere's behind this yellow circle is - would
7 you agree that's Mustang Lane?

8 A. It's actually on there.

9 Q. Is it?

10 A. I think it is. I can't really see it but - -

11 Q. Neither can I. Both that are - -

12 A. Mustang Lane, I see it.

13 Q. Yeah. All right. And so to get to Mustang to - -

14 Get back on the stand. Thank you.

15 (WITNESS RETURNS TO WITNESS STAND.)

16 Q. To get to Mustang Lane from Wild Horse Road or from
17 where Mr. - the two Mr. Young's live they go up Old Wild
18 Horse Road till they got to Mustang Lane, turn onto Mustang
19 Lane go down Mustang Lane which is a dirt road.

20 A. Right.

21 Q. As I recall Mustang Lane is you go up that you then
22 make a hard turn to the right and then a hard turn back to
23 the left to get to Mr. Benny Young's house don't you?

24 A. That sounds right.

25 Q. That's what I thought.

1 A. Yes.

2 Q. All right. So if the two Mr. Young's and Ebony
3 Campbell were going to leave their house and go to their
4 father - grandfather's house, they would to get to Redtip
5 where you found the gun they would go on Mustang Lane as Mr.
6 Jontu Singleton said would they not?

7 A. That sounds reasonable.

8 Q. Okay. Now, What is the flash suppressor?

9 A. Well it's to keep - If I put it on the end of the gun
10 and I fired the gun it would just keep the flame from
11 bolting out of the gun basically. It'd keep the flame from
12 bolting out of the gun.

13 Q. And it's a suppressor of the flame and not a suppressor
14 of the sound. It's not a sound suppressor.

15 A. I haven't fired that gun, Mr. Vaux. It looks like a
16 silencer but --

17 Q. But it's a suppressor isn't it, Captain?

18 A. Right. That's what it looks like.

19 Q. Okay.

20 MR. VAUX: May I have just a moment please, Your Honor.

21 THE COURT: Yes, sir.

22 (PAUSE AT 02:40 P.M..)

23 Q. Now, Captain, are you fairly familiar with that gun?

24 A. It looks sort of like an Uzi submachine gun type
25 thing.

1 Q. In fact it's a .9 millimeter pistol isn't it?

2 A. It's a semi-automatic pistol, yes.

3 Q. Now, how long have you been in law enforcement?

4 A. Twenty-five years.

5 Q. Okay. So you're pretty familiar with the gun laws of
6 this state?

7 A. I am.

8 Q. Okay. That's not the machine gun is it?

9 A. No.

10 Q. That's not a submachine gun is it?

11 A. It looks like a submachine gun.

12 Q. I didn't ask you if it looked like it. I ask if it
13 was.

14 A. It would qualify as a pistol I believe.

15 Q. Thank you. Okay. Now you referred to it in front of
16 the jury as a machine gun didn't you?

17 A. It looks like a submachine gun.

18 Q. I didn't ask you that. I ask if it was.

19 THE COURT: You ask him how he referred to it so I
20 think that was the answer that he gave.

21 MR. VAUX: Okay.

22 Q. You referred to as a machine gun?

23 A. Yes, sir, submachine gun.

24 Q. Submachine gun?

25 A. Yes, sir.

CAPTAIN BOB BROMATE: CROSS BY MR. VAUX
SERGEANT BRANDON COOLER: DIRECT BY SOLICITOR THORNTON

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1 Q. And it's not one is it?

2 A. No, sir.

3 Q. Thank you.

4 THE COURT: Redirect, Mr. Thornton?

5 SOLICITOR THORNTON: None, Your Honor.

6 THE COURT: Thank you, Captain. You can step down.

7 Thank you.

8 (WITNESS LEAVING WITNESS STAND.)

9 SOLICITOR THORNTON: Brandon Cooler.

10 THE COURT: Come forward please and be sworn.

11 (WHEREUPON, THE WITNESS BEING

12 FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

13 MADAM CLERK: Please be seated and state your full
14 name.

15 A. It's Brandon Cooler.

16 DIRECT EXAMINATION

17 SERGEANT BRANDON COOLER BY SOLICITOR THORNTON:

18 Q. Mr. Cooler, what is your current rank, sir?

19 A. Sergeant.

20 Q. All right. Sergeant Cooler, let me ask you a question.

21 Who do you work for?

22 A. The Beaufort County Sheriff's Office.

23 Q. And did you work for the Beaufort Count Sheriff's

24 Office on or about September the 1st of 2012?

25 A. I did.

1 Q. And did you have a chance to respond out to - I want
2 to say it's 52 Redtip Lane here in the county of Beaufort?

3 A. I did.

4 Q. And I want to direct your attention, sir, to what's
5 already been introduced into evidence as State's Exhibit
6 Number Eleven. Do you recognize that photograph?

7 A. I do.

8 Q. And did you actually take that photograph?

9 A. Yes I did.

10 Q. And obviously its already been introduced into evidence
11 but can you describe just basically what the contents of
12 that photograph are?

13 A. It's a photograph of a back storage area at the
14 location 52 Redtip. It's a firearm, MAC-10 style firearm, a
15 thirty round magazine, a box of Federal ammunition and an
16 all purpose lubricant in a black bag.

17 Q. Now, as to the lubricant did you notice anything
18 about the firearm itself?

19 A. That it appeared to be covered in some type of
20 lubricant that I assume was from the can.

21 Q. And the - Were there bullets loaded into - I call it
22 a clip, magazine which has already been introduced as
23 State's Exhibit Number Thirty-eight.

24 I'm sorry, you say there were bullets loaded into it?

25 A. Yes there were bullets in the magazine.

1 SOLICITOR THORNTON: Your Honor, the Court's indulgence
2 please one moment.

3 (WHEREUPON, STATE'S EXHIBIT NUMBER THIRTY-TWO,
4 PREMARKED FOR IDENTIFICATION.)

5 Q. I'm gonna hand you what's been marked for
6 identification as State's Exhibit Number Thirty-two and ask
7 you if you can identify the contents of that bag?

8 A. Inside the bag are the white box and I'm not sure
9 what's in it and some fired - It says unfired RWS .9
10 millimeter Luger.

11 Q. And is that initialed by DD, Dan DeFreese from SLED?

12 A. Yes. I believe so, yes.

13 Q. Okay. Other than that box, the bullets in that bag as
14 well as the box of Federal ammunition, is that what was
15 recovered by you from the scene that day?

16 A. It is. Plus the box of Federal ammunition that was
17 in the bag as well as the loose rounds.

18 Q. And with the exception of what Dan DeFreese appears to
19 have initialed has that been altered or changed in any way?

20 A. It has not.

21 Q. All right. And let me ask you a quick question.

22 You said that - Where did those rounds come from, the
23 loose rounds in the plastic bag?

24 A. There was one round - When I located the firearm one
25 round in the chamber and then there were - I'd have to look

1 at my report but I believe nine that came out of the
2 magazine itself.

3 Q. Came out of State's Twenty-eight, this magazine?

4 A. Yes.

5 Q. Now, again have these been altered or changed in any
6 way?

7 A. They have not.

8 Q. All right.

9 SOLICITOR THORNTON: Your Honor, at this time I would
10 move State's Exhibit Thirty-two into evidence.

11 MR. VAUX: No objection.

12 THE COURT: Without objection Thirty-two.

13 (WHEREUPON, STATE'S EXHIBIT NUMBER THIRTY-TWO,
14 IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

15 Q. What if anything did you do - Oh, by the way let me
16 ask you a quick question. State's Twenty-eight, this
17 magazine, do you know approximately how many rounds this
18 holds?

19 A. I believe thirty approximately.

20 Q. And what if anything did you do with the pistol that is
21 State's Twenty-six, the suppressor that's Twenty-seven, the
22 magazine that is Twenty-eight, and then the bullets which
23 I've just introduced as Thirty-two, what if anything did you
24 do with those items?

25 A. I processed the firearm and the magazine for touch

1 DNA.

2 Q. And did you turn those items over to evidence?

3 A. I turned them - the firearm magazine and I had to look
4 at the bag and I believe the muzzle suppressor, the flash
5 suppressor, I turned it over to Investigator Conant at the
6 time.

7 Q. All right. And I'm sorry, who is that? Investigator
8 who?

9 A. Investigator Conant.

10 Q. Is that Wendy Conant?

11 A. That is Wendy Conant.

12 Q. All right. And other than that did you have anything
13 else to do with these items?

14 A. No.

15 Q. Thank you very much.

16 SOLICITOR THORNTON: I have no further questions.

17 Please answer any questions Mr. Vaux has.

18 THE COURT: Mr. Vaux.

19 CROSS-EXAMINATION

20 SERGEANT BRANDON COOLER BY MR. VAUX:

21 Q. Mr. Cooler, the bullets that - I call them bullets,
22 cartridges, whatever you call 'em. Number Thirty-two. I
23 can walk into Walmart or any store that sells gun bullets
24 and buy bullets?

25 A. Yes, sir.

1 Q. Okay. Now did you also conduct a search of the
2 residence of Mr. Aaron Young, Junior and Mr. Aaron Young,
3 Senior?

4 A. I did.

5 Q. Did you find any drugs in that house?

6 A. No, sir.

7 Q. Did you find any guns of any kind in that house?

8 A. No, sir.

9 Q. And isn't it true, Mr. Cooler, that almost immediately
10 after the shooting of the child by Mr. Robinson that the
11 sheriff's department sent officers to the Young's house to -
12 my term - keep control of it until you could get a search
13 warrant and go there?

14 A. I'm not sure about that. I didn't respond out there
15 until later on in the evening.

16 Q. Okay. Were the officers there when you got there?

17 A. There were officers there when I got there.

18 Q. And what was their purpose?

19 A. I believe they were there to secure the house.

20 Q. Okay. Do you know how long they had been there?

21 A. I do not.

22 Q. Okay.

23 MR. VAUX: Give me just one second please, Your Honor.

24 THE COURT: Yes, sir.

25 Q. Oh, did you take a statement from Ebony Campbell?

1 A. I did.

2 Q. You did?

3 A. Yes.

4 Q. When did you take the statement from Ebony Campbell?

5 A. On the first of September.

6 Q. Did she - Now Ebony Campbell is the girlfriend of
7 Aaron Young, Senior?

8 A. I believe so.

9 Q. You didn't find that out during your investigation?

10 A. I'd have to look at my report.

11 Q. Well why don't you get your report if you could please?

12 MR. VAUX: Is that a problem, Your Honor? Could we
13 take a recess while he gets his report?

14 THE COURT: Where is the report? Sir, where would it
15 be?

16 A. I'd have to see if they have it.

17 THE COURT: They're looking through his notebook now.

18 MR. VAUX: That's okay. Let me - I'll just keep going.
19 I'll try and not hold it up here.

20 Q. Did Ms. Campbell tell you -

21 SOLICITOR THORNTON: Objection, Your Honor, that would
22 be hearsay.

23 THE COURT: All right. How would you avoid the hearsay
24 objection?

25 MR. VAUX: I'm sorry, Your Honor.

1 THE COURT: How would you avoid the hearsay objection?

2 MR. VAUX: Well, Your Honor, he took a written
3 statement. Let me rephrase it, Your Honor.

4 THE COURT: Okay.

5 Q. Did you take a written statement from Ms. Campbell?

6 A. I'd have to double check that. I remember speaking to
7 her and taking a verbal statement but I'm not sure if she
8 wrote one for me.

9 Q. Okay. Well why don't you - but you interviewed?

10 A. Yes, sir.

11 Q. And she gave you a statement?

12 SOLICITOR THORNTON: Objection, Your Honor. I'm sorry,
13 I'm trying to avoid this, Judge. It doesn't matter whether
14 the statement is written or verbal it's all hearsay.

15 MR. VAUX: I'm not asking him that far, Your Honor.

16 THE COURT: That questions fine. You can ask the
17 question.

18 BY MR. VAUX:

19 Q. Did you take a statement from her?

20 A. Yes, her own.

21 Q. A verbal statement?

22 A. I believe.

23 Q. And do you know if that statement was transcribed?

24 A. I could not say.

25 Q. Okay. And do you know where Ms. Campbell lives?

1 A. I do not.

2 Q. At the time of September the 1st, 2012, did she live
3 in Beaufort County?

4 A. I believe so.

5 Q. Did you conduct any gunshot residue test?

6 A. Not to my recollection.

7 Q. Do you recall if any gunshot residue test were
8 performed on either Mr. Young, Junior or Mr. Robinson?

9 A. I couldn't say.

10 Q. Now I think you said you tried to take fingerprints
11 on the gun but couldn't get any because of the gun oil or
12 some substance on it?

13 A. No. I didn't try to take fingerprints from the gun
14 due to the fact that there was a oil base covering the gun.

15 Q. Okay. Did you try and take any DNA samples from the
16 gun?

17 A. I did swab the firearm and the magazine I believe.

18 Q. And what did you do with that swab and all of that,
19 that testing paraphernalia?

20 A. It was all turned over to Investigator Conant.

21 Q. To Investigator Conant?

22 A. Uh-huh. And then several items were turned over to
23 her and the rest were turned into the evidence division.

24 Q. So she would know what happened to the DNA samples
25 that you took or whatever you call it?

1 A. I'm sorry?

2 Q. You - She would know what happened to the DNA testing
3 that you did?

4 A. Yeah, she should taken it from it.

5 MR. VAUX: Nothing further.

6 THE COURT: Thank you. Redirect?

7 SOLICITOR THORNTON: Your Honor, the court's
8 indulgence, please.

9 THE COURT: Okay.

10 SOLICITOR THORNTON: Nothing further, Judge. Thank you.

11 THE COURT: Thank you. Mr. Cooler, you can step down.

12 Thank you.

13 MR. VAUX: No objection to his being excused.

14 THE COURT: Thank you.

15 (WITNESS LEAVING WITNESS STAND.)

16 SOLICITOR STONE: Derrick Nelson.

17 THE COURT: Come forward please and be sworn.

18 (WHEREUPON, THE WITNESS BEING FIRST
19 CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

20 MADAM CLERK: Please be seated and state your full
21 name.

22 A. My name is Sergeant Derrick Nelson. I'm with the
23 Beaufort County Sheriff's Office.

24 DIRECT EXAMINATION

25 SERGEANT DERRICK NELSON BY SOLICITOR STONE:

1 Q. All right, now I'm gonna move that back where I can
2 see you first and I'm gonna get you to come down.

3 You are with the Beaufort Sheriff's Office?

4 A. Yes, sir.

5 Q. How long have you been with the Beaufort County
6 Sheriff's Office? You're fine there right now.

7 A. I've been with the sheriff's office since 2010.

8 Q. And what capacity - What's your job with the sheriff's
9 office?

10 A. I'm a criminal investigator for the Southern Division.

11 Q. September the 1st, 2012, you were an investigator at
12 that time as well?

13 A. That's correct.

14 Q. And did you do any type of processing - and I'm gonna
15 ask you that question and then ask you to explain - of
16 Tyrone Robinson's vehicle?

17 A. I did.

18 Q. And what I'm asking you about processing, exactly
19 what did you do?

20 A. We determined - basically took photographs of the
21 entire vehicle and processed the interior of the vehicle,
22 collected some evidence and were able to use trajectory rods
23 to apply - to try and apply the trajectory for the
24 projectile that we recovered from inside the vehicle.

25 Q. And we have already put into evidence - And I will

1 call your attention to the monitor - State's Exhibit Seven
2 and State's Exhibit Sixteen. Is this the vehicle that you
3 processed?

4 A. That is.

5 Q. All right. If I could I would like you to come down
6 from the stand at this point and I need you to keep your
7 voice up.

8 SOLICITOR STONE: And, Judge, you need him on this side
9 or this side?

10 THE COURT: Which - The other side is better because
11 he's facing the court reporter if you don't mind.

12 SOLICITOR STONE: Yes, sir. Perfectly fine.

13 (WITNESS LEAVES WITNESS STAND.)

14 Q. First let me show you what's been marked as State's
15 Exhibit Twenty-one and ask if you can identify that please?

16 A. That is the photo I took while I processed the
17 vehicle.

18 Q. Is that a fair and accurate depiction of the -
19 Tyrone Robinson's Acura at the time of the processing?

20 A. It is.

21 Q. And this is taken where, where are we here?

22 A. That is the Beaufort County impound lot on Shanklin
23 Road.

24 Q. Okay.

25 SOLICITOR STONE: Your Honor, at this time we move

1 State's Exhibit Twenty-one into evidence.

2 THE COURT: I understand without objection.

3 MR. VAUX: Without objection.

4 (WHEREUPON, STATE'S EXHIBIT NUMBER TWENTY-ONE PREMARKED
5 FOR IDENTIFICATION, IDENTIFIED AND RECEIVED INTO EVIDENCE.)

6 SOLICITOR STONE: Now, if you will show that to the
7 jury. I want to make sure that everybody can see that.

8 See it? Okay.

9 Q. That is at the - That is at the impound lot; is that
10 correct?

11 A. That's correct.

12 Q. And the sticks that we see in this photograph, what
13 are those exactly?

14 A. Those are wooden dowels that we use to help plot the
15 trajectory of the projectile.

16 Q. All right. When you say trajectory what do - like
17 the path of the bullet?

18 A. The path of a bullet.

19 Q. If we were to use --

20 MR. VAUX: Your Honor, I have a matter of law to take
21 up out of the presence of the jury.

22 THE COURT: All right. Ladies and gentlemen, let me
23 send you to your jury room for just a moment, I've got to
24 take up a matter of law. As you recall I told you this
25 morning I'm the judge of the law I have to deal with those

1 issues and this is a matter I have to deal with outside of
2 your presence. Thank you.

3 Please don't discuss this case among yourselves.

4 (JURY EXITS COURTROOM AT 02:58 P.M..)

5 THE BAILIFF: The jury is clear, Your Honor.

6 THE COURT: Thank you. Mr. Vaux.

7 MR. VAUX: Your Honor, the witness is an investigator
8 with the sheriff's department but I don't know that he has
9 any kind of experience, expertise, education necessary to be
10 qualified to express an opinion as to the trajectory or
11 anything else that might come from these photographs.

12 THE COURT: I recall the photograph from the earlier
13 trial. Now certainly if this were an autopsy or something
14 of that nature medical expert testimony would be required.
15 As I understand this indicates that apparently they went to
16 a bullet hole put a dowel in it and I take it connected it
17 to some other evidence in the car which would indicate that
18 that same bullet went to that same two points. I take it
19 that - Is that fair to say?

20 SOLICITOR STONE: Yes, sir. That's what these pictures
21 - I think all of the pictures. I'll go ahead and hand and
22 I'll try not to get 'em out of order but all these
23 photographs are either photographs of the --

24 THE WITNESS: Yes, sir.

25 SOLICITOR STONE: They're all the same thing. They're

1 basically various views of this. I'll hand you up State's
2 Exhibit Twenty-one since you can see.

3 THE COURT: All right.

4 SOLICITOR STONE: And then let me hand you another one
5 that shows you the inside which is where the bullets are
6 actually coming through the door, in some of the cases
7 certainly not everyone of them.

8 THE COURT: All right.

9 MR. VAUX: Judge, that wouldn't tell me this is not in
10 everyone of 'em then they can't connect the two points.

11 SOLICITOR STONE: Well that's not at all what I'm
12 talking about, but anyway, the State's Exhibit Nineteen is
13 where the bullets in this particular door came through.
14 They obviously all the bullets were not shot into that same
15 door and all of them didn't come through the same way. But
16 that's those that did and that's how the sticks actually
17 continued on through.

18 MR. VAUX: Your Honor, to note the substance of my
19 objection is not that he went to the car. It's not that he
20 stuck a dowel in there.

21 THE COURT: Right.

22 MR. VAUX: It's the conclusions that he draws from
23 that.

24 THE COURT: Right.

25 MR. VAUX: And any opinions that he expresses about

1 that.

2 THE COURT: The point is whether or not - To over
3 simply things it takes an expert in this case to connect the
4 dots cause that's what this is is connecting of the dots.

5 They see a hole in the door and inside they see a hole
6 in the floor and the dowel goes from one to the other. And
7 in apparently everyone of these cases that's the - is a
8 finding. Granted if it is a hole in the wall - a hole in
9 the door or a hole in the back and that's all they got then
10 all that indicates is where the bullet went in and not the
11 trajectory out.

12 But as long as there are two dots or a path that the
13 dowel can follow all the way through from one side of the
14 door to the other, for example, the doors two or three
15 inches thick, and if there is a hole on one side and a hole
16 on the other that's really not rocket science there. You
17 and I can figure that out by putting a pencil through it.

18 So I don't think that it requires an expert testimony
19 to establish the path of the bullet in that regard. And
20 I'll count on either Sergeant Nelson or Solicitor Stone to
21 keep me on track and make sure that we do - we are talking
22 about two points forming a certain line if you don't have
23 but one point then I'm not gonna let the straight line.

24 And the point can be on one side of the door or the
25 other as I've said.

1 SOLICITOR STONE: Yes, sir.

2 THE COURT: All right.

3 MR. VAUX: Your Honor, if an expert - If an expert
4 opinion is not necessary then the jury's perfectly capable
5 of drawing their own conclusion.

6 THE COURT: Sure. Exactly.

7 MR. VAUX: And you should not necessarily feel I have
8 to comment on the facts of it.

9 THE COURT: I'm sorry, say that again now.

10 MR. VAUX: Well, if it's an opinion you don't need to
11 be an expert on it.

12 THE COURT: That's right. And he hadn't been qualified
13 as an expert.

14 MR. VAUX: Okay.

15 THE COURT: That's right. He's a fact witness and he
16 can explain to the jury I guess like he explained to me and
17 the jury's not convinced that that's a good way of
18 determining where the bullet went they can just disregard
19 his testimony.

20 MR. VAUX: Okay. Thank you, Your Honor.

21 THE COURT: I'll note - And the objection will continue
22 throughout this line of testimony, Mr. Vaux, ---

23 MR. VAUX: Thank you.

24 THE COURT: --- to preserve the record.

25 MR. VAUX: So I don't need to interrupt too much.

1 THE COURT: See if they're ready to come back?

2 (COURT AT EASE.)

3 (JURY REENTERS COURTROOM AT 03:07 P.M..)

4 THE COURT: Thank you. Mr. Stone.

5 DIRECT EXAMINATION - CONTINUES

6 SERGEANT DERRICK NELSON BY SOLICITOR STONE:

7 Q. Let me ask you to come back down if you will, please.

8 (WITNESS LEAVES WITNESS STAND.)

9 Q. I'm gonna ask you to stand there. Let me go back
10 to this. This is State's Exhibit Twenty-one which we've
11 already put into evidence. These sticks, I guess you call
12 them dowels; is that correct?

13 A. Correct.

14 Q. Do you place these into the car in the various bullet
15 hole areas?

16 A. That's correct.

17 Q. And they are placed in areas - When you stick these
18 in are they - How do you determine how they go in? Do you
19 just put the stick in and see if it hits the other side?
20 How does that work?

21 A. No. As we - We'll put 'em in the exterior. The path
22 of the bullet will actually go through the interior also so
23 we'll connect the dots through the holes that it leaves as
24 the path of the bullet goes.

25 Q. The - I'll show you what's been marked State's Exhibit

1 Nineteen. I ask if you can identify that?

2 A. That is a photo taken from the interior of this
3 vehicle.

4 Q. Okay. And is this a fair and accurate depiction of
5 the inside of the vehicle after the series of those dowels
6 have been placed through?

7 A. It is.

8 Q. Okay. All right.

9 SOLICITOR STONE: At this time, Your Honor, we move
10 State's Exhibit Nineteen into evidence.

11 THE COURT: Subject to the previous objection Nineteen
12 into evidence.

13 (WHEREUPON, STATE'S EXHIBIT NUMBER NINETEEN, PREMARKED
14 FOR IDENTIFICATION, IDENTIFIED AND RECEIVED INTO EVIDENCE.)

15 Q. Now is this what you're talking about when you were
16 just talking about in some cases the dowels actually go
17 through. These sticks are coming inside here showing the
18 path I guess through; is that correct?

19 A. That's correct.

20 Q. And these are - I keep calling 'em sticks but these
21 are the dowels?

22 A. This is the dowels that is the continuation of this
23 dowel on the exterior showing the path the bullet went
24 through here, through here and then through the bottom of
25 the car.

1 Q. All right. I show you what's been marked as State's
2 Exhibit Twenty-two and ask if you can identify that please?

3 A. That is a photo taken from the lower portion of the
4 driver's door.

5 Q. Is that a fair and accurate depiction of how that
6 door looked?

7 A. It is.

8 Q. All right.

9 SOLICITOR STONE: And this is State's Exhibit Twenty-
10 two, Your Honor, we move that into evidence.

11 MR. VAUX: Without objection.

12 THE COURT: Thank you. Without objection.

13 (WHEREUPON, STATE'S EXHIBIT NUMBER TWENTY-TWO,
14 PREMARKED FOR IDENTIFICATION, IDENTIFIED AND RECEIVED INTO
15 EVIDENCE.)

16 Q. Now what I'd like for you to do - and the reason I
17 moved the model over here - We go back to this model to the
18 car here that has already been identified as Tyrone
19 Robinson's car. Where on this car is this mark? First of
20 all, where is this mark on this car?

21 A. It is --

22 Q. Let me hand you the dowel and I'll quit.

23 A. At this particular - This is an enlargement of this
24 particular little grey dot right here on the driver door.

25 Q. Okay.

1 A. This is just an enlarged photo of that.

2 Q. On the model as the car sits there now behind that
3 house, where would that mark be?

4 A. It would be right here just below like the side mirror
5 on the little model car.

6 Q. And you're pointing to the left side of the car, the
7 driver's side?

8 A. The driver side of the car.

9 Q. All right. Thank you, sir.

10 (WITNESS RETURNS TO WITNESS STAND.)

11 Q. I show you what's been marked as State's Exhibit
12 Twenty, ask if you can identify that please?

13 A. That is also a picture of the same vehicle. This is
14 just a better shot of the rear of the vehicle.

15 Q. Okay. And is that a fair and accurate depiction of
16 how the scene looked after you placed the dowel - after the
17 dowels were placed in?

18 A. Yes, sir. Correct.

19 Q. All right.

20 SOLICITOR STONE: At this time, Your Honor, we move
21 State's Exhibit Twenty into evidence.

22 MR. VAUX: No objection.

23 THE COURT: Thank you.

24 (WHEREUPON, STATE'S EXHIBIT TWENTY, PREMARKED FOR
25 IDENTIFICATION, IDENTIFIED AND RECEIVED INTO EVIDENCE.)

1 Q. Okay. And using - Now if you'll just show the jury
2 what that - the jury what that depicts.

3 A. This is the back side of - a better angle on the back
4 of the vehicle to show the additional bullet strikes on the
5 back of the car.

6 Q. I'm gonna show you what's been marked first as SLED
7 Item Number 14, and for that matter I'm gonna hand you both
8 SLED Item Number 14 and SLED Item Number 16. That would be
9 State's Exhibit - I don't think they've been marked.

10 Excuse me just a moment. Sorry, I thought I'd already
11 marked all of these.

12 THE COURT: Okay.

13 SOLICITOR STONE: These are all marked together but I
14 think for the purpose of the record it might be better if we
15 marked them individually. They were premarked but they were
16 all as a group.

17 THE COURT: All right.

18 (WHEREUPON, STATE'S EXHIBIT NUMBERS THIRTY-FOUR,
19 THIRTY-FIVE, PREMARKED FOR IDENTIFICATION.)

20 Q. I show you what's marked State's Exhibit Thirty-three
21 and State's Exhibit - Well let me stay with that.

22 State's Exhibit Thirty-three, could you tell me what's
23 in that package first of all?

24 A. Inside this package is a spent projectile that was
25 recovered from the inside area of the trunk that was from

1 this particular penetration at this wooden dowel right here.

2 Q. And you collected that?

3 A. I did.

4 Q. All right. And when you collected this what did you
5 do with it?

6 A. It was preserved inside the envelop and turned into
7 evidence.

8 Q. And this is - You preserved it in the --

9 A. In the little brown envelop.

10 Q. Brown envelop in here, and then that was placed into
11 evidence?

12 A. Yeah. It's in this bag and then given to our evidence
13 custodian.

14 Q. Okay. All right. And did you give this to Wendy
15 Conant or did you just put it straight into evidence?

16 A. I gave it to Corporal Padgett who is our evidence
17 technician.

18 Q. All right. So basically you took this straight to
19 evidence?

20 A. I did, yes.

21 Q. When it goes to evidence what happens to it?

22 A. After evidence I believe another officer has taken
23 it to SLED.

24 Q. Was - Did you change or alter this in any way?

25 A. No.

1 Q. Now when you put it in this envelop, it's hard to say
2 without pulling it out, but when you put in there do you do
3 anything, initial or anything like that or is that your
4 writing?

5 A. It's here on the outside on the - this envelop here,
6 not on the interior one.

7 Q. Okay. Let me start that over. So you actually put
8 it in this plastic bag?

9 A. Yes.

10 Q. Oh, I apologize. Okay. So you put it in the yellow
11 bag and then you also put in the plastic bag?

12 A. Put it in the plastic bag.

13 Q. Okay. Then once you do that is it sealed?

14 A. Yes.

15 Q. All right. And once you handle it you just hand
16 the sealed envelop --

17 A. To the evidence technician.

18 Q. Okay. And in that process do you change or alter
19 it in any way?

20 A. No, sir.

21 Q. All right, sir. Let me hand you what's been marked
22 State's Exhibit Thirty-four.

23 I ask if you can tell me what that is?

24 A. This is another projectile recovered from inside of
25 the car and it's gonna correspond to this particular dowel

1 here through the truck area and it lodged. It found itself
2 - We found it lodged in the area between the passenger seat
3 and the truck itself.

4 Q. Did you - And you took - You took custody of this.

5 Did you also put it in an envelop, this envelop?

6 A. That envelop and then inside that evidence bag and
7 turned it into evidence.

8 Q. Did you change or alter it in any way?

9 A. No, sir.

10 Q. All right, sir. I show you what's been marked as
11 State's Exhibit Twenty-three, ask if you can identify that ?

12 A. This is another photo from the vehicle depicting the
13 introductory of this - the driver side of the vehicle.

14 Q. Okay. Now this was taken at a different time than
15 this; is that correct?

16 A. That's correct.

17 Q. You went back out to the scene for these particular
18 photographs?

19 A. That's correct.

20 Q. All right. And this is going -

21 SOLICITOR STONE: Well first of all, Your Honor, at
22 this time we move State's Exhibit Twenty-three into
23 evidence.

24 MR. VAUX: Without objection.

25 THE COURT: Thank you. Without objection.

1 (WHEREUPON, STATE'S EXHIBIT NUMBER TWENTY-THREE,
2 PREMARKED FOR IDENTIFICATION, IDENTIFIED AND RECEIVED INTO
3 EVIDENCE.)

4 Q. This photograph here actually corresponds with State's
5 Exhibit Number --

6 MR. VAUX: Objection. He's leading the witness.

7 SOLICITOR STONE: Absolutely leading the witness, Your
8 Honor, this is just on a preliminary matter. I'm trying
9 just to establish these photographs.

10 THE COURT: Okay. He can lead.

11 BY SOLICITOR STONE:

12 Q. Are these two related at this time?

13 A. Yes. Those two pictures are taken of the defendant.

14 Q. We pull this down. All right. And when were these
15 taken as opposed to - Which were taken first?

16 A. These up here.

17 Q. Okay. What was necessary in order to get the dowels
18 all the way through the door?

19 A. In this particular picture you can see that the window
20 is half way down and that this original dowel was meeting
21 with the window while the partition was coming down. To get
22 the - To make it to get to the final - the interior hole
23 here we had to break this window to get the wood dowel
24 completely through the door to show the - to plot the two
25 points on the door.

1 Q. And that's what this State's Nineteen Exhibit
2 indicates; is that correct?

3 A. That's correct.

4 Q. Let me show you what's been marked - Let me mark these
5 again, sir.

6 Three more.

7 (WHEREUPON, STATE'S EXHIBIT NUMBER THIRTY-FIVE, THIRTY-
8 SIX, THIRTY-SEVEN, PREMARKED FOR IDENTIFICATION.)

9 Q. I show you what's marked as State's Exhibit Thirty-
10 ive, ask if you can identify that please?

11 A. This is the projectile that was recovered from - that
12 corresponds to this particular dowel here, and on this photo
13 the interior dowel here, and it lodged in the passenger side
14 door or the door handle. It would have been equivalent to
15 right in this area but on the passenger side of the vehicle.

16 Q. And did you secure this - And you say projectile. Is
17 that the bullet?

18 A. Bullet. Excuse me.

19 Q. And you put this in the bag and sealed it in the
20 plastic bag?

21 A. I did.

22 Q. And you submitted it to evidence?

23 A. I did.

24 Q. Did you change or alter it in any way when you did
25 that?

1 A. No, sir.

2 Q. All right, sir. Item Number 36, I ask you if you could
3 identify that please?

4 A. This corres - This is also a bullet that was collected
5 from this headrest right here. And it corresponds with this
6 dowel which went through the side frame of the window and
7 the - a jam here in the passenger - Excuse me, the driver
8 side, the driver and rear passenger headrest and came to
9 rest inside the headrest.

10 Q. All right. And you collected that as well?

11 A. I did.

12 Q. And did you put it in this envelop and seal it?

13 A. I did.

14 Q. Turned it into evidence?

15 A. Yes, sir.

16 Q. Did you change or alter it in any way?

17 A. No, sir.

18 Q. Finally, let me hand you State's Exhibit Thirty-seven.

19 I ask if you can identify that please?

20 A. This corresponds to this particular dowel here. And it
21 was the bullet that was lodged just inside the door way. It
22 was still in the door jam and the car chase where the door
23 meets the actual door car frame and it was lodged there.

24 Q. And you collected that as well?

25 A. We did.

1 Q. What did you do with it?

2 A. I put it into the envelop and put it in the evidence
3 bag and turned it into evidence.

4 Q. Did you seal it prior ---

5 A. I did.

6 Q. --- after you put it in there?

7 A. I did.

8 Q. Did you change or alter it in any way?

9 A. No, sir.

10 Q. Okay. Have a seat back up there.

11 A. All right.

12 (WITNESS RETURNS TO WITNESS STAND.)

13 SOLICITOR STONE: That's all I have, Your Honor.

14 THE COURT: Thank you. Mr. Vaux, cross-examine.

15 CROSS-EXAMINATION

16 SERGEANT DERRICK NELSON BY MR. VAUX:

17 Q. Mr. Nelson, did you process the car for blood?

18 A. Yes, sir.

19 Q. You did?

20 A. We processed it for touch DNA evidence.

21 Q. For what?

22 A. Touch DNA evidence.

23 Q. What does touch DNA evidence mean?

24 A. Any - Touch DNA is essentially sort of like skin
25 cells or things like that that would be coming off.

1 Q. Would blood be a type of DNA?

2 A. Yes, sir.

3 Q. Okay. Did you find any touch DNA evidence?

4 A. I do not know. I did not see the lab report.

5 Q. Okay. But you gathered it together?

6 A. Yes, sir.

7 Q. Okay. And how do you gather it together?

8 A. We use a Q-tip that has a plastic cover on the top,
9 we put a little bit of distilled water and then we swab the
10 area particularly that we want to try and collect the
11 evidence from and then we seal it and put it in an evidence
12 bag and turn it into the lab.

13 Q. And you did that?

14 A. Yes, sir.

15 Q. Okay. Who did you turn it over to?

16 A. It went into the same batch with Corporal Padgett,
17 all the things collected from that particular day.

18 Q. Okay. Did you run that - and I don't know the name,
19 I've seen it on the TV where they flash a light to see if
20 there's any blood?

21 A. No, sir.

22 Q. You didn't do that?

23 A. I did not.

24 Q. Did you see any evidence of any blood stain in the car?

25 A. No, sir.

1 Q. Okay. Do you know when any of these bullet holes were
2 made in the car?

3 A. I'm sorry?

4 Q. Do you know when any of the bullet holes were made
5 in the car?

6 A. I can't date them.

7 Q. Okay. Do you know who put 'em in there?

8 A. No, sir.

9 MR. VAUX: If I may have just a second please, sir?

10 THE COURT: Yes, sir.

11 Q. Now, I won't to ask you subject to my objection.

12 THE COURT: Yes, sir.

13 Q. Let me - You went back out to the car in February -
14 Well I guess this is February, a couple of weeks ago, a week
15 ago?

16 A. It was the eleventh yes, sir.

17 Q. Two weeks ago?

18 A. Two weeks ago.

19 Q. Okay. And you took these two pictures that are down
20 below?

21 A. Yes, sir.

22 Q. You want to come down so you can - - -

23 A. Sure.

24 Q. I don't want to mislead you with the jury.

25 (WITNESS LEAVES WITNESS STAND.)

1 Q. Okay. Now, Exhibit Twenty-one up here is the car as
2 you saw it. When did you take that picture?

3 A. That was on September 4th.

4 Q. September, so that was three days after the shooting?

5 A. Three days.

6 Q. Okay. And the window is half way down in this picture?

7 A. That's correct.

8 Q. And the rear passenger side, driver's side?

9 A. Rear passenger.

10 Q. Okay. Now, and it's your testimony that this dowel
11 that's on the top is the same dowel that's on the top in
12 State's Number Twenty-three?

13 A. That one right there, yes, sir.

14 Q. Okay. Now, and you went out as I understand your
15 testimony to adjust the window here?

16 A. Well because the window was half way down it was
17 covering the actual hole where the path where the projectile
18 bullet went through.

19 Q. Okay.

20 A. So we wanted to secure the path that way we could
21 connect the two dots on the exterior and interior of the
22 door.

23 Q. Okay. Now when the bullet - assuming it was a bullet -
24 I guess it was a bullet - that was fired that shows the hole
25 and the dowel up here on the passenger side of the

1 passenger's door driver side on Number Twenty-one, this one
2 up here, is the same one as this one here; is that correct?

3 A. It's the same hole.

4 Q. Same hole? Okay. Now, and as I understand it your
5 testimony up here in Twenty-one this dowel didn't go all the
6 way through to show you the trajectory; is that correct?

7 A. In this particular photo?

8 Q. Number Twenty-one.

9 A. Yes, sir.

10 Q. Okay. And so you - What did you do, put the window
11 down or put it up?

12 A. No we had to break it.

13 Q. Oh, you broke it.

14 A. We did.

15 Q. Was there a hole already in the window?

16 A. No there was not.

17 Q. How did the bullet get through?

18 A. We were operating on the window was already all the
19 way up or all the way down at the time.

20 Q. Okay. Thank you. But it had been changed from this
21 condition?

22 A. From this one to this one, sir? Is that what you - -

23 Q. Well my point is this. If the window had been here
24 wouldn't the bullet have made a hole in the window?

25 A. If it was still at that with the time the projectile

1 probably went through then yes.

2 Q. Okay. So the point is, somebody played with is
3 window, put it up or put it down, whatever between the time
4 the bullet or whatever was fired through this hole and the
5 time this picture was taken?

6 A. That's a logical conclusion.

7 Q. Okay. Any other way it could have happened?

8 A. Not that I'm aware of.

9 Q. Okay. So somebody tampered with it, they moved it,
10 they changed it?

11 A. Yes, sir.

12 Q. Thank you. Nothing further.

13 MR. VAUX: Excuse me, one second, Your Honor.

14 Just one second.

15 Q. It could have been a hole from a previous gun shot
16 could it not?

17 A. It was consistent with the other defects on the vehicle
18 meaning the fresh paint, the paint was freshly sort of
19 chipped away. Also the metal primer was still in really new
20 shape underneath it so, no we believe it was consistent with
21 being shot with the other ones.

22 Q. Okay. So it's just the window that had been changed or
23 tampered with or adjusted?

24 A. Just the window was the only one.

25 Q. Okay. Thank you.

1 THE COURT: All right. Mr. Stone?

2 SOLICITOR STONE: Nothing further.

3 THE COURT: Thank you, sir. You can step down, sir,
4 thank you.

5 (WITNESS LEAVING WITNESS STAND.)

6 SOLICITOR STONE: The State calls Sergeant Wendy
7 Conant.

8 THE COURT: Come forward, Sergeant, please be sworn.

9 (WHEREUPON, WENDY CONANT,
10 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

11 MADAM CLERK: Please be seated and state your full
12 name.

13 A. Wendy Conant. C-o-n-a-n-t.

14 DIRECT EXAMINATION

15 SERGEANT WENDY CONANT BY SOLICITOR STONE:

16 Q. You were at - Let me go back to September of 2012.

17 You are currently working with Sea Pines; is that
18 correct?

19 A. Correct.

20 Q. And what do you do with Sea Pines?

21 A. I'm a Sergeant in their security operations department.

22 Q. In September of 2012 were you with the Beaufort County
23 Sheriff's Office?

24 A. Yes I was.

25 Q. And what job did you hold then?

1 A. I was a corporal in investigations.

2 Q. In the - As far as the investigations are concerned
3 what were your duties? What did you do?

4 A. Generally we would be assigned cases and we would
5 investigate leads and followup, interview people. We were
6 trying to solve whatever the crime was that had occurred.

7 Q. Now, on September the 1st were you involved in the
8 investigation of the death concerning Khalil Singleton?

9 A. Yes I was.

10 Q. And as one of your duties was it to handle evidence
11 and take evidence from one area to another one?

12 A. Yes it was.

13 Q. And what was your job exactly in that room?

14 A. In that particular instance I had evidence that was
15 turned over to me and I took it to our evidence division
16 over in Beaufort where it was put into the system and then I
17 transported it on two different occasions of it up to SLED
18 to expedite the items being processed by SLED.

19 Q. All right. Let me show you what's first been marked
20 as State's Thirty-one and ask if that was an item that you
21 dealt with in this case?

22 A. Yes it was.

23 Q. And was it - And in what condition was it in when you
24 received it?

25 A. It would be in this exact condition. These items had

1 been placed into an evidence bag. The investigator who
2 collected the items filled the bag out with the information
3 about what was in it and then he signed his name to it and I
4 signed that I received it from him and he sealed it and it's
5 still in the condition that I accepted it in.

6 Q. All right. And then does he initial that or how does
7 that work?

8 A. Correct. He initials the seal on both sides and that
9 allows us to know if somebody tampered with it cause if you
10 peel this particular type of evidence bag our evidence tape
11 is going to break apart his signature and they won't be able
12 to put it back together and make it match up. And some of
13 the color also comes off so you can tell if it's been
14 tampered with and this has not.

15 Q. Now this item obviously goes to SLED and gets tested
16 and then gets put back in the bag. Is that how that works?

17 A. That's correct.

18 Q. All right. So when you received it was it sealed?

19 A. Yes it was.

20 Q. Did you break the seal? Did you do anything with it
21 other than transport it?

22 A. I did not touch the seal. My job at that point is
23 just to sign that I received it and take it to evidence and
24 you can see on here that I did because I sign it over to our
25 evidence department and they say that they can accept it

1 from me.

2 Q. Let me show you what's been marked as State's Exhibit
3 Thirty-three. Ask if you recognize that?

4 A. I do.

5 Q. And explain to me what the process - Is that the
6 same process that you just described with the previous -

7 A. This looks fairly similar. Again the investigator
8 collected this piece of evidence, he completed the bag. In
9 this case the investigator was Corporal Nelson and when he
10 turned it into evidence instead of turning it over to me
11 first he turned it directly to evidence so Corporal Padgett
12 signed that he received it into our evidence division.

13 I received this at a later point to take it up to SLED
14 to be processes once again.

15 Q. Okay. And did you change it or alter it in any way?

16 A. I did not.

17 Q. And State's Exhibit Thirty-one, did you change and
18 alter that in any way?

19 A. I did not.

20 Q. Okay. And both of these were sealed when you took
21 them from Beaufort County to SLED; is that correct?

22 A. Yes, sir..

23 Q. All right. Let me show you what's been marked as
24 State's Exhibit Thirty-four and Thirty-five. Ask if you
25 can identify those for me please?

1 A. Again these are items, both of them are projectiles
2 that Corporal Nelson collected and he turned them over to
3 our evidence division in the sealed condition that they're
4 in and I transported them to SLED.

5 Q. And did you change or alter them in any way?

6 A. I did not.

7 Q. And finally let me hand you State's Exhibit Thirty-
8 seven and Thirty-six.

9 A. Again two more items that were collected by Corporal
10 Nelson and he transferred them over to Corporal Padgett in
11 our evidence division and he completed the bag and sealed
12 them. These were later turned over to me once again to go
13 up to SLED for processing.

14 Q. Okay. And did you change or alter these in any way?

15 A. I did not.

16 Q. And I believe that this has been marked as State's
17 Exhibit Twenty-six, you also handled this as well; is that
18 correct?

19 A. Yes I did.

20 Q. All right. And you also took this to SLED?

21 A. Yes I did.

22 Q. Did you change or alter this in any way?

23 A. I did not.

24 Q. Okay.

25 SOLICITOR STONE: No further questions, Your Honor.

1 THE COURT: Thank you. Mr. Vaux.

2 CROSS-EXAMINATION

3 SERGEANT WENDY CONANT BY MR. VAUX:

4 Q. Is it Sergeant Conant?

5 A. Yes, sir.

6 Q. Okay. Sergeant, you said you basically had three
7 roles in this investigation. You took evidence to SLED and
8 to the evidence locker and then you interviewed witnesses?

9 A. I had interviewed one of the defendants in the case.

10 Q. Which one?

11 A. Tyrone Robinson.

12 Q. Okay. And then you also said you took GSR?

13 A. Correct.

14 Q. What is GSR?

15 A. I took GSR on one person, again, that was Tyrone
16 Robinson but that's a Gunshot Residue Evidence Collection
17 Kit.

18 Q. Okay. And how do you do that?

19 A. It comes in a little prepackaged paper envelop that
20 has a bunch of viles in it and a set of instructions, cotton
21 swabs, and a little bit of a water based liquid and you
22 follow the instructions you actually start with the left
23 hand and then you do the right hand and then you dip and
24 swab it and you use different - It would be easier to show
25 if I had a sample. But it's like a little sticky container

1 that you use and that will pick up particles on the hand and
2 then you also swab the hands and those get sealed and they
3 go in that bag and that bag gets sealed. And you sign the
4 seal so that nobody can tamper with it.

5 Q. Okay. Did you do that to Tyrone Robinson?

6 A. To Tyrone, correct.

7 Q. All right. Do you have that sample?

8 A. I don't have that here.

9 Q. Okay. Do you know if a report came back?

10 A. I believe a report came back but I couldn't say a
11 hundred percent what - -

12 Q. Have you ever seen the report?

13 A. Have I seen it?

14 Q. Yes, ma'am.

15 A. Not that I recall.

16 Q. Okay. So a gun shot residue report came back on
17 Tyrone Robinson?

18 A. I know that a gunshot residue evidence kit was
19 submitted to SLED for processing. If it came back it would
20 usually be given to the lead investigator.

21 Q. Who would have been?

22 A. Sergeant Albertin.

23 Q. Okay. Now do you know if a gunshot residue test was
24 done on the defendant Aaron Young, Junior?

25 A. Yes.

1 Q. You do know?

2 A. I know that I transported them to SLED so I have
3 one for Junior.

4 Q. As well?

5 A. Yes.

6 Q. Okay.,

7 A. I did not perform it but it was submitted.

8 Q. Okay. Do you know if a DNA analysis paraphernalia
9 - the stuff you gather together for DNA on Tyrone Robinson
10 was taken to Columbia?

11 A. Uh - If you could clarify? You don't mean gunshot ---

12 Q. But you --

13 A. --- residue?

14 Q. No. I'm now talking about DNA. So we know that the
15 gunshot residue test on both Robinson and Young, Junior,
16 were taken?

17 A. Correct.

18 Q. And we know that you transported those to Columbia?

19 A. Correct.

20 Q. Okay. So we've got the chain of custody if you will
21 for those two to SLED?

22 A. Uh-huh..

23 Q. Okay. Now lets talk about DNA for a minute. Do you
24 know if they took any DNA samples from Young?

25 A. I'm not aware of any.

1 Q. Okay. Do you know if they took any DNA samples from
2 Tyrone Robinson?

3 A. Again I'm not aware of any.

4 Q. Do you know if you transported any?

5 A. To the best of my knowledge I did not transport any
6 DNA. Just the three GSR kits.

7 Q. Okay. Would - Did anybody else in the sheriff's
8 department transport stuff to SLED other than you that
9 you're aware of?

10 A. To my knowledge there was one other person that brought
11 up an item.

12 Q. Who was that?

13 A. It was one of the assistants in the solicitor's
14 office.

15 Q. Okay. Now do you know if the sheriff's office can
16 run it's own DNA analysis?

17 A. Now we have a lab.

18 Q. Did you at that time?

19 A. I believe we did.

20 Q. So if a DNA analysis was taken the sheriff's
21 department could have run their own DNA analysis and they
22 would a had that result?

23 A. I can't guarantee that the lab was functioning and
24 ready for that at that time but, you know, they can now.

25 Q. Okay.

1 MR. FAUX: I have nothing further.

2 THE COURT: Thank you.

3 MR. FAUX: No objection to her being excused.

4 SOLICITOR STONE: Nothing else, Your Honor.

5 THE COURT: Thank you. I'm sorry, you can go ahead
6 and step down: Thank you.

7 (WITNESS LEAVING WITNESS STAND.)

8 SOLICITOR STONE: The state calls Dan DeFreese.

9 THE COURT: Come forward please, sir, and be sworn.

10 (WHEREUPON, DAN DEFREESE, BEING
11 FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

12 MADAM CLERK: Please be seated and state your full
13 name.

14 A. My name is Frank Dan DeFreese. Its D-e capital F-r-e-
15 e-s-e.

16 DIRECT EXAMINATION

17 AGENT DAN DEFREESE BY SOLICITOR STONE:

18 Q. Mr. DeFreese, what do you do, sir?

19 A. I work for the South Carolina Law Enforcement Division
20 in the Forensic Services Laboratory in Columbia.

21 Q. And that's commonly known I guess as SLED; is that
22 correct?

23 A. It is.

24 Q. And in the forensic department how long have you
25 worked in the forensics department at SLED?

1 A. I'm in my forty-ninth year.

2 Q. Okay. And what do you do with the forensics
3 department?

4 A. I'm assigned to the part of the laboratory where we
5 do the analysis of firearm and tool mark evidence.

6 Q. And firearm and tool mark evidence, what is tool
7 mark evidence?

8 A. Tool mark evidence can be any kind of a mark left on
9 some object by a harder object. Typically in most tool mark
10 analyses we're looking at marks left on some sort of
11 compromised physical security device like a lock or a gate
12 or something that's been attacked by a tool. And when the
13 object is struck by a harder tool it can leave a unique mark,
14 that can be identified back to the particular tool that made
15 it. And firearm's identification is a subspeciality of tool
16 mark identification in that we can associate fired
17 ammunition components, a bullet or a cartridge case, back to
18 the gun that fired 'em. In that case the gun becomes the
19 tool and the bullet or cartridge case is the object that's
20 marked by the tool.

21 Q. Okay. Now every bullet or I don't know if every bullet,
22 bullets have bullets in casings and things like that; is
23 that correct?

24 A. They do.

25 Q. And the casing itself, let me just slip to it and go

1 straight to State's Exhibit Thirty-one. Are those casings,
2 is that what we're talking about?

3 A. Yes. State's Exhibit Thirty-one are three fired
4 cartridge cases; that's the part of the cartridge into which
5 the bullet and the powder is loaded.

6 Q. Gotcha. All right. And then I'll get you to open
7 these up in just a minute, but State's Exhibit Thirty-three
8 which is Item Number 14 for SLED, is that the actual bullet
9 that would go inside a casing like that?

10 A. It is.

11 Q. From the standpoint of tool marks and - I hear the
12 term ballistics. Is that just a bad term; is that the same
13 type of thing, or what?

14 A. It's frequently used almost interchangeably with
15 firearms identification. Ballistics actually is the study
16 of objects in flight.

17 Q. Okay.

18 A. And it can incorporate a great many more things than
19 just firearms identification. What we're looking to do
20 principally is identify a particular bullet back to the gun
21 barrel in which it was fired or a fired cartridge case back
22 to the gun in which it was fired.

23 Q. You have testified before concerning that have you
24 not?

25 A. I have.

1 Q. Identifying not only guns, bullets, and cartridge
2 cases and various things fired from particular guns; is that
3 correct?

4 A. Yes, sir.

5 Q. And I guess even from the ballistic standpoint have
6 you testified as to that as well?

7 A. Yes. So far as like bullet path and bullet flight and
8 that sort of thing I have so testified.

9 Q. All right. And we use that from the standpoint
10 I guess of trajectory. Is that the same type thing?

11 A. Yes.

12 Q. Have you been qualified in the past in these particular
13 areas?

14 A. I have.

15 Q. Roughly how many times?

16 A. I really don't know. I estimate at something
17 between six hundred and seven hundred times.

18 Q. Okay.

19 SOLICITOR STONE: At this time, Your Honor, I'd offer
20 Dan DeFreese as an expert in the field of firearm's marks
21 and ballistics.

22 THE COURT: All right.

23 MR. VAUX: Without objection.

24 THE COURT: Thank you. Without objection Mr. DeFreese
25 is so qualified. Thank you.

1 SOLICITOR STONE: Thank you.

2 Q. All right. Let me ask you if you can if you will -

3 Let me show you what's been marked as State's Exhibit
4 Twenty, Twenty-one, and Twenty-three. These three
5 photographs here that we've already put into evidence.

6 Could you tell me what those are?

7 A. These are dowels which go through penetrations in this
8 car, through bullet holes in this car.

9 Q. Now, when these dowels were placed, were you - Were you
10 present when these dowels were placed in the car?

11 And let me refer first to State's Exhibit Twenty-three.

12 A. Yes.

13 Q. And - I'll show the jury what we're talking about.

14 State's Exhibit Twenty-three. You were present when
15 these dowels - I keep using dowels - These stakes were
16 actually placed in these holes?

17 A. Right. Actually all of them are wooden dowels except
18 for one in the rear passenger door which is actually a
19 carbon fiber arrow.

20 Q. Which I believe is that one; is that correct?

21 A. It has a piece of paper towel on it to make it
22 stand out against the color of the car.

23 Q. Are these dowels placed correctly to show trajectory?

24 A. They are, or they were.

25 Q. All right. Let me show you what's been marked State's

1 Exhibit Twenty-two. I ask if you can identify that?

2 And I will show you what's also been entered into
3 evidence as State's Exhibit Twenty-one in reference to that
4 flight evidence tag there on the left door.

5 A. Yes, sir. This is a defect in the left front door of
6 the car.

7 Q. Okay.

8 A. It appears to be a glancing. It appears to have been
9 caused by a glancing bullet.

10 Q. Okay. And this is State's Exhibit Twenty-two.

11 And this is on the driver's side?

12 A. Driver's side front door.

13 Q. Okay. Now, what is - Could I get you to come down
14 cause I keep moving you back and forth.

15 (WITNESS LEAVES WITNESS STAND.)

16 Q. What is the orange here?

17 A. Rust.

18 Q. Okay. And what is any of this marking in here?

19 A. Its broken paint and it's where the metal is actually
20 pushed in from what would have been the surface of the door.

21 Q. Okay. And you say it appears to be a glancing bullet.

22 How can you tell that?

23 A. The shape of it. Essentially it appears to be a
24 bullet that was coming at a fairly shallow angle from behind
25 that struck the door and did not penetrate it but damaged

1 the door.

2 Q. Okay. And of course you cannot date that. You can't
3 tell us when that happened?

4 A. No. But I mean it's long enough to go to rust form.

5 Q. Gotcha. Okay.

6 (WITNESS RETURNS TO WITNESS STAND.)

7 Q. All right. Let me show you now what has been offered
8 as State's Exhibit Thirty-one. First of all the packaging
9 itself, is that the packaging that you received the items
10 in?

11 A. It is.

12 Q. And we have some sealing and I think there's some
13 evidence tape, signatures, and all of that. Was it sealed
14 when you received it?

15 A. It was.

16 Q. And did you open the seal?

17 A. I did.

18 Q. And did you test those shells inside of those?

19 A. Yes, sir, I did.

20 Q. Okay.

21 SOLICITOR STONE: At this time, Your Honor, we would
22 move State's Exhibit Thirty-one into evidence.

23 MR. VAUX: Without objection.

24 THE COURT: Without objection, Thirty-one.

25 (WHEREUPON, STATE'S EXHIBIT NUMBER THIRTY-ONE PREMARKED

1 FOR IDENTIFICATION, IDENTIFIED AND RECEIVED INTO EVIDENCE.)

2 Q. And I am at this point going to hand you Items Number
3 Thirty-seven, State's Exhibit Thirty-seven, State's Exhibit
4 Thirty-six, State's Exhibit Thirty-five, Thirty-four and
5 Thirty-three. Ask if you could identify those items for me
6 please, sir?

7 A. Yes, sir. I can identify them as to the packaging. I
8 can't actually see the items because they're inside an
9 envelop.

10 Q. Go ahead and we can - Well first of all, when you
11 received the packages all of these packages were sealed when
12 you received them?

13 A. They were all sealed and they all bear my markings, my
14 case number and my item number.

15 Q. Okay. And then you opened them and tested them?

16 A. I did.

17 Q. Okay.

18 A. And the individual objects would also have my case
19 number, item number, and initials engraved on 'em.

20 Q. Okay.

21 SOLICITOR STONE: At this time, Your Honor, I'm gonna
22 go ahead and move in State's Exhibit Thirty-three, Thirty-
23 four, Thirty-five, Thirty-six, and Thirty-seven.

24 MR. VAUX: Without objection.

25 THE COURT: Thank you. Without objection.

1 (WHEREUPON, STATE'S EXHIBIT NUMBERS THIRTY-THREE
2 THROUGH THIRTY-SEVEN, IDENTIFIED AND MARKED, RECEIVED INTO
3 EVIDENCE.)

4 Q. And I hand you pair of scissors and ask if you'd go
5 ahead and open those up for me.

6 A. State's Exhibit Thirty-seven is a fired bullet received
7 in a container marked projectile lodged in driver's
8 side door frame.

9 Q. And what SLED Item is that?

10 A. The SLED Item Number is 13.

11 Q. Okay.

12 A. It would be Item 13.

13 Q. I'm showing you State's Exhibit Twenty-one. I believe
14 that is where actually the officer is holding the dowel at
15 that point, is that correct?

16 A. That's correct that would - it was the one that was -
17 that lodged in the door frame and it actually penetrated
18 both sides of the door and was sort of guided in an upward
19 motion by the shape of the door frame.

20 Q. Okay.

21 A. Where it finally came to rest.

22 Q. And this is also depicted I believe in State's
23 Exhibit Twenty-three, as here in this lower right ---

24 A. Yeap.

25 Q. --- part. And these were - In Twenty-three that

1 was at least the dowels that you were there present when
2 they were placed as well; is that correct?

3 A. Correct.

4 Q. And again, that is the correct - I guess the term is
5 trajectory from that dowel how it shows out; is that
6 correct?

7 A. Yes, sir, in that one it is.

8 Q. Now let me before we move to the next one in SLED
9 Item Number 13, and let me also show you what has been
10 entered into evidence as State's Exhibit Twenty-six which is
11 the gun in this case.

12 A. Yes, sir.

13 Q. All right. I'll also hand you State's Exhibit Twenty-
14 eight. Okay, first of all I'm handing you State's Exhibit
15 Twenty-eight. What is that?

16 A. State's Exhibit Twenty-eight is a .9 millimeter
17 magazine and it is the magazine that fits the pistol,
18 State's Exhibit Twenty-six.

19 Q. Okay. And what - The magazine holds the bullets, I
20 guess; is that correct?

21 A. It does.

22 Q. Does it also hold one in the chamber in addition to
23 what's in that in the magazine?

24 A. Yes.

25 Q. And do you recall or do you know how many that

1 magazine holds?

2 A. This magazine actually will hold thirty-three rounds.

3 It is the magazine for a Sten Submachine Gun which it
4 also happens to fit this pistol. But nominally it's
5 supposed to hold thirty-two rounds. I could actually get
6 thirty-three rounds into it.

7 Q. Now does that also include the one that's in the
8 chamber?

9 A. No. You could get a maximum of thirty-four rounds
10 loaded into the gun without re - Well you can fire thirty-
11 four times without reloading.

12 Q. Okay. Item Number 27, I'm sorry, 29. State's Exhibit
13 Twenty-nine, I hand you that. Can you tell me what that is?

14 A. This is - I refer to it as a fake suppressor. It's
15 actually called by the manufacturer a safety extension and
16 it's a piece of machined aluminum with a hole in it. It's
17 made to look like a suppressor but it doesn't do that. It
18 doesn't mitigate the noise at all. And it has female
19 threads on the backside that will screw on the pistol. By
20 so doing it it gives you something else you can hold on to.

21 Q. Okay. Now, you - Did you operate that gun, did you
22 fire it?

23 A. I did.

24 Q. And obviously with the clip in it. Correct?

25 A. Yes.

1 Q. Holding and pointing it. How - It is not an
2 automatic weapon, it is just - it's a pistol?

3 A. It's a semi automatic pistol.

4 Q. Okay. What do you mean by semi automatic?

5 A. By semi automatic I mean it shoots one time for each
6 pull of the trigger.

7 Q. And how quickly does it shoot?

8 A. It - As fast as you can pull the trigger which is
9 really pretty fast.

10 Q. Gotha. And again, you fired that as well?

11 A. I did.

12 Q. You tested it against - And let me go back to what
13 was - what you just referred to I think was SLED's 13 which
14 is the bullet pulled out of the left bottom quarter paneling
15 of the car. Did you test this against the - against this
16 gun?

17 A. Well I test fired the pistol and I obtained bullets
18 and cartridge cases that I then compared them with the fired
19 bullets and fired cartridge cases under the comparison
20 microscope.

21 Q. I see. So you actually fired it and then take it and
22 compare it with what you found?

23 A. Right.

24 Q. And did you do that for the casings as well?

25 A. I did. I did it for all of the items of evidence.

1 Q. Okay. All right. Let me go ahead and ask you to look
2 through the other items as well. Do you still have the
3 scissors?

4 A. I do. State's Exhibit Thirty-five is my Item Number
5 12 and it's a fired jacketed bullet marked as being
6 recovered - It says projectile lodged in rear passenger-side
7 armrest.

8 Actually at the time I received it it was still
9 physically stuck into this piece of the armrest. I removed
10 it from the piece of the armrest.

11 Q. Now was that in the inside of the car or the outside?
12 I guess it was in the inside of the armrest?

13 A. The inside --

14 Q. It's in what's marked State's Exhibit Number Nineteen.
15 Is it shown in this photograph or is it another?

16 A. No. That's a shot of the inside of the driver's side.

17 Q. Oh, I'm sorry. Okay.

18 A. This one was from the inside of a passenger side door.

19 Q. Okay. All right. And could you tell where that came
20 from, how it got into that armrest?

21 A. There is a path through the door on the driver's side,
22 the rear door on the driver's side that ultimately tracks to
23 where this bullet was recovered

24 Q. Okay. I show you what's been marked as State's Exhibit
25 Twenty-three. Is it on that photograph?

1 A. Yes I believe it would be the upper dowel in ---

2 Q. In the top one here on the --

3 A. --- the top dowel in the rear.

4 Q. And that trajectory actually matches with the bullet
5 that you're talking about here?

6 A. They're -- They're in a line.

7 Q. Gotcha.

8 A. You know an object line and stretching forward.

9 Q. Okay.

10 A. State's Exhibit Thirty-four is my Item 16. This one
11 is marked as projectile lodged in back seat. And it also is
12 a fired jacketed bullet.

13 Q. Is there anyway to tell where that came from or
14 what the trajectory from that was?

15 A. I don't know.

16 Q. Okay.

17 A. I did not track that particular one.

18 Q. Okay.

19 A. State's Exhibit Thirty-six is my Item 15. It's marked
20 as projectile lodged in rear driver's side headrest, and it
21 also is a fired jacketed bullet.

22 Q. Driver's side front or back seat?

23 A. It said projectile on rear driver's side headrest.

24 Q. I think we have State's Exhibit Twenty, showing the
25 trajectory into that; is that correct?

1 A. Yes, sir.

2 Q. Okay. And that's up here. Right?

3 A. That's correct. State's Exhibit Thirty-three is my
4 Item 14, it also is a fired jacketed bullet marked as
5 projectile lodged near spare tire in trunk.

6 Q. Is that the last one?

7 A. I think so.

8 Q. Let me make sure. Okay. Now the casings which are
9 the outer, I guess, shell of the bullet for lack of a better
10 term. The bullets which are the projectiles that comes out
11 that and the gun, could you form any conclusion as to those
12 items?

13 A. I did.

14 Q. And what are those conclusions?

15 A. Well, the three fired cartridge cases in State's
16 Exhibit Thirty-one, which are my Item's 4, 5, and 6, are
17 fired .9 millimeter Luger caliber cartridge cases. I found
18 matching individual markings on the breach face of these
19 three cartridge cases and on the test cartridge cases that I
20 fired in the pistol, to State's Exhibit Twenty-six. From
21 this I concluded that these three cartridge cases were fired
22 by this pistol.

23 Q. As to the bullets?

24 A. With respect to the bullets which are in State's
25 Exhibit Thirty-five, Thirty-six, Thirty-four, and Thirty-

1 seven and Thirty-three, I did a similar comparison between
2 each of these bullets and test bullets that I had fired from
3 the State's Exhibit Twenty-six pistol, I found the same
4 general rifling characteristics and matching individual
5 striated marks on all of these bullets from which I
6 concluded that all the bullets were fired by this pistol.

7 Q. All right, sir.

8 SOLICITOR STONE: Excuse me just a moment.

9 THE COURT: All right.

10 (PAUSE.)

11 SOLICITOR STONE: I don't have any further questions.

12 Please answer any questions Mr. Vaux has.

13 Thank you, sir.

14 THE COURT: Mr. Vaux, cross-examine?

15 MR. VAUX: Yes, sir.

16 CROSS-EXAMINATION

17 AGENT DAN DEFREESE BY MR. VAUX:

18 Q. When did you first look at the mark on the car that
19 you said was made by a glancing bullet?

20 A. I think it was February the 9th. Just a couple of
21 weeks ago.

22 Q. Of this year?

23 A. Yes.

24 Q. Okay. So two years plus after the September the 1st,
25 2012?

1 A. Yeah. Some period of time yes, sir.

2 Q. Okay. Did you take any analysis of the door or take
3 any scrapings or anything like that?

4 A. I didn't scrape it no. Obviously whatever residue
5 there may have been at the time of the shooting is probably
6 completely oxidized by now but no I didn't.

7 Q. Okay. So you couldn't come to any conclusions about
8 that?

9 A. Only as to the shape of the defect in the door that
10 it's shape was consistent with a glancing shot from the
11 rear.

12 Q. Now, do you know that whether or not any - there was
13 any blood on any of the projectiles that you recovered? I
14 think those are Thirty-three, four, five, six and seven.

15 A. I saw no obvious residue that looked like biological
16 residue. I did see some other trace residue like pulverized
17 glass and foam cushion material and that sort of thing, but
18 I saw no obvious biological material.

19 Q. Okay. Do you know if a DNA analysis was run on the
20 gun itself?

21 A. I do not know.

22 Q. Would that have been or could that have been run by
23 SLED?

24 A. Sure.

25 Q. Okay. Do you have any way to tell whether anyone

1 was in the car when the shots were fired?

2 A. No.

3 Q. Do you have any way to tell when these shots were
4 fired?

5 A. No.

6 Q. And do you have any way to tell who fired the shots?

7 A. No.

8 MR. VAUX: Nothing further, Your Honor. I have no
9 objection that he be excused.

10 THE COURT: Thank you.

11 SOLICITOR STONE: Not at all. I think he is needed
12 in another trial in fact.

13 THE COURT: I'm sure. Thank you for coming. Good to
14 see you.

15 (WITNESS LEAVING WITNESS STAND.)

16 THE COURT: Folks, we'll take a brief afternoon recess.

17 The jury's had a brief one and we have not so we will
18 take one.

19 Ladies and gentlemen, we're gonna send you to your
20 jury room for a few moments. We'll take about fifteen
21 minutes and we'll resume the trial at that time. Please
22 don't talk about the case while you're in the jury room.

23 (JURY EXITS COURTROOM AT 04:21 P.M..)

24 THE COURT: All right, folks, fifteen minutes.

25 (COURT IN RECESS AT 04:04 P.M..)

1 (COURT BACK IN SESSION AT 04:21 P.M..)

2 THE COURT: Please be seated. Ready for the jury?

3 SOLICITOR STONE: The state's ready, Your Honor.

4 MR. VAUX: The defense is ready, Your Honor.

5 SOLICITOR STONE: Just for your knowledge, Your
6 Honor, this is the statement, I expect this to be fairly
7 lengthy and that's all we would offer today. We have a
8 forensic pathologist coming in tomorrow morning; I had not
9 brought her in for today but honestly you know the time on
10 this so it should take part of that.

11 THE COURT: Okay.

12 SOLICITOR STONE: Just for your knowledge.

13 THE COURT: Okay. Appreciate it.

14 SOLICITOR STONE: Yes, sir.

15 THE COURT: How long does it take to get through the
16 statement, about an hour?

17 SOLICITOR STONE: Probably.

18 SOLICITOR THORNTON: If you played it straight through
19 with no stop just the tape itself I think it's close to
20 right at twenty minutes.

21 THE COURT: Okay.

22 (JURY REENTERS COURTROOM AT 04:22 P.M..)

23 THE COURT: Thank you, ma'am.

24 SOLICITOR THORNTON: Thank you, Your Honor.

25 Laurel ALbertin please.

1 THE COURT: Ms. Albertin, come forward please, ma'am,
2 and be sworn.

3 (WHEREUPON, THE WITNESS BEING
4 FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

5 MADAM CLERK: Please be seated and state your full
6 name.

7 A. Sergeant Laurel Albertin.

8 DIRECT EXAMINATION

9 SERGEANT LAUREL ALBERTIN BY SOLICITOR THORNTON:

10 Q. Sergeant Albertin, who do you currently work for?

11 A. Beaufort County Sheriff's Office.

12 Q. And did you work for the Beaufort County Sheriff's
13 Office on September the 1st of 2012?

14 A. Yes, sir.

15 Q. Did you work at all on the case involving the death
16 of Khalil in this case?

17 A. Yes I did.

18 Q. And is that where the defendant in this case one of
19 the three defendant's in that case is Aaron Young, Junior;
20 is that correct?

21 A. Yes, sir.

22 Q. Did you have an occasion to interview Aaron Young,
23 Junior?

24 A. Yes I did.

25 Q. And explain to me where your interview of him took

1 place? Is it in a particular area or room?

2 A. Yes. It took place at the Hilton Head Substation on
3 Hilton Head Island. It was our interview room which is
4 equipped with audio and video recording.

5 Q. And at my request have you examined clips or parts of
6 that interview?

7 A. Yes I have.

8 Q. Now let me ask you a question before we play those.

9 First of all I ask you to examine for me what's been
10 marked as - for identification State's Exhibit Number
11 Thirty-eight. Do you recognize that disc?

12 A. Yes, sir, it's the interview clips from the video.

13 Q. All right. And is that or did you review those
14 clips at my request?

15 A. Yes I did.

16 Q. And did you also review an accompanying transaction?

17 I'm sorry, transaction, an accompanying transcription
18 of those clips?

19 A. Yes, sir.

20 Q. And was all of that to the best of your hearing and
21 recollection accurate?

22 A. Yes.

23 Q. And did it look like it had been altered and
24 modified in any way?

25 A. No, sir.

1 SOLICITOR STONE: Your Honor, at this time I would
2 move State's Exhibit Thirty-eight into evidence.

3 THE COURT: Subject to previous objection?

4 MR. VAUX: Yes, sir.

5 THE COURT: Thank you.

6 (WHEREUPON, STATE'S EXHIBIT THIRTY-EIGHT, IDENTIFIED
7 AND MARKED, RECEIVED INTO EVIDENCE.)

8 Q. Now the clips that - Obviously these interviews
9 sometimes take place over an extended period of time; is
10 that correct?

11 A. Yes they do.

12 Q. And all these clips that are gonna be played, is it
13 fair to say that they are all - in addition they hadn't been
14 modified - they are all chronological throughout the
15 interview; is that correct?

16 A. Yes, that's correct.

17 Q. Now when you first started talking to Aaron Young,
18 Junior, did he come right out and confess involvement in
19 this case?

20 A. No he didn't and initially he denied involvement.

21 Q. And the first clip that we're going to see that you
22 reviewed for me earlier, does that take place at some point
23 after he is initially denied any involvement?

24 A. Yes.

25 Q. And right before - right before the start of this

1 clip had he been told anything about the gun that he was
2 accused of having?

3 A. Yes, he was told that they were going to get the gun.

4 Q. And who did - Was there anybody specifically said
5 somebody was going to take law enforcement to the gun?

6 A. Sheriff Tanner.

7 Q. All right. Let me rephrase that, that's probably a
8 poorly phrased question. Was Aaron Young, Junior told who
9 was going to lead the law enforcement to the gun?

10 A. Yes. He was told his father was going to. Aaron
11 Young, Senior.

12 Q. Now is there a reference in parts of this first clip
13 to someone named T?

14 A. Yes.

15 Q. And who do you understand that to be from Aaron Young,
16 Junior?

17 A. When he says T he's referring to Throne Robinson.

18 SOLICITOR THORNTON: Your Honor, at this time I'd ask
19 to publish to the jury pursuant to the Court's instructions.

20 THE COURT: Do you want to cover the issue of Miranda?

21 SOLICITOR THORNTON: I can, Your Honor, yes, sir.

22 Q. Did you remirandize him at all?

23 A. I did not mirandize him.

24 Q. And is that because you - Were you informed of
25 whether or not he had already been mirandized?

1 A. Yes. I was informed that he had mirandized prior to
2 my interview.

3 SOLICITOR THORNTON: Your Honor, as you will recall
4 Doug Seifert indicated that.

5 THE COURT: Yeah. I remembered it but the jury hadn't
6 heard it.

7 SOLICITOR THORNTON: Yes, sir. Other than Doug
8 Seifert I believe did testify to that, Your Honor.

9 THE COURT: He did. That's right.

10 BY SOLICITOR THORNTON:

11 Q. So there is no remiranda - remirandizing by you or
12 anyone else, that was covered by Doug Seifert who testified
13 earlier; is that correct?

14 A. That's correct.

15 SOLICITOR THORNTON: Thank you, Your Honor.

16 THE COURT: Good.

17 SOLICITOR THORNTON: Your Honor, pursuant to the
18 court's instructions we're gonna play the exerts.

19 Go ahead with the first one.

20 THE COURT: Play this for me.

21 (WHEREUPON, STATE'S EXHIBIT NUMBER THIRTY-EIGHT
22 PUBLISHED TO THE JURY AT 04:27 P.M..)

23 SOLICITOR THORNTON: Pause it for a second.

24 Q. Let me ask you a quick question before we continue.

25 Who is that seated in the chair on camera?

1 A. That's Aaron Young, Junior.

2 Q. And do you see him in the courtroom?

3 A. Yes, sir.

4 Q. And where is he?

5 A. Sitting right there.

6 Q. Is that - You've indicated the defendant in this case?

7 A. Yes, sir.

8 Q. Is he currently in the room by himself?

9 A. He is.

10 Q. All right. And are there times where you are in the
11 room asking questions and other times when he is talking
12 basically without anybody in the room with him?

13 A. Yes. I periodically leave the room and he is by
14 himself and he continues to talk.

15 Q. And is he talking right now without you in the room?

16 A. He is alone in the room at this time.

17 Q. Okay. Thank you very much.

18 (STATE'S EXHIBIT THIRTY-EIGHT CONTINUES TO BE PUBLISHED
19 TO THE JURY.)

20 Q. All right. And it's about to say we came down the
21 road. When he says we came down the road or he's about to,
22 who is he referring to?

23 MR. VAUX: Your Honor.

24 THE COURT: I'm sorry.

25 MR. VAUX: Unless she has knowledge of her own

1 knowledge -

2 THE COURT: Unless there was some contact provided
3 when she was there -

4 SOLICITOR THORNTON: Yes, sir.

5 Q. Based on your entire conversation with Aaron Young,
6 Junior, do you know who's he talking about when he says "We
7 came down the road"?

8 A. He's talking about himself and Aaron Young, Senior.

9 Q. Okay. Thank you very much.

10 (STATE'S EXHIBIT NUMBER THIRTY-EIGHT CONTINUES TO BE
11 PUBLISHED.)

12 Q. Now again, based on your entire discussion with
13 Aaron Young, Junior, when he's talking about the dude - the
14 dude parked his car as a set up, do you know who he is
15 referring to since he doesn't refer to them by name in this
16 clip?

17 A. Yes. He's referring to Tyrone Robinson.

18 Q. Thank you.

19 (STATE'S EXHIBIT NUMBER THIRTY-EIGHT CONTINUES TO BE
20 PUBLISHED.)

21 Q. Now let me ask you a question. He's now not on
22 camera, is he still in the room? In other words is he still
23 there in the room?

24 A. Yes he is. He's standing near the door that goes into
25 the room.

1 Q. And -

2 A. There's one door and there's a window there.

3 Q. And is that another occasion when you are not in the
4 room with him?

5 A. Yes I'm not in the room.

6 Q. All right. And the other voice that we heard on there
7 was Investigator Alvertin. Is that you that was talking to
8 him?

9 A. Yes.

10 Q. All right.

11 (STATE'S EXHIBIT NUMBER THIRTY-EIGHT CONTINUES TO BE
12 PUBLISHED.)

13 Q. I want to stop here for just a second. I know I've
14 already ask this but let me ask you again, and is these
15 clips of this interview that we're showing are they all
16 chronological?

17 A. Yes they are.

18 Q. All right. So when he says psych you'll never get
19 the real story out of me - and I know I'm paraphrasing - but
20 that comes after he's told you some of his involvement?

21 A. Yes, that's right.

22 Q. And originally of course he said he didn't know
23 nothing and denied any involvement?

24 A. That's correct. At the very beginning of the interview
25 he denied everything.

1 (STATE'S EXHIBIT NUMBER THIRTY-EIGHT CONTINUES TO BE
2 PUBLISHED.)

3 SOLICITOR THORNTON: The court's indulgence, Your
4 Honor, please.

5 (PAUSE.)

6 SOLICITOR STONE: Thank you very much, Detective
7 Alvertin. No further questions. Please answer any
8 questions Mr. Vaux has.

9 THE COURT: Mr. Vaux, cross-examine.

10 CROSS-EXAMINATION

11 SERGEANT LAUREL ALBERTIN BY MR. VAUX:

12 Q. Is it Lieutenant?

13 A. Sergeant.

14 Q. Sergeant. You're most effective and I suggest that
15 they give you a raise too. Did you take any DNA samples?

16 Madam Clerk, you got the --

17 Did you take any DNA samples from inside Tyrone
18 Robinson's car?

19 A. No, sir.

20 Q. Did anybody in the sheriff's department take any
21 DNA samples from the inside of Tyrone Robinson's car?

22 A. I believe it was Corporal - or Sergeant Nelson was
23 involved in processing the vehicle.

24 Q. Okay.

25 A. Staff Sergeant Chapman.

1 Q. Were you the lead investigator on this?

2 A. Yes, sir.

3 Q. Okay. What was the result of that DNA process of
4 Tyrone Robinson's car?

5 A. I would have to go back in my notes.

6 Q. Okay. Did you do any DNA analysis on State's Exhibit
7 Number Twenty-six, the gun? And I guess the suppressor is
8 all one exhibit.

9 A. I did not do any no, sir.

10 Q. Did the sheriff's department do any DNA analysis?
11 Or have any done on the gun?

12 A. The gun was sent to SLED for analysis.

13 Q. Okay. Did you take or did the sheriff's department
14 take any DNA analysis off the gun?

15 A. I believe Sergeant Cooler swabbed the gun.

16 Q. Okay. Do you have that DNA analysis?

17 A. Do I have it?

18 Q. Yes, ma'am. Is it in your file?

19 SOLICITOR THORNTON: Objection, Your Honor. She can't
20 testify to somebody else's report.

21 MR. VAUX: Your Honor, if she has a report in her file
22 that's a part of her business records then I'm entitled to
23 it.

24 THE COURT: That's right. Yes, that's right. If it's
25 a part of the investigative files, part of the report.

1 SOLICITOR THORNTON: Which has already been turned over
2 to MR. Vaux, Your Honor.

3 THE COURT: All right.

4 MR. VAUX: Fine. I'm not saying they kept it from me.

5 I'm just trying to find out the results of the DNA
6 analysis on - that was performed on the gun.

7 THE COURT: Well, is she knows certainly she can answer
8 the question. If she doesn't then she can't.

9 A. I can go back through my notes if you'd like me to and
10 find the DNA analysis.

11 Q. Did you do or have performed under as a part of this
12 investigation a gunshot residue test on Tyrone Robinson?

13 A. I did not perform the gunshot residue test.

14 Q. Did the sheriff's department have a gunshot residue
15 test performed on Tyrone Robinson?

16 A. Investigator Conant did.

17 Q. Okay. And what was the result of that test?

18 A. There was gunshot residue found on his hands.

19 Q. Okay. Did you have a gunshot or did the sheriff's
20 department - see if I phrase this right - during the course
21 of this investigation did the sheriff's department have a
22 gunshot residue test done on Aaron Young, Junior?

23 A. Yes they did.

24 Q. And what was the result of that analysis?

25 A. I'd have to go back through my report but I don't

1 believe there was gunshot residue found on his hands.

2 Q. Okay. If you know, what does gunshot residue analysis
3 tell you?

4 A. It would tell me that if he had recently used - fired
5 a weapon, a gun.

6 Q. Okay. Now, did you interview an Ebony Campbell?

7 A. I did not interview Ebony.

8 Q. Did you go out to Wild Horse Road with Ebony Campbell?

9 A. I went out to Wild Horse Road and removed a projectile
10 from the residence there.

11 Q. And was Ebony Campbell there?

12 A. She was there.

13 Q. And did - Was her picture taken showing you or
14 somebody with you where the bullet hole was in the house
15 next door to Mr. Young?

16 A. Yes.

17 Q. Okay. And did Ebony Campbell cooperate with you and
18 tell you all this stuff?

19 A. Yes she did.

20 Q. Okay. And did she give you a full statement?

21 A. She did not give me a statement.

22 Q. Did she give the sheriff's department a statement?

23 A. Yes, sir.

24 Q. Okay. And I apologize. When I say you, if you're
25 the lead investigator - That's my fault. I'll correct that.

1 So she gave the sheriff's department a full statement?

2 A. Yes she did.

3 Q. Okay. Is that a part of your record?

4 A. Yes.

5 Q. And is that record - Was that record kept in the
6 normal course of your investigation?

7 A. Yes.

8 Q. Now, you had this interview with Aaron Young, Junior
9 transcribed did you not? Or somebody did within the
10 sheriff's department, solicitor's office.

11 A. It was transcribed by the solicitor's office.

12 Q. And have you seen that?

13 A. Yes, sir.

14 Q. Okay. Were you in and out of the room when Captain
15 Bromage here was there?

16 A. Yes.

17 MR. VAUX: Your Honor, may I have just a minute. I may
18 - Let me see if I can do without having to take a break.

19 THE COURT: Okay.

20 Q. Do you recall on the first of September, 2012 where
21 Captain Bromage - What Captain Bromage says in Aaron Young,
22 Junior's statement about there being three different
23 projectiles in the car from three different guns?

24 A. I'm not sure.

25 Q. Okay. It's highlighted. Would you read for me

1 please what Captain Bromage said beginning on Line 17,
2 through the end of Line 22?

3 A "If you didn't hit the kid you need to tell us where
4 your gun is so we can prove you didn't do it. I don't care
5 about Tyrone's car getting shot up. Who the hell does?
6 Straight up man that was bound to hell man and there's
7 probably been - there's probably three different projectiles
8 in that car from three different guns."

9 Q. That's Captain Bromage speaking?

10 A. That's what ---

11 Q. It says --

12 A. --- it says in the transcription yes, sir.

13 Q. Is that what it says?

14 A. Yes.

15 SOLICITOR THORNTON: Your Honor, may we approach?

16 THE COURT: Okay.

17 (BENCH CONFERENCE OFF THE RECORD OUT OF THE HEARING
18 OF THE JURY AT 04:56 P.M..)

19 THE COURT: Folks, I apologize. From time to time
20 we go and whisper rudely behind your back and that's because
21 we're dealing with matters of law outside your presence.
22 But I always tell juror's if you're real curious about what
23 we're whispering about behind your back, in your role as
24 juror's in this case when it's over if you want to know and
25 you're that curious you come to me and ask me and if I can

1 remember what we were talking about I'll be glad to tell
2 you. Thank you.

3 SOLICITOR THORNTON: Thank you, Your Honor.

4 BY MR. VAUX:

5 Q. Through your investigation did you discover whether
6 or not Tyrone Robinson came to Mr. Young's house on
7 September the 1st and fired one or more shots?

8 A. Yes he did initially go to his house.

9 Q. During the investigation did you discover any blood
10 in Tyrone Robinson's car?

11 A. No, sir.

12 Q. Do you have any evidence that when Tyrone - when
13 Aaron Young, Junior went down to Allen Road that he saw
14 Tyrone Robinson?

15 A. To Allen Road or between ---

16 Q. At Allen Road.

17 A. --- White Horse Road and Allen Road?

18 Q. The Allen Road where the child was killed?

19 A. Not on Allen Road.

20 Q. Thank you. Do you have any evidence that indicates
21 that Aaron Young, Junior pointed the gun at - a gun at
22 Tyrone Robinson?

23 A. Not - He stated that he tried to use the weapon
24 on Tyrone.

25 Q. I ask you if he pointed a gun at Tyrone Robinson. If

1 you have any evidence to that? Did he tell you that?

2 A. If he pointed at Tyrone Robinson?

3 Q. Yes, ma'am.

4 A. No, sir, not point it.

5 Q. Now, isn't it a fact, Officer, that he indicated to
6 you he did not point the gun and gave you a reason why he
7 didn't point the gun?

8 A. I don't recall him giving a reason why he didn't
9 point the gun at him.

10 Q. Isn't it a fact he told you that he didn't even
11 bother to point the gun because it jammed and it wouldn't
12 shoot?

13 A. I do remember him saying the gun jammed and it wouldn't
14 shoot.

15 Q. Okay. Let me show you a sheet of paper that came
16 out of the transcript of what the solicitor played.

17 A. Okay.

18 Q. And ask if that's a - Without saying what it is, if
19 that in fact came out of the script.

20 A. Yes.

21 SOLICITOR THORNTON: May I see it?

22 MR. VAUX: Sure. That's a copy of one of the sheets
23 you gave me.

24 SOLICITOR THORNTON: Okay.

25 MR. VAUX: Okay.

1 Q. Now, would you read that to the jury please? And
2 before you do, I believe - Is this Aaron Young, Junior,
3 speaking?

4 A. Yes, sir.

5 Q. Okay. And just read it for me please.

6 A. It says, he states "That." And I said "Did you point
7 it at him?" And he interrupts and says, "What?" "Did he
8 see you point a gun at him or something?" And he says "I
9 didn't even point the gun at him because the gun wouldn't go
10 off."

11 Q. Does that refresh your memory?

12 A. Yes, sir. Thank you.

13 Q. Okay. You're welcome. Officer do you have any
14 evidence that Aaron Young, Junior shot a gun at Tyrone
15 Robinson?

16 A. No, sir.

17 Q. Not even when Tyrone Robinson shot at him in their
18 own yard?

19 A. That's correct.

20 MR. VAUX: Your Honor, may I have just a minute,
21 please?

22 THE COURT: Yes, sir.

23 (PAUSE AT 05:06 P.M..)

24 Q. Did you have an occasion to inspect Tyrone Robinson's
25 car?

1 A. I photographed his vehicle. I didn't inspect his
2 vehicle.

3 Q. But you photographed it?

4 A. I photographed it, yes.

5 Q. In this huge number of photographs the solicitor has
6 got here, somewhere's - Let me show you - I want you to look
7 at the back rear window on Twenty-one. What does that show
8 you? Is that halfway down?

9 A. Yes, sir.

10 Q. Okay. Can you see through the window to the
11 dashboard?

12 A. Yes you can.

13 MR. VAUX: And, Solicitor, I apologize, I've take - I
14 got these out of order I'm sure.

15 Q. And Twenty-three, is that sort of the little fixed
16 window in the left passenger side?

17 A. I'm sorry, is it what?

18 Q. Is it the fixed window in the passenger side?

19 A. Yes, sir.

20 Q. Okay. And then you can see through that to the back
21 headrest?

22 A. Yes.

23 Q. And Twenty-seven, I'm sorry, plain Seven. That's the
24 windshield of the car?

25 A. Yes it is.

SERGEANT LAUREL ALBERTIN: CROSS BY MR. VAUX
REDIRECT BY SOLICITOR THORNTON

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1 Q. And it's clear?

2 A. Yes, sir.

3 Q. Its not tinted in any way?

4 A. Yes.

5 Q. And does it also fairly well show that the light is
6 coming through all the various windows of the car into the
7 car?

8 A. Yes, sir.

9 Q. Okay. The car interior of that is bright and clear?

10 A. Yes, sir.

11 Q. So then it would be safe to say, Officer, that the
12 car didn't have tinted windows?

13 A. That's correct.

14 MR. VAUX: Nothing further.

15 THE COURT: Thank you. Redirect?

16 SOLICITOR THORNTON: Please, Your Honor.

17 THE COURT: All right.

18 REDIRECT EXAMINATION

19 SERGEANT LAUREL ALBERTIN BY SOLICITOR STONE:

20 Q. Lieutenant Albertin, let me ask you a couple of
21 questions. You were ask earlier about gunshot residue
22 results. What happens if you wash your hands before a
23 gunshot residue test?

24 MR. VAUX: Objection, Your Honor.

25 SOLICITOR THORNTON: He ask her about the results of

1 the test that she didn't do, Judge.

2 MR. VAUX: Your Honor, if I may, I ask her what the
3 report said.

4 THE COURT: And you also ask her what were the - what
5 would gunshot residue on somebody's hands indicate -

6 SOLICITOR THORNTON: Yes, sir.

7 THE COURT: --- and she said that they had fired a gun.

8 MR. VAUX: Yes, sir.

9 THE COURT: So she's capable of asking what the
10 converse of that might be.

11 MR. VAUX: Okay.

12 BY SOLICITOR STONE:

13 Q. Can washing your hands have an effect on gunshot
14 residue test?

15 A. Yes.

16 Q. What about having a weapon covered in oil? Might that
17 affect the gunshot residue test?

18 A. Yes it would.

19 Q. Was it my imagination or did Aaron Young, Junior just
20 admit to shooting a firearm?

21 A. Yes he did.

22 Q. Okay. Now earlier Mr. Vaux ask you whether you had
23 any evidence - Now let's make sure we're clear, we're not
24 just talking about what Aaron Young, Junior said on the tape
25 cause he ask any evidence. Do you remember we've already

1 had Tyrone Robinson and you were present at that or you were
2 working for the sheriff's department were you not when
3 Tyrone Robinson was prosecuted also for this case?

4 A. Yes I was.

5 Q. Now did Tyrone Robinson provide information that
6 Aaron Young, Junior was shooting at him?

7 MR. VAUX: Your Honor, I object.

8 A. Yes he did.

9 THE COURT: I'll -

10 MR. VAUX: I ask that it be struck -

11 THE COURT: That frankly I think goes beyond, surely
12 the door could have been open in that regard. Whether it
13 could come in through this or whether you're gonna have to
14 get it in through some other ---

15 SOLICITOR STONE: That's fine, Your Honor.

16 THE COURT: --- avenue. But I instruct the jury to
17 disregard Sergeant Albertin's statement about what Tyrone
18 Robinson may have said in another proceeding. The door may
19 be open, but if it had a place to come in, but now not
20 through -

21 SOLICITOR STONE: Yes, sir. Understood, Your Honor.

22 Q. Were you present in the courtroom when the other people
23 testified today?

24 A. No, sir.

25 Q. All right. Are you aware of Charlese Mitchell who

1 testified earlier, and I don't mean what she said, but are
2 you aware of her as a witness in this case?

3 A. Yes.

4 Q. All right. And also Tyrone Delaney?

5 A. Yes.

6 Q. And so if they testified in here as to information
7 that they received from Tyrone Robinson that would be
8 evidence in this case would it not?

9 A. Yes it would.

10 Q. And you weren't present for that testimony were you?

11 A. I was not.

12 Q. So anything that they indicated that was heard from
13 this witness stand that said what Tyrone Robinson had
14 indicated about Aaron Young, Junior or about the folks in
15 the grey F150 that would be evidence wouldn't it?

16 A. Yes it would.

17 Q. Is it fair to say that while Mr. Young, Junior denied
18 in several places pointing a gun and denied other things
19 that a lot of his story and statements throughout the course
20 of this interview was inconsistent?

21 MR. VAUX: Your Honor, I object.

22 THE COURT: I'll sustain that objection as to the
23 characterization of it. The jury has heard what they've
24 heard, they'll have to decide the inconsistencies of it.

25 SOLICITOR THORNTON: Yes, sir.

1 THE COURT: Thank you.

2 SOLICITOR THORNTON: The court's indulgence, Your
3 Honor, one moment.

4 THE COURT: Yes, sir.

5 (PAUSE.)

6 SOLICITOR STONE: And, Your Honor, I know the jury has
7 already heard this.

8 Q. Did he say on the tape - I know Mr. Vaux pointed it out
9 and had you read something from it - Did he also say, he
10 being Aaron Young, Junior, "You'll never get the full story
11 out of me"?

12 A. Yes he did.

13 SOLICITOR THORNTON: I don't have anything further,
14 Your Honor. Thank you very much.

15 THE COURT: Thank you. Mr. Vaux, any followup on those
16 narrow points?

17 MR. VAUX: No, sir.

18 THE COURT: Thank you. Sergeant Albertin, you can step
19 down. Thank you, ma'am.

20 (WITNESS LEAVING WITNESS STAND.)

21 THE COURT: Folks, this is obviously a good time to
22 stop for the day and so we will. We're gonna start back
23 again in the morning at nine thirty, so if you'll be back in
24 the jury room tomorrow morning at nine thirty. I remind you
25 as always not to talk about this case among yourselves or

1 with anybody else or try to expose yourself to any
2 information about the case from any source at all.

3 Thank you so much, I'll see you at nine thirty. Have a
4 safe trip home.

5 (JURY EXITS COURTROOM AT 05:14 P.M..)

6 THE COURT: All right, Mr. Stone, Mr. Thornton,
7 gentlemen, anything further from the state before we break
8 for the day?

9 SOLICITOR STONE: I would like to put the matter that
10 we approached on on the record, Judge, just so it's clear
11 ---

12 THE COURT: Yes, sir.

13 SOLICITOR THORNTON: --- for appellate purposes.

14 THE COURT: That's right. Thank you. I forgot.

15 SOLICITOR THORNTON: The case that I referred to, Your
16 Honor, and I'll make sure Mr. Vaux gets an additional copy
17 is the *State versus Jaquwn Brewer*. It is actually out of
18 Beaufort County, that's why I'm familiar with it.

19 THE COURT: Right.

20 SOLICITOR THORNTON: And in that case one of the things
21 that the court feels - I think feels very strongly about
22 would be an understatement, is that the state should not
23 attempt to burden shift on the defendant. And this *Brewer*
24 deals with a confession and in the confession the - or
25 statement against interest - the officers are heard saying

1 you know you need to tell us this so you can prove your
2 innocence -

3 THE COURT: Right.

4 SOLICITOR THORNTON: --- which is the exact quote
5 elicited by Mr. Vaux. I just wanted it clear for the record
6 purposes that neither the state nor any of their witnesses
7 volunteered any information regarding his statement in that
8 regard.

9 THE COURT: Right.

10 SOLICITOR THORNTON: Unfortunately Mr. Vaux brought it
11 out and had Albertin read it and I believe the quote was
12 from Captain Bromage "give us the gun" and so you can prove
13 your innocent. And we left all that out specifically
14 because of Brewer.

15 THE COURT: Right.

16 SOLICITOR THORNTON: So I just wanted it clear for the
17 record, Judge, that that was not elicited by the state nor
18 the state's witness and, you know, just so we're protected
19 for later purposes, Your Honor.

20 THE COURT: I think the record is clear. And of course
21 I'm certain that Mr. Vaux has some strategic reasons for
22 that to come in but burden shifting of course would not been
23 one of those and certainly that does not ----- the state in
24 anything.

25 SOLICITOR THORNTON: Thank you, Your Honor.

1 THE COURT: Thank you. All right, Mr. Vaux, anything
2 from the defense before we break for the day?

3 MR. VAUX: No, sir.

4 THE COURT: Thank you.

5 MR. VAUX: Thank you.

6 THE COURT: Nine thirty tomorrow, folks. Thank you.

7 (COURT IN RECESS AT 05:20 P.M..)

8 (COURT BACK IN SESSION WEDNESDAY, FEBRUARY 25, 2015
9 AT09:42 A.M..)

10 THE COURT: Thank you, folks, please be seated.
11 Good morning.

12 SOLICITOR STONE: Good morning, Your Honor.

13 THE COURT: All right, folks, are both sides ready for
14 the jury, Mr. Solicitor?

15 SOLICITOR STONE: Yes, sir, the state's ready.

16 THE COURT: Thank you. Mr. Vaux?

17 MR. VAUX: Yes, sir.

18 THE COURT: Thank you. If you can bring us a jury.

19 MR. VAUX: Would you poll the jury as to publicity and
20 talking about it?

21 THE COURT: I'll be glad to do that.

22 MR. VAUX: There was some more evidence - not evidence
23 - some more comment in the newspaper this morning about a
24 drug deal and stuff like that.

25 THE COURT: Okay. I hadn't seen that.

1 MR. VAUX: Regrettably. No testimony to that effect.

2 THE COURT: Well it's a part of the news. Just as long
3 as it's not a part of the trial or at least that the jury's
4 actually.

5 (JURY REENTERS COURTROOM AT 09:45 A.M..)

6 THE COURT: Thank you, ma'am.

7 Good morning, folks. I wanted to inquire just to make
8 sure that none of you were inadvertently exposed to any
9 publicity about the case over night. Of course you've been
10 under instructions not to do that and I know that you
11 intentionally would not have done that, but there was some
12 news reports that contained some background information
13 that's not relevant to this particular case about the
14 parties themselves. As I said that does not have anything
15 to do with the charges here. And did any of you happen to
16 see that? I know it would have been inadvertent or any
17 exposure to anything like that?

18 (NO RESPONSE FROM THE JURY.)

19 THE COURT: All right. Thank you, folks.

20 We are now ready to proceed with the trial. The state
21 is contending to offer evidence and testimony in this case.

22 Mr. Stone.

23 SOLICITOR STONE: Doctor Lee Marie Tormos.

24 THE COURT: Come forward please, Doctor, and be sworn.

25 (WHEREUPON, LEE MARIE TORMOS, BEING

1 FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

2 MADAM CLERK: You can be seated and please state your
3 full name. Make sure you talk loud in the microphone,
4 please.

5 A. My full name is Doctor Lee Marie Tormos, T-o-r-m-o-s.

6 DIRECT EXAMINATION

7 DOCTOR LEE MARIE TORMOS BY SOLICITOR STONE:

8 Q. Doctor Torsos, what do you do, ma'am?

9 A. I am a forensic pathologist at the Medical University
10 of South Carolina.

11 Q. And what exactly is - Let me get you to pull that
12 microphone a little bit closer to you. What is a forensic
13 pathologist?

14 A. A forensic pathologist is a doctor that performs
15 examinations on a deceased body to determine the cause and
16 manner of death.

17 Q. What is the - What is the difference I guess between
18 cause and manner? What are we talking about when we say
19 cause of death versus manner of death?

20 A. The cause of death is the actual mechanism that brings
21 about the final derangement that when the person stops
22 living. The manner of death actually takes into
23 consideration the circumstances of that bring this about.

24 Q. So the first, the cause, is actually the medical aspect
25 of what caused the body to shut down. The manner is how

1 that happened, how that came about; is that right?

2 A. Yes.

3 Q. All right. You have been doing this for how long?

4 A. I have been doing this for six and a half years.

5 Q. What kind of training and education have you received
6 in order for you to be a forensic pathologist?

7 A. Okay. After I graduated high school I completed a four
8 year college degree in general sciences. Then I went on to
9 medical school where I completed an M.D. degree. Then I did
10 a speciality training in pathology, anatomic and clinical
11 pathology. After that I actually worked for a few years
12 before doing my sub-speciality training here in South
13 Carolina at the Medical University of South Carolina and I
14 did my sub-speciality training in forensic pathology.

15 Q. Now have you testified in courts before as an expert
16 in forensic pathology?

17 A. Yes I have.

18 Q. And you were qualified as such at that time?

19 A. Yes I have.

20 SOLICITOR STONE: All right, at this time, Your
21 Honor, we would offer Doctor Tormos as an expert in the
22 field of forensic pathology.

23 THE COURT: Thank you.

24 MR. VAUX: Without objection.

25 THE COURT: Without objection.

1 BY SOLICITOR STONE:

2 Q. Doctor Tormos, did you perform an autopsy on Khalil
3 Singleton?

4 A. Yes I did.

5 Q. Do you recall when that was?

6 A. I did the autopsy on September 2nd at nine o'clock in
7 the morning.

8 Q. And that was at the Medical University of South
9 Carolina?

10 A. Yes.

11 THE COURT: That would have been in 2012, Doctor?

12 A. Yes. I'm sorry, 2012. Thank you.

13 THE COURT: Thank you.

14 BY SOLICITOR STONE:

15 Q. And as a result of your autopsy did you come to a
16 conclusion as to cause and manner of death?

17 A. Yes I did.

18 Q. First let me show you what's been marked as State's
19 Exhibit Twenty-five and State's Exhibit Twenty-four.

20 And I'll just ask you at this point if you could tell
21 me do you recognize these and are these fair and accurate
22 depictions?

23 A. Yes. These are x-rays that were taken during the
24 course of the autopsy.

25 Q. Okay. And let me show you what's been marked - That

1 was State's Exhibit - I believe - Twenty-five. Let me show
2 you what's marked State's Exhibit Twenty-four. Could you
3 tell us what that is?

4 A. This is another x-ray and this one depicts a bullet.
5 It was also taken during the course of the autopsy.

6 Q. And these are parts of your actual autopsy; is that
7 correct?

8 A. Yes.

9 SOLICITOR STONE: At this time, Your Honor, we offer
10 State's Exhibit Twenty-four and Twenty-five into evidence.

11 MR. VAUX: Without objection.

12 THE COURT: Thank you.

13 (WHEREUPON, STATE'S EXHIBIT NUMBER TWENTY-FOUR AND
14 TWENTY-FIVE PREMARKED FOR IDENTIFICATION, IDENTIFIED AND
15 RECEIVED INTO EVIDENCE.)

16 Q. All right, Doctor Torsos, what I'd like you to do is
17 if you could come down off the stand and show the jury this
18 and explain your findings as to Khalil Singleton. I'm gonna
19 ask you to keep your voice up. And I believe the judge
20 wants you on this side so if you'll come down here.

21 (WITNESS LEAVES WITNESS STAND.)

22 Q. And I will hand you both of these exhibits but let me
23 to get you to stand here. I hand you both of the exhibits.

24 First, let me hand you State's Exhibit Twenty-five and
25 ask you, show the jury what that is and explain it please.

1 A. Okay. This is a chest x-ray of the decedent. Now
2 you have to visualize that this is a child; this is not an
3 adult. This is an eight year old boy, he is a young African
4 American male, he's relatively thin. He's just over four
5 feet tall and fifty-five pounds so this is actually a pretty
6 good rendition of the actual size of the decedent. Okay.

7 In this x-ray you can see that this is the neck and
8 this is the chin up here. The head is tilted to the left.
9 This is the rotary column. This grey area is the cardiac
10 silhouette, the long part in this dark area over here. This
11 is the diaphragm this is the liver and this is the abdomen.

12 Okay. When I examined the body externally I found that
13 there was an entrance gunshot wound to the left side of the
14 chest, so it would be right here, right in the middle of the
15 torso and there is no exit wound, therefore, we proceed to
16 do x-rays to locate the bullet. Okay. And when we do the
17 x-ray of the chest we find that the bullet is not in the
18 chest.

19 Q. Let me hand you then State's Exhibit Twenty-four.

20 A. The bullet is actually in the right arm. So this is
21 the chest that is the midline and you can see the vertebrae
22 and this is actually the bullet ends up traveling through
23 the arm pit and to the proximal right arm. And this is the
24 bullet that is recovered during the course of the autopsy.

25 Q. Now going back to State's Exhibit Twenty-five and

1 with Twenty-four can you tell us basically the path of the
2 bullet what happened?

3 A. The path of the bullet, the bullet enters through this
4 dark area right here which is the seventh rib.

5 Q. Which is somewhere right in here?

6 A. Which is somewhere right in the middle of the chest
7 on the lateral side. It's actually six and a half inches
8 below the shoulder for this particular child. And then it
9 goes in a slightly upward trajectory. It actually goes in
10 between the upper lobe and the lower lobe of the left lungs
11 so it actually lacerates both before hitting the heart where
12 it is attached to the veins that drain all the blood from
13 the head - the sphere mentum column. It goes through the
14 hilum of the lungs.

15 The hilum of the lungs is where all the blood vessels
16 and the breathing tubes, the bronchi, are holding the lung
17 up so it actually lacerates both the vessels and the bronchi
18 of the lungs.

19 It actually goes through the left side and the right
20 side, proceeds through the upper lobe of the right lung,
21 exits the chest cavity of the third and the costal space so
22 right around here it travels through the soft tissues of the
23 arm pit and it's recovered under the sphere as - of the
24 right arm. Okay.

25 And the process, the disruption of the vessels, causes

1 accumulation of blood in the right and left lower cavity. It
2 causes accumulation of blood in the heart sac at -

3 Q. Where is the blood? I'm sorry to interrupt you. Where
4 is the blood coming from? You're saying its accumulating,
5 where is it coming from?

6 A. It is coming from the perforation of the sphere of the
7 head column of the heart. It's also lacerated the vessels
8 that feed the lungs and so the blood is going outside the
9 vessels into the bronchi and it's also going outside the
10 lungs and into the chest cavity. So it is exiting the
11 circulation system both in the heart and at the attachment
12 on the lungs.

13 Q. And as the blood is accumulating what's happening to
14 the body at this point?

15 A. The heart pumping it still beat, the myocardium, the
16 heart muscle itself was not perforated, just the vessels
17 that attach to it. Therefore the heart pumping still beat
18 and the blood and the circulation system is slowly draining
19 out of the system into the chest.

20 Q. So this is not immediate death I guess there is a time
21 to it?

22 A. There is some time to it. Yes it is not an immediate
23 death.

24 Q. Okay. All right. And then the bullet I would assume
25 begins here.

1 A. Uh-huh.

2 Q. In the arm?

3 A. And actually you can see right here, one, two, three,
4 I don't know if you can see those two tiny white specks,
5 those actually belong to the bullet and that's actually
6 where the exit is on the third intercostal space. You can
7 see that the arm pit is right here and it travels in this
8 direction before stopping at this right bone - the humerus -
9 it does not break it. But the bullet is recovered right
10 there in the right arm.

11 Q. All right. Go ahead and I ask you to take the stand.

12 (WITNESS RETURNS TO THE WITNESS STAND.)

13 Q. So, Doctor Torsos, as to your findings on Khalil
14 Singleton what was the cause and manner of death?

15 A. The cause of death was determined to be a gunshot
16 wound to the left lateral chest. And the manner of death is
17 listing homicide.

18 SOLICITOR STONE: Thank you, Doctor Tormos. Please
19 answer any questions Mr. Vaux has.

20 THE COURT: Mr. Vaux.

21 CROSS-EXAMINATION

22 DOCTOR LEE MARIE TORMOS BY MR. VAUX:

23 Q. Doctor, did you remove the bullet, the projectile?

24 A. Yes I did.

25 Q. And what was it?

1 A. It is a - It is a relatively intact non-jacketed
2 grey metal projectile that measured five sixteenth inch at
3 the base and eleven sixteenth inch in length.

4 Q. Was it .38 caliber?

5 A. I am not a ballistic's expert, I would not know.

6 MR. VAUX: Madame Court Reporter, did they introduce
7 the bullet into evidence?

8 MADAM COURT REPORTER: Thirty. Yes, sir, bullet
9 analyzed by SLED previously marked, is that what you would
10 be interested in?

11 MR. VAUX: No. I don't think it would be - That was
12 the first day.

13 Q. What did you do with the projectile?

14 A. I take a picture and I put it in an envelop and I sent
15 it over to law enforcement.

16 Q. Do you remember - Do your records show who you sent it
17 over to?

18 A. Yes. It was submitted to Investigator Jeffrey Moran of
19 the Beaufort County Sheriff's Office on September 2nd, 2012,
20 at the conclusion of the autopsy.

21 Q. Okay. So the Beaufort County Sheriff's Department
22 has custody or possession of the bullet?

23 A. Yes, sir.

24 Q. Okay.

25 MR. VAUX: Nothing further.

1 THE COURT: Thank you. Redirect?

2 SOLICITOR STONE: Nothing. Thank you, Doctor.

3 THE COURT: Doctor, you can step down. Thank you,
4 ma'am, for coming.

5 (WITNESS LEAVING WITNESS STAND.)

6 THE COURT: Mr. Stone.

7 SOLICITOR STONE: With that, Your Honor, the state
8 rest.

9 THE COURT: Thank you. Ladies and gentlemen, the state
10 has rested its case, that means that you have heard all of
11 the evidence and testimony that you will hear from the state
12 in the presentation of it's case in chief. Necessarily at
13 this juncture of every trial of this nature I have to take
14 up some matters of law outside of your presence and I'm
15 gonna do that now. I'm going to send you to your jury room.
16 This may be longer than just a usual break because sometimes
17 these things take a little longer than a normal break would
18 take. But we'll get you out of here as soon as we can to
19 continue the mornings work. Please do not discuss this case
20 among yourselves. Thank you.

21 (JURY EXITS COURTROOM AT 10:01 A.M..)

22 THE BAILIFF: The jury is clear, Your Honor.

23 THE COURT: Thank you. Mr. Vaux.

24 MR. VAUX: Your Honor, we make a motion at this point
25 for a directed verdict and there are a couple of parts to

1 it.

2 THE COURT: All right.

3 MR. VAUX: Your Honor, as a general premise of law I
4 think it's fair to say that the trial judge should grant a
5 directed verdict where the evidence clearly raises a
6 suspicion that the accused is guilty. In this case the lead
7 investigator to the case indicated there was no evidence the
8 defendant - and this is to both charges, Your Honor.

9 THE COURT: All right.

10 MR. VAUX: No evidence the defendant pointed a gun at
11 Tyrone. There is no evidence that the defendant fired a gun
12 at Tyrone and I assume that Tyrone is the person whose been
13 attempted to kill.

14 THE COURT: Right.

15 MR. VAUX: There is no evidence that he beat him with
16 a stick or otherwise try to kill him. Mr. Delaney testified
17 and said that the M F'ers in the grey truck shot at him,
18 Tyrone, so he shot back. The M F'ers were never identified.
19 Mr. Delaney specifically said he didn't even recognize
20 Junior in the courtroom.

21 Now the other evidence - other testimony shows that the
22 Young's went after Tyrone and took a gun. But it is not
23 illegal to do that unless you actually act on it and point
24 the gun and try and fire the gun to shoot Tyrone.

25 The windows were not tinted in Tyrone's car and they

1 were down so it's obvious the car was unoccupied. There was
2 no blood found in the car.

3 Now, in a 2014 case of *State versus Hepburn* that they
4 are relying on in *State versus Bostic and Hepburn* is 753
5 S.E. 2d 402, applying *Bostic* at 708 S.E. 2d 774 a 2011 case
6 and *State versus Odoms* 720 S.E. 2d 48. The appellate
7 contended that the trial court erred in finding that the
8 state presented substantial circumstantial evidence
9 sufficient to deny the appellate's motion for a directed
10 verdict.

11 In *Hepburn* as in *Bostic* a case where the state
12 presented entirely circumstantial evidence that the
13 defendant committed murder. The trial court denied the
14 defendant's directed verdict motion based on the state's
15 presentation of the following evidence. One: The victim's
16 personal items were found in the burn pile in a neighboring
17 home owned by the defendant's mother.

18 Two: A heavy petroleum product was used as an
19 accelerate in the burn pile and the defendant's mother
20 testified she was afraid to use such accelerates and did not
21 use them. Three: A pattern of gasoline was found on the
22 defendant's shoes and was used as an accelerate to start a
23 fire in the victim's home after assailant struck her.

24 Four: Blood was found on the defendant's jeans and the
25 DNA expert testified that while she could not conclusively

1 state the blood was found on the defendant's jeans was the
2 victim's she could exclude ninety-nine percent of the
3 population of the world. On this evidence the court
4 reversed the trial court finding that the state did not
5 present it's substantial circumstantial evidence sufficient
6 to submit the case to a jury.

7 Likewise in *Odoms* the defendant was convicted of first
8 degree burglary, grand larceny, criminal conspiracy,
9 malicious injury to electrical utilities system, and the
10 court reversed the trial court after it denied the
11 defendant's directed verdict motion. In that case the state
12 presented the following circumstantial evidence.

13 One: Less than ninety minutes after the burglary
14 police found the petitioner, the defendant, in the get-away-
15 car with the burglar's and the stolen goods.

16 Two: The petitioner fled from law enforcement.

17 And Three: Petitioner ask an uninformed person to lie
18 for him. The court said to the contrary other evidence
19 presented tend to aviate the petitioner's guilt in that the
20 sole eye witness saw only two people at the crime scene. A
21 forensic investigator collected twelve sets of fingerprints
22 from the crime scene none of which matched the petitioners
23 fingerprints. And a co-defendant testified during the
24 state's case in chief that the petitioner did not
25 participate in the crime but was present in the car after he

1 offered him a ride. The court reversed finding that was not
2 substantial circumstantial evidence on which to base a
3 conviction and therefore the trial court erred in
4 directing a verdict.

5 In the case of *State versus Lewis* from Court of Appeals
6 in 2013 the rule set forth that if there's any direct
7 evidence or substantial circumstantial evidence reasonably
8 can prove the guilt then it must go to the jury. But the
9 trial judge should grant a directed verdict when the
10 evidence merely raises suspicion that the accused is guilty.
11 And it defines suspicion as an in-physic able even for a
12 period as to guilt based upon factual circumstances which do
13 not amount to proof.

14 And, Your Honor, with regard to mutual combat, we have
15 been and continued to be on the horns of a dilemma in that
16 mutual combat really is not defined in any case law that we
17 can find in any specific sense. It's given in your *Brown*
18 case as an example when people get into a fight. And the
19 language obviously that Your Honor has cited is that
20 everyone is presumed to know the consequences of his act and
21 if one voluntarily enters a mutual combat where deadly
22 weapons are used knowing that they are being used and death
23 results to one of the participating parties, and, Your
24 Honor, I understand Your Honor has explained - expanded
25 participating parties in a logical sense to include the

1 world at this point.

2 But, Your Honor, there is no evidence of mutual combat
3 here that we have found. The evidence is - the only
4 evidence of guns literally is evidence that - from Jontu
5 that they came in Mr. Young's yard and he came in Mr.
6 Young's yard and shot up the house and the yard. And
7 evidence that there were - that Junior shot the car. And
8 then evidence that Tyrone killed the little boy.

9 There has been on evidence of back and forth or a
10 running gun battle or any kind of mutual combat. We don't
11 know that for that matter that Tyrone was firing the gun at
12 the car. I mean I think we've all jumped to that conclusion
13 but I don't know that there has been any evidence that
14 anything was - -

15 THE COURT: Mr. Young was firing the gun at the car?

16 MR. VAUX: I'm sorry.

17 THE COURT: Mr. Young was firing the gun at the car.?

18 MR. VAUX: No. I said that Mr. Robinson was firing at
19 the Young's. I thought I said Mr. Robinson.

20 THE COURT: You did say Mr. Robinson but obviously I've
21 lost the context of it because the car that was shot up was
22 Mr. Robinson's.

23 MR. VAUX: No. Mr. Young shot the - Mr. Robinson's
24 car.

25 THE COURT: That's right.

1 MR. VAUX: But he never saw Mr. Robinson. You don't
2 see somebody you can't be running a gun battle.

3 THE COURT: Right.

4 MR. VAUX: Then the testimony is that the next thing
5 we know about they hear three gun shots from a different
6 gun.

7 THE COURT: Right.

8 MR. VAUX: And then little Jontu Singleton says he shot
9 meaning Mr. Robinson shot my friend. But we don't know that
10 Mr. Robinson was shooting at the Young's. He could have
11 been shooting a squirrel for that matter. We don't know
12 whether there's been no testimony to any of that effect.

13 And that makes it purely hypothetical or circumstantial
14 and not substantial circumstantial evidence. And on that
15 bases we ask that you - that you grant the motion for a
16 directed verdict.

17 THE COURT: Thank you, Mr. Vaux.

18 MR. VAUX: Thank you.

19 THE COURT: All right. Let's hear the state.

20 SOLICITOR STONE: As to the attempted murder, Your
21 Honor, you have Tyrone Robinson making a statement to
22 Charlese who is his cousin in an excited utterance that says
23 they're shooting at me. You have Tyrone Robinson in a
24 separate event but relatively close in time making the same
25 statement using more foul language but to Tyrone Delaney

1 they're shooting at me after he specifically ask about a
2 Ford F150 truck that is identified by Charlese as being
3 driven by Aaron Young, Senior.

4 You also have I believe testimony as well, Your Honor,
5 from - If you look at the 911 tape you actually have a
6 witness who calls in that describes two - a shoot out that a
7 car, a green Lexus, is shooting with a grey truck and that
8 they are shooting back and forth and we have that testimony
9 as well, so from the standpoint of having evidence
10 indicating that there is an attempted murder you have at
11 least three pieces there.

12 Other than quite frankly I think it's also reasonable
13 to infer that when Aaron Young says I tried to kill him but
14 the gun jammed would also indicate that there was some
15 effort on his part to kill Tyrone Robinson.

16 As far as mutual combat, Your Honor, that would - I
17 think there's ample evidence of a mutual combat. Both are
18 armed, Robinson's armed, Young is armed, they both know each
19 other is armed, they both - Young chases Robinson through
20 two neighborhoods and in fact into Allen Road twice and as a
21 result of that Khalil Singleton is dead. I think that is
22 exactly the language that Brown uses when they describe and
23 define mutual combat.

24 THE COURT: The Brown case does contain a limited
25 definition of mutual combat and it just says if you got

1 participating parties who enter the combat they don't have
2 to have a positive agreement to do it, its enough if they
3 willfully enter into the conflict under the impulse of the
4 moment and so there is - there is no technical legal
5 definition that we normally try to apply to things to set us
6 apart as lawyers I guess from the rest of the world.

7 Its sort of a common sense definition but I think it
8 first of all we know what combat generally is. It's a
9 physical conflict for the most part - generally.

10 Mutual means it's back and forth, reciprocal between
11 the two. And here we have that sort of conflict which is
12 entered into by two sides without any necessary positive
13 agreement but it's a willful entering into the conflict upon
14 the impulse of the moment, so I do - Granted it's a - it's
15 not technical but it does define I think as a matter of
16 common sense and of law what this is all about.

17 Mr. Vaux, you raised an interesting point when you talk
18 about circumstantial evidence any more. All of us at the
19 trial level have struggled with some of the opinions that
20 have come down defining that and what is actually enough.
21 We are - At this level we seem to be on I won't say on the
22 horns of a dilemma cause I think that a dilemma lies at a
23 higher level, but we're told here that when we are dealing
24 with Rule 19 Motions that we are not concerned with the
25 weight of the evidence, we are only concerned with the

1 existence of the evidence. There is a long line of cases of
2 course that hold that.

3 And of course we have to take that evidence, whatever
4 evidence exist, in the light most favorable to the non-
5 moving party and at that point it's pretty simple. But then
6 we move to the definition of circumstantial evidence.

7 And to juked the position of circumstantial evidence
8 upon the rule that I just cited, that is, we're not
9 concerned with the weight but only the existence of it.

10 When we define for a jury circumstantial evidence we
11 say that circumstantial evidence is good evidence, that it
12 does not require a greater degree of proof of circumstantial
13 evidence than of direct evidence. That the jury in other
14 words is to treat them equally and not require a greater
15 degree of proof one than of the other.

16 But at the trial court level I guess us as the gate
17 keeper's are charged with being concerned about the weight
18 of the circumstantial evidence. It frankly is a
19 contradiction. On the one hand we're told that we're not
20 concerned about anything other than the existence of the
21 evidence, we're not concerned with it's weight and then
22 we're told but wait a minute when it's circumstantial
23 evidence we want you to weigh it and decide whether they are
24 substantial or not.

25 And I've seen the cases that you've seen and we wonder

1 at what point that substantial requirement has been met.
2 And you've outlined cases of course which would appear on
3 their face to be substantial but the court has held that
4 they were not.

5 In this particular case based on the evidence before
6 us, it may be limited in scope, that is, to say there's not
7 a lot of it but it comes from Mr. Robinson's own mouth
8 primarily to two witnesses who testified under the excited
9 utterances a list of what Robinson had told them about
10 they're trying to kill me, and we put that in the context of
11 the chase itself. Some of it it came from Mr. Young's own
12 mouth as he was talking about where he had been and what
13 they had been doing and how the conflict started at his home
14 and it went from that point on.

15 I think there is substantial enough circumstantial
16 evidence for this jury to conclude that this was a running
17 argument at the very least a gun battle of some nature
18 between these two folks. And that the attempted murder of
19 Mr. Robinson is borne out by his own statement. Naturally
20 Mr. Young of course did not admit to shooting at him. He
21 said as a matter of fact he couldn't shoot at him cause his
22 gun wouldn't work.

23 But Mr. Young also mentioned out of the presence of the
24 officer on the interview that he was not being completely
25 straight in all that he had told those folks so I don't

1 think we depend on him and certainly don't depend on his own
2 statement to convict him in that regard.

3 I think there is sufficient evidence in this regard of
4 a circumstantial and a direct nature to survive the motion
5 for a directed verdict as well of the attempted murder. And
6 then the murder of course as you said comes in under the
7 mutual combat thing. That's the only thing that ties him to
8 that.

9 MR. VAUX: Well, Your Honor, if I may, the problem in
10 the next step of mutual combat -

11 THE COURT: Right.

12 MR. VAUX: --- is that obviously when you begin to
13 retreat it ends the mutual combat.

14 THE COURT: All right.

15 MR. VAUX: And in this instance clearly the evidence is
16 that they drove the truck down Allen Road, took a left on
17 Marshland Road and were some considerable distance away at
18 the time the three shots were fired.

19 THE COURT: Right.

20 MR. VAUX: And therefore the mutual combat had been
21 ended. But the problem is obviously or the dilemma the
22 third form of this dilemma -

23 THE COURT: Right..

24 MR. VAUX: --- is that normally the breaking off of
25 the mutual combat then gives rise to self-defense and in

1 essence reestablish or establish a self-defense defense.

2 THE COURT: Right.

3 MR. VAUX: We don't claim self-defense in this instance
4 and so normally that charge would not be included.

5 THE COURT: Right.

6 MR. VAUX: But, Your Honor, because this is such new
7 ground, and because we haven't to our abilities to find any
8 case law in South Carolina or frankly elsewhere that talks
9 about what happens when you have mutual combat. If the
10 Court's gonna make that charge then what happens when you
11 break the mutual combat off and how do you then end it
12 perhaps not with a self-defense charge but you would then
13 have to instruct the jury - we would ask that you would
14 instruct the jury that they have ended the mutual combat but
15 at least in their mind by leaving the scene. And while I
16 say the terms perhaps self-defense then certainly think they
17 ended the mutual combat.

18 THE COURT: All right. The case law in mutual combat
19 and ending a mutual combat requires that the ending of the
20 combat and the breaking off be clear and un equivocal; that
21 it be more than just an escape or trying to avoid the
22 consequences of the continuing battle.

23 This battle had been back and forth, of course, Mr.
24 Young, Junior in his statement referred to the fact that we
25 went back home talking about him and his father. And he was

1 like blank that I'm going back and I was like man I got to
2 get back to work. I'm paraphrasing. But my dad was like he
3 just never had anybody point a gun at his face before. So
4 he was just being in some of way we gonna deal with this now
5 or he's gonna come deal with us another way either way. And
6 that's the reason they went down to the house of course, not
7 to shoot the car but that's just all that there was there to
8 shoot, and they shot and they left in a hurry.

9 As a matter of fact I'm not even sure that they knew
10 that Mr. Robinson was there until they were riding away and
11 heard the shots. And because I don't - I'm trying to find
12 out, I don't think that Mr. Young said that they even saw hi
13 there.

14 MR. VAUX: They said he didn't see him.

15 THE COURT: I'm sorry.

16 MR. VAUX: At that point I think the testimony was that
17 they didn't see him.

18 THE COURT: All right. And so I think - I'm not
19 thinking that they were necessarily at that point in time
20 breaking off the combat, they were just going to live to
21 fight another day because he was not there and he was not
22 there to carry it on and they left, or they were leaving at
23 the time that the fatal shots occurred.

24 I don't think that leaving the scene under those
25 circumstances indicates clear and unequivocally the breaking

1 off of this given the extent of the chase and the level that
2 they had gone to try to get to him before then is unlikely
3 that the shooting of the car and then leaving is a signal
4 that they have chosen at this point in time to fold their
5 tents and move away and that the battle is over and truce
6 has been declared.

7 I don't think that the retreat ends it. I don't think
8 that there is a clear and unequivocal breaking of the
9 conflict such that the law requires to indicate that the
10 mutual combat no longer exist.

11 MR. VAUX: Your Honor, and just before you start to
12 charge and we start final arguments -

13 THE COURT: Right.

14 MR. VAUX: --- I would ask that the solicitor consider
15 very carefully making any reference as Your Honor did to the
16 defendant's statement about not telling the whole story ---

17 THE COURT: Right.

18 MR. VAUX: --- cause that could easily come in if the
19 defendant does not take the stand to testify.

20 THE COURT: Right.

21 MR. VAUX: That could easily be a comment and construed
22 by the jury as a comment on his failure to testify.

23 THE COURT: Right.

24 MR. VAUX: And would be an exceedingly contexted
25 appellate issue.

1 THE COURT: Right. I trust that we won't go into it.

2 I think they're entitled to say that, he, whatever his
3 language was about I'm not giving them anything he's
4 certainly to comment upon whether they can take that into
5 account as to the credibility of what he did say. But
6 certainly they cannot expand that to the fact that there are
7 other things that he did not say I grant you that, all
8 right.

9 Now, Mr. Vaux, do you wish for me to inquire of Mr.
10 Young about his understanding of his right to testify or not
11 to testify?

12 MR. VAUX: Yes, sir, please.

13 THE COURT: Okay. Mr. Young, will you please stand
14 where you are and raise your right hand? Right hand. There
15 you go.

16 ((WHEREUPON, AARON YOUNG,
17 JUNIOR, BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS
18 FOLLOWS:))

19 THE COURT: Thank you. You can put your hand down.
20 You can sit down. Mr. Young, the state has rested it's case
21 in chief and now you have the opportunity but you don't have
22 the obligation to present evidence and testimony, you can
23 choose not to do it. Under our law you cannot be forced to
24 testify. The *Fifth Amendment* of our *Constitution of the*
25 *United States* and a similar counter part of our state

1 constitution says that no person in a criminal charge can be
2 forced to testify against himself.

3 That means that you cannot be required to take the
4 stand and testify in your own behalf. Do you understand
5 that?

6 MR. YOUNG: Yes, sir.

7 THE COURT: You have the right to testify but you
8 cannot be made to testify. And if you chose to exercise the
9 right not to testify I will tell the jury that they cannot
10 take that into account and that they can't even consider
11 that when they're considering whether you're guilty or not
12 guilty of these charges. They will be told that they cannot
13 even discuss among themselves the fact that you did not
14 testify in their consideration of your guilt or your
15 innocence. Do you understand that?

16 MR. YOUNG: Yes, sir.

17 THE COURT: But if you choose to testify you give up
18 your right to remain silent and you will take the stand and
19 under oath you will be ask questions not only by Mr. Vaux
20 but also by Mr. Stone. And you can be impeached, you can be
21 cross-examined on any issues that are relevant to this case.
22 Do you understand that?

23 MR. YOUNG: Yes, sir.

24 THE COURT: Have you understood those rights that I've
25 explained to you, Mr. Young?

1 MR. YOUNG: Yes, sir.

2 THE COURT: Do you have any questions that you want to
3 ask me about those rights?

4 MR. YOUNG: No, sir.

5 THE COURT: So I can assume then from that that whether
6 you choose to testify or not to testify that you will do it
7 with a full understanding of your rights; is that correct?

8 MR. YOUNG: Yes, sir.

9 THE COURT: All right. Thank you.

10 MR. VAUX: Thank you, Your Honor.

11 THE COURT: Mr. Vaux, have the decision been made
12 regarding putting up a defense in that regard?

13 MR. VAUX: Yes, sir. We are not going to put up a
14 defense.

15 THE COURT: All right. So that means momentarily -
16 Well not momentarily, it will take a few more minutes. When
17 the jury does come back in I will allow you to rest in the
18 presence of the jury and we'll go immediately into final
19 arguments.

20 Mr. Stone, of course you will present the first of the
21 arguments and then Mr. Vaux, you will have the right to
22 reply. Now, yesterday when we were having a side bar
23 discussion about charges and lesser included's and things of
24 that nature, I think because of the relatively new state of
25 the law on attempted murder we were uncertain as to what

1 lesser included's there might be. However there is a lesser
2 included in a case very similar to this one. As a matter of
3 fact it was tried in Colleton County. Mr. Thornton, you may
4 have tried it, I'm not sure, *State versus Middleton*.

5 It was a case where I think the guy was on a moped and
6 ran around a car just filling it up with bullets.

7 SOLICITOR THORNTON: That was Tamelika we had with our
8 office, Your Honor.

9 THE COURT: Okay. That's right. It was a case where
10 it was a shooting in a vehicle and the vehicle was occupied
11 and the defendant was charged with the attempted murder I
12 think maybe two counts of attempted murder and they
13 requested a lesser included of assault and battery in the
14 first degree. The trial judge denied that request I think
15 as any of us would have done at the time because there was
16 no battery, there was no assault there was no battery,
17 nobody got hit. Some glass fell on somebody but nobody got
18 hit.

19 Well in *State versus Middleton* the first case decided
20 under the new law that I can find held that assault and
21 battery in the first degree is a lesser included with
22 respect to those victims who suffered no injury in spite of
23 the fact that they suffered no injury and therefore in my
24 view it has to be instructed in this regard as well. It's a
25 very similar case as far as that's concerned and so I will

1 instruct then on the attempted murder assault and battery in
2 the first degree as a lesser included.

3 As to the murder charge I don't think there are any
4 lesser included's as to that.

5 What says the state to that, Mr. Stone?

6 SOLICITOR STONE: I agree, Your Honor.

7 THE COURT: All right. Mr. Vaux?

8 MR. VAUX: I agree, Your Honor.

9 THE COURT: All right. Good. Gentlemen, if you all
10 will give me a few minutes then to put the verdict forms
11 together and then you can be getting your final notes in
12 place for the final arguments and I'll try to get somebody
13 here who adept with a typewriter to type up those verdict
14 forms and get 'em to you. I don't think - Normally I
15 inquire about folks who I have never tried cases before how
16 long you're gonna take. I know that you all will take as
17 long as you need but no longer so I'm not concerned about
18 that. All right.

19 SOLICITOR STONE: Your Honor, may I ask you real quick
20 before you go, the jury charge, are you ready or do you know
21 what your jury charge is gonna be, in particular on mutual
22 combat cause I think I would like to discuss that in closing
23 and I think I know what it is but I want to make sure before
24 I do?

25 THE COURT: Okay. I will charge in essence the charge

1 that you have given me but I will get a preliminary charge
2 or an introductory portion of the charge will be the
3 definition of mutual combat. And that also comes from
4 Brown. It's a paraphrase of the statement.

5 To constitute mutual combat it is not necessary that
6 there is a positive agreement between the participating
7 parties to enter in the combat. It is enough if they
8 willfully enter into the conflict upon the impulse of the
9 moment. And then I will go on with everyone is presumed to
10 know the consequences of those acts and take it from that
11 point on.

12 SOLICITOR STONE: You know this actually favors I think
13 part of the defense more of it but I want to make sure that
14 we've covered it. I know that Chief Justice Toal in the
15 2003 case actually put two more limitations on mutual
16 combat, one being that the parties had to know the other
17 parties were armed. And I will pull that but I thought
18 about that last night. And it probably favors the defense

19 ---

20 THE COURT: Okay.

21 SOLICITOR STONE: --- but I want to make sure we cover
22 that base. And I think the second limitation that she put
23 on there is that there was a - there had to be a previous
24 issue which I think you covered in that first part of your
25 charge.

1 THE COURT: All right. Okay. Let me see if I've got -
2 Did you give me that case the other day?

3 SOLICITOR STONE: I did. Its not *Porter*, it is -

4 THE COURT: I got it. It's *Taylor*.

5 SOLICITOR STONE: Its not *Brown*. *Taylor, State versus*
6 *Taylor*.

7 THE COURT: Okay.

8 SOLICITOR STONE: And I think the only addition to your
9 charge would be that the parties had to know that the other
10 parties were armed.

11 THE COURT: Right. Okay. All right, thank you.

12 SOLICITOR STONE: Thank you.

13 THE COURT: I will look those portions out and include
14 them as well. We'll stand down for a few minutes. It's
15 gonna be at least fifteen minutes before I can where I can
16 work and get these things typed.

17 SOLICITOR STONE: Thank you, Your Honor.

18 (COURT IN RECESS AT 10:32 A.M..)

19 (COURT BACK IN SESSION AT 11:00 A.M..)

20 THE COURT: Thank you, folks, you all can be seated.

21 Gentlemen; these are the possible verdict forms, I want
22 you to look at 'em and make sure there are no problems with
23 'em.

24 SOLICITOR STONE: Thank you, Your Honor.

25 THE COURT: All right, thank you.

1 All right, folks, are both sides now ready for the
2 jury, Mr. Stone?

3 SOLICITOR STONE: The state's ready, Your Honor.

4 THE COURT: Thank you.

5 MR. VAUX: The defense is ready, Your Honor.

6 THE COURT: Thank you. Bring us the jury.

7 Mr. Vaux, in the presence of the jury you will be
8 allowed to rest and we'll proceed immediately to final
9 argument.

10 MR. VAUX: Thank you, Your Honor.

11 THE COURT: Thank you.

12 (JURY REENTERS COURTROOM AT 11:02 A.M..)

13 THE COURT: Ladies and gentlemen, if you recall the
14 state had rested its case in chief before the recess. The
15 defense now has the opportunity to present evidence and
16 testimony but as you know is under no obligation to do that.

17 Mr. Vaux.

18 MR. VAUX: Your Honor, the defense rest.

19 THE COURT: Thank you. Ladies and gentlemen, the
20 defense has now rested it's case and that means that you
21 have now heard all of the evidence and testimony that you
22 will hear in this trial. So now we proceed to the final
23 phase of the trial of this case which will consist of the
24 arguments that will be presented. The state will present
25 the first of the final arguments, Mr. Stone, on behalf of

1 the state. And when he has completed the final argument on
2 behalf of the state, Mr. Vaux, on behalf of Mr. Young will
3 present that final argument. And then I will instruct you
4 as to what the law is in this case. And then you will be
5 able to go back to your jury room and start talking about
6 this case among yourselves.

7 You have been attentive throughout the trial of this
8 case. It has not been a lengthy trial, it's a serious trial
9 as you all know, but it has not been a lengthy trial but
10 you've given the attention throughout - throughout the trial
11 that you know issues of this seriousness deserve.

12 I'm certain that you will give the final arguments and
13 the instruction on the law which I will give you that same
14 attention, ladies and gentlemen. Incidentally as a matter of
15 interest, your lunch will be provided for you. It's being
16 ordered and it will be brought in perhaps before you get to
17 your jury room or certainly during your deliberations.
18 That's the best way to use your time. I didn't want you to
19 be concerned about that, we're not gonna starve you into a
20 decision in this case, it will be provided for you.

21 Thank you. Thank you, ladies and gentlemen.

22 Mr. Stone.

23 SOLICITOR STONE: May it please the court, Your Honor.

24 THE COURT: Yes, sir.

25 SOLICITOR STONE: There are two charges in this case.

1 One is murder charging Aaron Young with the murder of Khalil
2 Singleton. And the theory that the judge will explain to
3 you is mutual combat. The second charge is attempted murder
4 in the attempted murder by Aaron Young of Tyrone Robinson.

5 What I want to talk to you about first very briefly is
6 what we know, the facts that you've heard, the facts that
7 are all pretty much sit here and think of and listen to from
8 the witness stand and know to be true. Here's what we know.

9 That on September the 1st Tyrone Robinson was armed.
10 We know that because he fired the bullet that killed Khalil
11 Singleton. We know Aaron Young was armed. How do we know
12 that? Well we know it from a number of different ways. One
13 is we know it from Aaron Young's friend, Jontu Singleton,
14 who says when I got in the truck the Young's came out with
15 this bag and in this bag was this gun. Who had it? Aaron
16 Young, Junior had it. That's from Jontu Singleton.

17 Where did we find the gun? Law enforcement found the
18 gun in Aaron Young's grandfather's house where Aaron Young's
19 father took law enforcement. The same gun that these shells
20 match which were found in the back of the Ford F150 driven
21 by Aaron Young, Senior in which Aaron Young, Junior was a
22 passenger. And there are the shells, the bullets that match
23 the shooting of the car also from that gun, the gun that was
24 in Aaron Young's hand.

25 And the clip and Aaron Young's own statement that I had

1 a gun, it was a .9 millimeter. How many shots did it hold?
2 Enough according to Aaron Young. We know Aaron Young was
3 armed not just because Jontu Singleton says so, not just
4 because Aaron Young's father took them to the gun but
5 because Aaron Young himself admits it. And while I
6 recognize the defense has made a big deal out of there's no
7 fingerprints, there's no DNA, there's no question Tyrone
8 Robinson was armed, Aaron Young was armed.

9 We know that Aaron Young chased Tyrone Robinson into at
10 least two neighborhoods. We know the original fight started
11 up here at Old Wild Horse Road where the Young's live. We
12 know that they chased Tyrone Robinson again with Aaron
13 Young, Senior driving and Aaron Young, Junior with the gun
14 in his hand into this neighborhood down here, Oakview,
15 Spanish Wells, Muddy Creek. We knew that because Aaron
16 Young, Junior said they did it. In fact we also know that
17 at that time Aaron Young, Junior said I tried to kill him, I
18 tried to shoot him there but the gun wouldn't go off. The
19 gun jammed. Something that made him so angry that as he's
20 sitting by himself not even being questioned he yells the
21 gun jammed. I know how to work a gun. I now how to work
22 that real well.

23 This was the first time that Aaron Young says he tried
24 to kill Tyrone Robinson then but the gun wouldn't work. We
25 know they chased them here. We know that Robinson got away

1 and went down here to Allen Road. Right here where Charlese
2 Mitchell hears the shots. We know that when they go down
3 there the truck goes down there the first time because when
4 the truck is leaving the neighborhood it almost runs Tyrone
5 Delaney off the road. And that's before the second rapid
6 fired shots, before the three shots that came after before
7 Khalil Singleton was killed. We know they chased Tyrone
8 Robinson into Allen Road not once, twice, they were down
9 there.

10 We know it because Charlese Mitchell, who is related to
11 both, sees the truck leave. We know there was a shooting,
12 we know that Tyrone Robinson as the truck gets here, is
13 somewhere in this area here, and fires back at the Young's
14 hitting Khalil Singleton and we know that bullet cut his
15 heart and he bled to death. These are the facts that we
16 know. They're not disputed. No reasonable alternative than
17 those facts that we absolutely know.

18 The judge is gonna charge you the law in South Carolina
19 concerning mutual combat. And if he tells you anything
20 different than I do please take what he says as reliable.
21 But I would submit to you this is exactly what you're gonna
22 hear from the judge when it comes to the law in South
23 Carolina. That everyone is presumed to know the
24 consequences of his act if one voluntarily enters a mutual
25 combat where deadly weapons are used, knowing that they are

1 being used, and death results to one of the participating
2 parties everyone engaged in such combat is equally guilty
3 regardless of whether a deadly weapon was used or not.

4 I know the defense has made a good point of well
5 there's no actual evidence that he actually pointed it at
6 Tyrone Robinson. And I would submit to you that him saying
7 I tried to kill him but the gun jammed. Generally guns jam
8 when you try to pull the trigger. I don't know what he
9 would a been shooting at to see inside the truck in order
10 for the gun to jam. But it doesn't matter because as far as
11 mutual combat is concerned it doesn't matter whether the gun
12 was used or not for the law in South Carolina somebody has
13 to voluntarily enter into mutual combat they have to be
14 armed and they have know the other person's armed and we
15 know that.

16 Not only did Aaron Young know that Tyrone Robinson was
17 armed, if you remember his tape he actually tells you what
18 the gun was. He compares the shot of a .9 millimeter to a
19 .38 caliber and says the .38 caliber is gonna kill you much
20 quicker than the .9 millimeter. He knew. He said it's T's
21 gun. You don't have T's gun and it's a .38. He knew he was
22 armed because Tyrone Robinson came to his house and shot at
23 him right before they got that gun and went chasing after
24 him.

25 For mutual combat, ladies and gentlemen, they enter

1 into mutual combat, they're armed, they know the other one's
2 armed, and death results. There's no question about that
3 either. Taking what you know with the law as the judge is
4 going to instruct it what you know is Aaron Young and Tyrone
5 Robinson entered into mutual combat, that child is dead and
6 they are both equally responsible for the murder of Khalil
7 Singleton. That's the law and that's what you know.

8 There's one other thing about this. In the concept of
9 mutual combat there's a recognition that it involves
10 participating parties. Obviously Khalil Singleton his only
11 crime was playing in the neighborhood. He wasn't involved
12 as a participating party. What the judge will tell you
13 about that is the law of what's called transferred intent.

14 And what's relevant is not, in determining mutual
15 combat the victim, the identity of the victim, but the mind
16 set of the defendant. What was Aaron Young thinking? How
17 was he thinking? All of that is relevant because it tells
18 you whether or not he voluntarily entered into this gun
19 battle. Let's take a look at some of what Aaron Young said,
20 and I'd ask you to look at the monitor, and see if you can
21 determine from this his mind set.

22 (STATE'S EXHIBIT NUMBER THIRTY-EIGHT PUBLISHED TO THE
23 JURY.)

24 SOLICITOR STONE: The last clip I want to talk to you
25 about very briefly. He's describing as they're leaving, as

1 they are in this truck going by and he hears the three
2 shots, having already seen the children when they go into
3 the neighborhood, seeing the children as he's coming out of
4 the neighborhood, hearing three shots, what does he say to
5 his dad? "Man, turn around."

6 When you're determining whether or not Aaron Young
7 mutually agreed or got involved in this running gun battle
8 ask yourself that. What's the mentality? There's just been
9 a shooting right in the middle of children and what's his
10 mentality? "Turn around."

11 The defense makes the offer to you that quote unquote
12 run, they were fleeing, they were leaving the neighborhood,
13 this was over. Ask yourself they didn't go down that
14 neighborhood just once they went down twice. They went down
15 they didn't find what they were looking for. They weren't
16 able to kill Tyrone Robinson they went back to their house
17 more likely than not greasing up the gun so it wouldn't jam
18 this time and then went back down there a second time. And
19 even after that, even after when they see the kids going
20 there and they had all stopped when they see the kids going
21 back and they hear the three shots what does Aaron Young
22 say? "Man, turn around." Is he finished? Has he
23 concluded this mutual combat? No. Never. You know why?
24 Because of all those things he just said. "You don't come
25 to my house and do that and then walk away free. How did he

1 know I was coming back down there? Cause he knows me.
2 Cause he knows me."

3 They fought, they had guns, and the feeling was mutual.
4 Aaron Young didn't like Tyrone Robinson and Tyrone Robinson
5 didn't like him and they took their fight into the
6 neighborhoods. They took it into the neighborhoods. And
7 the state law says as it should you're all responsible.

8 Now I've also charged Aaron Young with attempted
9 murder. The attempted murder of Tyrone Robinson. And we
10 get that from three sources. You hear it from Tyrone
11 Robinson who tells Charlese when he gets to the house
12 "They're shooting at me." At a separate time you hear him
13 tell Tyrone Delaney outside of the presence of Charlese
14 using vulgar language "they're shooting at me." So you hear
15 it from Tyrone. But you also hear it from Aaron Young
16 because in his statement he messes up a couple of times and
17 he gives you a pretty good idea that he did some shooting at
18 Tyrone himself. I'm gonna ask you to go back to the
19 monitor.

20 (STATE'S EXHIBIT NUMBER THIRTY-EIGHT PUBLISHED TO THE
21 JURY.)

22 SOLICITOR STONE: So what were you shooting at?

23 (STATE'S EXHIBIT NUMBER THIRTY-EIGHT PUBLISHED TO THE
24 JURY.)

25 SOLICITOR STONE: He made a mistake. What were you

1 shooting at? Him. Now he backed up on that. He was pretty
2 quick to say "you know what the gun didn't go off I take it
3 back." But what else did he say in that interview? And I
4 don't have to play that for you cause I imagine you remember
5 it. Recite, y'all are never gonna get the whole story out
6 of me." He didn't tell the whole story. He left some stuff
7 out.

8 You hear it the attempted murder that he wanted to kill
9 him but the gun didn't go off. And you hear it from him
10 that he said "who were you shooting at?" "Him." You hear
11 it from Tyrone Robinson, "they're shooting at me." He says
12 it in an excited state. Why would he be excited unless they
13 were in fact shooting at him? And here's another thing.
14 That truck is speeding out in the neighborhood to some
15 extent that it almost ran Tyrone Delaney off the road. What
16 are they excited about unless they're shooting at him?

17 As to the attempted murder charge you hear it from
18 Robinson, you hear it from Young, and you also hear it from
19 the witnesses at the scene and the 911 tape.

20 (STATE'S EXHIBIT NUMBER TWO PUBLISHED TO THE JURY.)

21 SOLICITOR STONE: Three pieces of evidence. Tyrone
22 Robinson, "They're shooting at me." Young, "I shot at him I
23 missed." And in fact if you recall Albertin actually ask
24 him "Did you intend to shoot at Tyrone?" And she was trying
25 to give him an out. "Did you really mean to shoot at

1 Tyrone?" Did he say no? No. That's all he said. You have
2 that. Play that. What did he say?

3 (STATE'S EXHIBIT NUMBER THIRTY-EIGHT PUBLISHED TO THE
4 JURY.)

5 SOLICITOR STONE: "Don't like that do you? Don't like
6 that do you? "Did you really mean to shoot Tyrone?" The
7 short answer is, yes, yes, and if I could have I would have.
8 And there's something else too. Dan DeFreese a forty-nine
9 year expert at the State Law Enforcement Division in
10 ballistics and tool mark identifications and bullet
11 trajectories testified yesterday that the trajectories put
12 into this car were accurate. They were in the right angle
13 to show how the bullets entered into the car.

14 If you look very closely at this picture there's got to
15 be a question. Item Number 13 which matched by the way to
16 that gun pulled out of this door panel does that look like
17 that's coming from the same angle that these two are?
18 According to Young the car's parked behind the house and he
19 shoots at the car. And quite frankly these shots right here
20 probably look just like somebody shooting down from a truck.
21 But not that one. Not that one. Young got a shot off.

22 And that one indicates that that's different, that
23 that's in a different place than these. And different from
24 the ones that were in the back of that car. Probably from a
25 further distance and p probably in this neighborhood right

1 here where he says the gun jammed. And that's physical
2 evidence and that's as to the attempted murder.

3 Now, it is in many ways not our job, not my job, not
4 your job, and even the judge's job to explain why the law is
5 as it is in South Carolina. Why is somebody responsible,
6 why is everybody responsible when only one person could
7 possibly have fired the fatal bullet? Why do we say that
8 there is such a thing as mutual combat? Why do I come in
9 here and yesterday when I explained to you what I would be
10 asking you I said I'm going to ask you to do one thing, to
11 give us a verdict that speaks the truth but not just the
12 truth, the whole truth. Cause part of the truth is already
13 been spoken from a jury sitting right where you're sitting
14 that said Tyrone Robinson is responsible for the killing of
15 Khalil Singleton. That's part of the truth.

16 The other part of the truth that I'm asking you for is
17 the whole truth which is its not just Tyrone Robinson is
18 responsible for Khalil Singleton's death, it is also Aaron
19 Young. And for that matter Aaron Young, Senior who is not
20 before you right now.

21 That's the whole truth. And I want you to think just a
22 moment about how much Aaron Young, Junior and Tyrone
23 Robinson have in common when it comes to this case. Tyrone
24 Robinson was armed. Aaron Young was armed. Tyrone Robinson
25 went to Aaron Young's house with a gun. Aaron Young went to

1 Tyrone Robinson's house with a gun. He didn't find him, he
2 found his uncle but that's where he went cause he said
3 straight to his house.

4 They both used that car. Aaron Young said, You know
5 what? Tyrone is using that car as a set up. He put it
6 there cause he knew I was coming back and he knew I would go
7 there and he would be able to see me. He was using it as a
8 set up. So is Aaron Young. Why do you think he was
9 shooting the car? He wasn't mad at the car, he was trying
10 to flush out Tyrone Robinson. Tyrone Robinson didn't shoot
11 Khalil Singleton. Neither did Aaron Young. Tyrone Robinson
12 intended to shoot that truck to kill Aaron Young just like
13 Aaron Young intended to kill Tyrone Robinson.

14 Tyrone Robinson, "Oh I didn't mean for Khalil Singleton
15 to die." Neither did Aaron Young. The both of 'em killed
16 him just as surely as we're sitting here, both of 'em did.
17 A part of this truth has already been told. Tyrone Robinson
18 is responsible. The rest of the truth is, is so is Aaron
19 Young. And why is the law like it is? It goes back to the
20 two lines in this that I haven't talked about. Everyone is
21 presumed to know the consequences of his act. Everyone
22 presumes to know the consequences of their act. And
23 everybody is equally responsible for the naturel
24 consequences.

25 Let's talk about the natural consequences. They're

1 going through neighborhoods. Is it a natural consequence if
2 you take a gun like this and you go chasing somebody through
3 neighborhoods that at some point they might turn around and
4 shoot back? You know they're armed. Is that a natural
5 reaction? Certainly. And at some point Tyrone Robinson was
6 bound to turn around and shoot back and he did. Was it a
7 natural consequence that somebody would get hurt if you're
8 shooting in a neighborhood with a car that is parked up
9 against the house? Aaron Young went to a lot of trouble
10 saying you know what I never hit the house. But that's good
11 because there was a one month old child in the house. We're
12 lucky - I guess we're lucky - that we only had one dead
13 child instead of two. Right there right where Aaron Young
14 was shooting in a neighborhood with kids.

15 And by the way, in case Aaron Young said well I knew
16 where my shots were going. Remember this item here that our
17 expert from ballistics testified this is a glancing bullet,
18 a bullet that hit the side of the car and went from back to
19 front. Bullet hits this car right here on the side going
20 this way going towards the children. The glancing blow that
21 goes off is it a natural consequence that somebody in this
22 neighborhood is going to get hurt when you're shooting at
23 cars behind a house?

24 And by the way, take a look at these pictures. How
25 many shots are in that car? If you add them up you're

1 gonna find about seven. The clip holds thirty-four and
2 there were ten left. Where are the bullets, where did they
3 go? They went one of three places. One, he's sprayed this
4 whole neighborhood when he missed the car. Two, he actually
5 got off a lot more shots than he's willing to tell us about
6 over in the Oakview Spanish Wells area. Or three, he's -
7 they're shooting back at each other and he's shooting when
8 Charlese hears the first set of shots prior to the truck
9 leaving the first time.

10 Where are the other bullets? The natural consequences
11 of somebody would get hurt in these neighborhoods? That's
12 why the law is what it is. That's they way of this. That's
13 why in mutual combat everybody is responsible for their acts
14 and the natural consequences that come from them because
15 when you take guns and you leave and instead of calling the
16 police you decide to do it yourself and you chase them
17 through two neighborhoods, seven miles of Hilton Head,
18 people are gonna get hurt. And in this case a child died.

19 That's why the law is what it is. That's the why. And
20 we know it not because the judge is gonna tell us that. Not
21 because the statute tells us, not because this board tells
22 you that. You know you're responsible for your acts because
23 it's in your heart and you know that. You know that. And
24 it doesn't matter who fired the fatal bullet cause they're
25 all fatal. It doesn't matter whose gun shot it cause every

1 gun is fatal. That's why the law is but we all know that.

2 If you have any questions think back on that 911 call
3 when you heard those people in that community on the phone.
4 And you heard 'em crying and screaming as they were trying
5 to breathe life into this eight-year-old child who was
6 literally drowning in his own blood. Do you think they care
7 where the fight started? Do you think they care which gun
8 fired it? Do you think they care what Tyrone did to deserve
9 it or why he made Aaron mad or why Aaron made Tyrone mad?
10 Do the people in that community care? They care that they
11 lost a child.

12 Parents lost a child that's what they care about. And
13 was that the natural consequence? Think back on the very
14 last 911 call you heard, the very last one. The lady called
15 in and said I heard rapid shots, definitely gun shots.
16 What's the very last thing she said? There are children
17 down there, children down there. That's what this case is
18 about. Thank you.

19 THE COURT: Thank you, Mr. Stone. Can we take the
20 exhibits down please, sir.

21 SOLICITOR STONE: I'm sorry. Yes, sir.

22 THE COURT: Thank you.

23 MR. VAUX: May it please the court.

24 THE COURT: Yes, sir, Mr. Vaux.

25 MR. VAUX: Thank you. If you would just leave that

1 right there. Thank you.

2 Good morning again, ladies and gentlemen. Representing
3 a defendant in a criminal case as an attorney is probably
4 the highest compliment that a trial attorney can be given
5 because the defendant puts his life in our hands. You see
6 our job is two fold. Our job is to see and insure that the
7 defendant receives a fair trial and that the state proves
8 the defendant guilty beyond a reasonable doubt. We have no
9 obligation to do anything. So let's take a look at what the
10 state has established thus far leaving the hysterics aside.

11 The state established that Khalil Singleton an eight
12 year old little boy, was shot to death by Tyrone Robinson.
13 We know that Tyrone Robinson by virtue of their witness was
14 quote drunk as a bitch dressed in mismatched socks, in red
15 shorts about three thirty in the afternoon. That he goes to
16 Darrell Ferguson's house which is next to Jake Washington's
17 house still dressed in his shirtless and his red shorts,
18 mismatched socks, a couple of quarts of beer, driving drunk,
19 and gets into an argument with Jake Washington. Gets into
20 an argument with Darrell Ferguson. Gets back in his car
21 driving drunk goes to the Young's house gets out at the
22 Young's house according to the state's witness unprovoked
23 and starts shooting.

24 Shoots in the ground, shoots at the house next door.
25 And we know that they got the bullet out of the house next

1 door. Do the Young's shoot back? No.

2 Stupidly and as I indicated in the opening comment a
3 lifestyle mistake they didn't call 911. The Young's
4 sometimes after that cause Jontu again testifies that the -
5 that Tyrone leaves, that they get in the truck, Jontu the
6 state's witness gets into the truck with the Young's and
7 they go looking for him.

8 Now while Jontu, the state's witness, is in the truck,
9 no gun is pointed at Robinson, no gun is fired at all, and
10 that's the time that the solicitor would have you believe
11 they sped up a few roads and all the rest of it. But did
12 the state produce any evidence to that effect other than
13 what Mr. Stone said? And the answer to that is no.

14 They go home and they drop off Jontu. Jontu sees them
15 get back into the truck with Ebony Campbell and they go
16 towards Mr. Benny Young's house off of Redtip or Mustang
17 Lane. In the meantime Ms. Mitchell is at home, Charlese
18 Mitchell, and is visited by Mr. Robinson who's still dressed
19 in his red shorts and his pistol. She's concerned enough
20 that after letting him use the phone she and her boyfriend
21 ask him to leave for whatever reason we don't know.

22 She says there are ten to fifteen minutes between the
23 shots but there is no evidence that the shots came from the
24 same kind of gun. There is no evidence who fired the first
25 set of shots. There's nothing. We don't know that and the

1 state conveniently in their 911 tape we don't know what
2 order they came in. There's no time established. There's
3 no time on any of that evidence. That could have been
4 twenty minutes, thirty minutes apart. We have no idea.

5 Now, what also is important is that nobody puts either
6 Tyrone Robinson or the Young's at the house at the time of
7 the first set of shots. Certainly Ms. Mitchell doesn't.
8 She hears the shots and it's after the first set of shots
9 that Mr. Robinson comes to her house. After hearing the
10 second set of shots Ms. Mitchell calls the boys into the
11 house. Then she sees a grey truck drive by and it's
12 somewhere's in this area and hear's three shots. She then
13 hears screaming and there's a little boy dead on the ground.

14 That truck is leaving the area. It is retreating. At
15 that point Mr. Delaney is now home, he had seen a grey
16 truck. He didn't see who was in the truck, he didn't see
17 who was driving the truck and he sees the truck somewhere
18 other than Marshland Road. He sees the truck -

19 I'm not - Frankly I don't remember where he saw the
20 truck but it was not near the house. And I don't recall
21 what direction it was going in. He was going towards
22 Marshland Road but if he was on the Cross Island that truck
23 could have been any truck going either way. If it was on
24 Spanish Wells it would have been going towards Wild Horse
25 Road.

1 Now, Tyrone Robinson says to him those blank blank's
2 shot at me. Well I submit to you that could have been most
3 anybody given Mr. Robinson's conduct, Mr. Robinson's - just
4 behavior on Hilton Head with Mr. Ferguson, with Mr.
5 Singleton, with Mr. Washington, any of those people, half of
6 Hilton Head could have felt that way. And I'm gonna get to
7 more of that in a second. So we don't know who Mr. Robinson
8 - You know, language obviously was not a consideration to
9 Mr. Robinson but don't you think that if Mr. Robinson felt
10 that it was Young who shot at him he would have said those
11 blank blank blank Young's or that whatever Aaron shot at me.
12 Why would you just say those M F'ers?

13 You would identify who they were and we're gonna talk
14 about this in a second. We'll never know who they were.
15 Dominic Griffin - And every time you try a case and I been
16 doing this forty something years now - Every time you try a
17 case there's something in here in the case that's not a
18 great deal of relevance but it just makes you wonder.

19 Mr. Griffin is at home in this house and he's specific
20 that he's in this area of the house. And the car is back
21 here. Now from Jontu we know that they go by there and
22 Jontu knocks on the door to visit with his stepson.

23 Now is that really relevant? No. But doesn't it tell
24 you something? If you're running around in the neighborhood
25 shooting people having an ongoing mutual combat and gun

1 battle when in the world do you say whoa, everybody stop,
2 time out, I want to go visit with my son? Does that make a
3 lot of sense? You're driving around the neighborhood and
4 you're shootin up the neighborhood which of course Jontu
5 says that it happened when do you state time out to go have
6 a visitation?

7 Now times important because we know that Tyrone
8 Robinson arrived at the Young's house about four o'clock or
9 a little bit after. And we know that this whole thing is
10 over with and done with and Robinson is stopped by and
11 yelling - is stopped on the side of the road before five
12 thirty so there's not a lot of time. But Dominic is at home
13 and he doesn't hear Jontu knock on the door, he doesn't hear
14 the first set of gunshots. He hears the second set of gun
15 shots, he doesn't hear the third set of gunshots and he does
16 hear his stepson say Tyrone Robinson killed my friend.

17 Now Mr. Seifert testified that he has a conversation
18 with Junior on the side of the road and that establishes the
19 time. We know what time that it was over with and by that
20 point we know that the Young's had taken the gun to the
21 grandfather's house which simply shrinks the time that's
22 involved for all this to have taken place as the solicitor
23 would have you believe.

24 We know that Captain Bromage identifies the gun and we
25 know that Captain Bromage exaggerates to try and influence

1 you by calling it a submachine gun. Now is that really
2 important? No. Except for the fact that it gives you the
3 mind set. Why would he mislead you? You know that's a
4 tantamount to not telling the truth. When you misstate
5 something like that you finally give it up on cross-
6 examination and then you fight with a defense lawyer about
7 it that's just not right. So Brandon Cooler he ID's the gun
8 he carries out the search warrant on the Young's house.

9 Now do they find drugs in this house? No. Had they
10 guarded the house from the time of the shooting until they
11 carried out the search warrant? Yes. Did they find any
12 more guns in the house or ammunition or anything else? No.
13 And he took a statement from Ebony Campbell. Derrick Nelson
14 processed the truck. He matched up the wooden sticks with
15 the bullet holes. The windows were clear. Remember I went
16 to some trouble to show that you could see in the car to be
17 sure there was nobody in the car. I still don't understand
18 why you had to break the window if the window hadn't been
19 tampered with in some way but maybe I'll just never
20 understand that.

21 Wendy Conant testified about receiving evidence
22 transporting evidence and performing certain test. I'm
23 gonna come back to the test in a second. Now Mr. DeFreese
24 forty-nine years which is even longer than I practiced law
25 testified about casings and bullets and found in the car but

1 found no blood. Now don't you think it's convenient that he
2 doesn't testify about the bullet that killed the child?

3 Forty nine years he doesn't forget about something like
4 that.

5 The lead investigator, Albertin, she interviewed Junior
6 who denied ever pointing the gun at Tyrone. He denied
7 shooting the child and he indicated that Tyrone had broken
8 into his home previously. Now you know where I come from
9 when I said to you in my opening statement about terrorism.
10 You know this guy had broken into the Young's house, he
11 comes into the yard starts shooting up the yard.

12 Now, the problem that I have with this case as a
13 defense lawyer other than the fact that what they've
14 produced to you is purely circumstantial is the absence of
15 any real proof. Now it's emotional. You can't kill an
16 eight year old child without being emotional, all right. I
17 got four children, I got a son, he sits there. If you kill
18 that child when he was eight I'd gone crazy with emotion
19 with grief. But that's not the basis on which you make a
20 decision.

21 I want you to think why the state didn't put up the
22 evidence that it has within it's control. Now unlike us
23 they have an obligation to do that. We have no obligation.
24 They're obligated by law and they're obligated by their
25 responsibility to you. Not only don't I have an obligation

1 but the judge will instruct you to that effect. Remember
2 that it's the state's job. So let me ask a couple of
3 questions.

4 They collected evidence. Where is it? Why is it that
5 I have to drag out of the witnesses about the DNA? Why is
6 it that I have to drag out from the witnesses about the
7 blood - I mean the gunshot residue? Why is that I have to
8 drag out about the blood? If you're being fair, if you are
9 being forthright you don't hide that stuff.

10 Two: Where is Tyrone Robinson? Now, I concede to you
11 that he is a convicted murderer. He had been found guilty
12 of that and he's serving a life sentence. But hadn't the
13 state called him as a witness? He's certainly within their
14 control. I mean he's in the prison system somewhere's. If
15 they can subpoena all the rest of these people and produce
16 the sheriff's department people they certainly ought to be
17 able to produce somebody that is in the prison system.

18 His only comment is that the M F'ers shot at him. But
19 we don't know which and who they're talking about. But he
20 could identify Aaron Young, Junior unlike Charlese Mitchell,
21 unlike Mr. Griffin or unlike anybody else. He could have
22 gotten on that witness stand and say, ladies and gentlemen,
23 that blank blank blank blank blank that's right there shot
24 at me and tried to kill me. What do we hear? Silence is
25 deafening. Okay. That man is responsible for not doing

1 that. He didn't call Tyrone and I submit to you that he
2 didn't call him because he was scared of what he was gonna
3 say and the state didn't want you to have the whole story.

4 Where is the statement by Ebony Campbell? Albertin
5 said she took it. Didn't produce it. Where is the
6 statement from Ms. Washington? We heard her on the 911.
7 Where is the mutual combat? Where is the running gun
8 battle? Where are the witnesses who saw the running gun
9 battle? Where are the witnesses who heard the running gun
10 battle? And where is the bullet that Moran takes to or
11 whoever takes it and goes up to the Medical University?
12 Where is the results of the analysis by the forty-nine year
13 old man, forty-nine year old experienced man?

14 Now you know it's the little things in a trial that
15 tell the tale. Little things like why Bromage exaggerated
16 and tried to mislead you. Why is that the state didn't tell
17 the whole tale? Why didn't the state put up all of the
18 evidence? We'll never know. Now you're entitled to
19 construe those intentional misstatements, those omissions,
20 and the reluctance to disclose the contents of the file.
21 And you heard Albertin when I ask you about the contents of
22 the file. I don't have it with me I'll have to go get it.
23 I have to look it up to give you the truth of the matter
24 against the statement in favor of the defendant Mr. Young.

25 Now as I said in my opening statement I can't condone

1 the lifestyle, and I don't condone the language, but is that
2 enough to convict this young man of murder and attempted
3 murder?

4 Ladies and gentlemen, I submit to you that Aaron Junior
5 was mad and he was mad with provocation. He shot up the
6 car, we admit that. But he's not charged with shooting up
7 the car. He vented his anger in the wrong way grant you
8 that. But then he retreated. As a passenger in the car
9 they come down here and they turn and they go over here.
10 They're leaving.

11 Now Solicitor Stone would have you believe that they're
12 simply going back to fight another day. We'll never know
13 that. We know they didn't start this fight. We know that
14 regardless of what the past history was the Young's didn't
15 go looking for Mr. Robinson the Young's were defending
16 themselves. Now, if you wanted to get into a running gun
17 battle, and you wanted to get into mutual combat, he had a
18 gun that held thirty something bullets, he had a box of
19 ammunition, and Robinson had a six shot revolver. I mean
20 the odds are strongly in his favor. Why would he retreat?
21 He wouldn't have. That makes no sense.

22 Now you know juries like you come into the courtroom
23 and they have the job that you all have today and you
24 probably have very little experience. You remember Your
25 Honor said to you it's doubtful any of you all have served

1 on a jury before. Well it's doubtful that you have. And so
2 you come in and this whole thing revolves around what is
3 reasonable doubt.

4 And so you would think that somehow or another you're
5 supposed to have an answer to that. And let me show you
6 that lawyers have probably used billions of words trying to
7 define it and written hundreds of items trying to explain it
8 but sometimes the simplest approach is the best and that is
9 reasonable doubt is a doubt for which you can give a reason.
10 Okay. So let's look for a reason for a second.

11 I submit to you that reasonable doubt is doubt when the
12 lead investigator for the entire sheriff's department for
13 this entire case who takes statements who takes physical
14 evidence who supervises the whole thing when she testifies
15 under oath - let me make sure I get this right - that she
16 does not have a single piece of evidence that Aaron Young,
17 Junior shot at Tyrone Robinson or even pointed the gun at
18 Tyrone Robinson, or engaged in mutual combat, and with that
19 I submit to you that Tyrone - that Aaron is guilty only of
20 vandalism stupid as that sounds but that is he shot up the
21 car. Not charged with it but that's what it is.

22 Now, the solicitor gives you this piece of commentary
23 here and let's look at it. Everyone is presumed to know the
24 consequences of his act and if one voluntarily enters into
25 mutual combat - and we maintain that we don't have mutual

CLOSING ARGUMENT: BY MR. VAUX
CHARGE TO THE JURY:

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1 combat here but we'll talk about that. Is it the natural
2 consequence - is it to know the consequence of your act when
3 after committing vandalism here you drive around and you
4 come down here and you get out on a public highway and you -
5 I don't know how far that is but it's a pretty good distance
6 - that somebody is gonna start shooting at children. Okay.

7 Don't think so. And look at this. And death results
8 to one of the participating parties. We have that.

9 Now, I submit to you that based on what I've said about
10 Tyrone Robinson, the lack of introducing collected evidence,
11 the comments and the testimony of the lead investigating
12 officer about the lack of evidence, has got to supply you
13 with reasonable doubt as to murder and as to attempted
14 murder. And we ask that you bring back a verdict while it
15 may be painful while it may not make you - no verdict in
16 this case after sitting here for two days is gonna make you
17 happy, but that it's right. Not necessarily fair but is
18 right in accordance with the law. It speaks the truth as to
19 the fact that Tyrone Robinson started this mess and he ended
20 it when he shot and killed that child and not Aaron Young,
21 Junior. Thank you.

22 THE COURT: Thank you, Mr. Vaux.

23 Now, ladies and gentlemen, you have been very patient
24 and attentive throughout the arguments presented by Mr.
25 Stone and Mr. Vaux and I ask you now to please give that

1 same attention to me as I instruct you or charge you as to
2 what the law is.

3 Let me tell you at the outset before I begin these
4 instructions, they are scripted and I can tell you it's
5 gonna take about thirty-five to forty minutes. If any of
6 you feel that you need to have a break so that you can be
7 attentive throughout that thirty-five or forty minutes I can
8 declare a brief recess and let you do that right now. And
9 this is a decision that does not have to be unanimous, if any
10 one of you needs a break then all of you will get the break.
11 Anybody need one just raise your hand?

12 (NO RESPONSE.)

13 THE COURT: All right. Thank you. I appreciate that
14 and we'll proceed on.

15 As I said it now becomes my duty as the trial judge in
16 this case to instruct you or charge you as to what the law
17 is. And it is your duty as jurors to accept the law as I
18 tell it to you now and to apply the law to the facts of the
19 case that you find to exist, because as jurors it is your
20 duty to decide all issues of fact in the case and for that
21 reason you have to determine the effect, the purpose, the
22 value, the weight and the truth of the evidence that has
23 been introduced in this trial.

24 Both the state and the defendant have the right to
25 expect that you will conscientiously consider and evaluate

1 the evidence and that you will apply the law of the case to
2 that evidence to the end that both the state and the
3 defendant will receive a fair and impartial trial at your
4 hands.

5 Throughout the course of this charge when I use the
6 word defendant I'm referring to Mr. Aaron Scott Young,
7 Junior. Mr. Young has been indicted by the Grand Jury of
8 Beaufort County and charged in this indictment with murder.
9 This indictment says that in Beaufort County on or about
10 September the 1st of 2012 Aaron Scott Young, Junior did
11 willfully, unlawfully and with malice aforethought, engage
12 in mutual combat with Tyrone Robinson and thereby caused the
13 victim Khalil Singleton to be shot and killed in the area of
14 Marshland Drive and Allen Road in Hilton Head Island, and
15 that Khalil Singleton did die in Beaufort County as a result
16 thereof in violation of the law.

17 The next indictment charges Mr. Young with attempted
18 murder and that indictment says on the same date September
19 the 1st, 2012, here in Beaufort County the defendant Aaron
20 Young, Junior with the intent to kill and with malice
21 aforethought, either expressed or implied, attempted to
22 murder the victim Tyrone Robinson in violation of the law.

23 I remind you again as I told you before this trial
24 began that the indictments are not evidence nor are they
25 proof of the charges that they contain, they are simply

1 charging documents, legal documents, that tell us, you and
2 me, what these charges are all about. And as you know Mr.
3 Young has entered pleas of not guilty to the charges
4 contained in the indictment.

5 The plea of not guilty by a defendant to a criminal
6 charge places the burden of proof on the state to prove the
7 guilt of the defendant beyond a reasonable doubt before you
8 as a jury can convict him and find him guilty. Mr. Young is
9 presumed in law to be innocent of the charges contained in
10 these indictments. It is a fundamental rule of our law of
11 evidence that a defendant regardless of the nature of the
12 charges, the number of the charges, the seriousness of the
13 charges against him, will always be presumed innocent of the
14 charges for which he has been indicted unless and until his
15 guilt has been proven by evidence, evidence that satisfies
16 you as a jury of his guilt beyond a reasonable doubt.

17 The presumption of innocence is not an empty legal
18 theory. It is not a mere phrase. The presumption of
19 innocence is a substantial right. It is like a robe of
20 righteousness that is placed about the shoulders of a
21 defendant and it assigns to that defendant the class of the
22 innocent. And that presumptive robe of righteousness
23 considers - continues to rest about the shoulders of a
24 defendant throughout the course of the trial. It even
25 follows him through your deliberations as you go into your

1 jury room and begin to talk about this case.

2 The presumption of innocence continues to exist to the
3 benefit of the defendant until you are satisfied that his
4 guilt has been proven by evidence that satisfies you of that
5 guilt beyond a reasonable doubt. So, the state has that
6 burden then of proving the defendant guilty beyond a
7 reasonable doubt.

8 Some of you may have served as jurors in civil cases
9 before and if you did serve as a juror in a civil case the
10 judge told you that it is only necessary that the party who
11 has the burden of proof produce evidence to you that is more
12 convincing on that side of the argument than the evidence is
13 on the other side of the argument. But in criminal cases
14 the state's proof has to be more powerful than that. Here
15 it must be beyond a reasonable doubt. So what then is proof
16 beyond a reasonable doubt?

17 Proof beyond a reasonable doubt is proof that leaves
18 you firmly convinced of the defendant's guilt. Now there
19 are very few things in this world that you and I know with
20 absolute certainty and in criminal cases the law does not
21 require proof that over comes every possible doubt, and so
22 if based on your consideration of the evidence you are
23 firmly convinced that the defendant is guilty of the crime
24 charged you must find him guilty.

25 If on the other hand you think there is a real

1 possibility that he is not guilty you must give him the
2 benefit of the doubt and find him not guilty. I tell you
3 that reasonable doubt could arise from evidence in the case
4 or it might arise from the lack of evidence in the case. But
5 you as a jury must determine whether or not reasonable doubt
6 exist as to the guilt of this defendant.

7 I tell you that he is entitled to every reasonable
8 doubt which arises in the case. And so if on any issue of
9 fact which is necessary to a conviction you have a
10 reasonable doubt as to how that issue should be resolved it
11 is your duty to resolve that reasonable doubt in favor of
12 the defendant, because the defendant is never required to
13 prove his innocence, but the state is required in law to
14 prove every essential element of the offense charged against
15 him by evidence that satisfies you of his guilt beyond a
16 reasonable doubt before you could convict him and find him
17 guilty.

18 And in that regard I tell you now and I emphasize to
19 you that the fact that the defendant in this case did not
20 himself testify in his own behalf is not a factor to be
21 considered by you in any way in your deliberations and in
22 your consideration on the question of his guilt or
23 innocence. It must not be considered by you in any manner
24 whatsoever against him or militate against him in any
25 respect whatsoever because the defendant has a

1 constitutional right to remain silent. And if he chooses to
2 assert that constitutional right that fact cannot and must
3 not be used against him and must not be considered by you in
4 your deliberations.

5 And so under your oath then you are to reach no
6 inference and draw no conclusion whatsoever from the fact
7 that Mr. Young did not himself testify in this case. That
8 should not even be discussed by you in the jury room. The
9 burden of proof as I've told you is upon the state to prove
10 guilt beyond a reasonable doubt and the fact that the
11 defendant did not testify is not a factor to be considered
12 by you in determining his guilt or his innocence.

13 And so, ladies and gentlemen, if then upon the whole
14 case you have a reasonable doubt as to the guilt or the
15 innocence of the defendant, he is entitled to that
16 reasonable doubt and would be entitled to an acquittal and a
17 verdict of not guilty.

18 But if on the other hand upon the whole case you find
19 that the state has proven by evidence that satisfies you as
20 a jury of the guilt of the defendant beyond a reasonable
21 doubt then as such circumstances it is equally your duty to
22 convict the defendant and to find him guilty.

23 Now, ladies and gentlemen, during the trial each of us,
24 you and I, have our separate duties to perform. As the
25 trial judge it's my job to preside over the trial of this

1 case and I also have the duty to rule upon or pass upon the
2 admissibility of the evidence which has been introduced and
3 you are to consider only the competent evidence before you
4 in this case as I've instructed you earlier. The testimony
5 which has been offered from the stand and the items or the
6 documents which have been offered into the trial of this
7 case under our rules.

8 I have the additional duty to then charge you as to
9 what the law is in this case. As the presiding judge I am
10 made the sole judge of the law of the case and it is your
11 duty to accept the law as I charge it to you now to be the
12 correct law. You might have brought some preferences about
13 the law with you into your service this week. You might
14 have some ideas about what you think the law ought to be.
15 You might not like the law that I instruct you in this
16 regard.

17 But I tell you if you've got some preferences or some
18 preconceived ideas about what the law is or what it ought to
19 be you're obligated under your oath to forget what you think
20 the law is or what you would like for it to be because
21 you're obligated by the oath that you took to accept the law
22 as I charge it to you now to be the correct law.

23 Now when ever case tried in our courts before a jury
24 you as the jury as I have told you before the sole and
25 exclusive judge of the facts of the case. You're the judge

1 of the facts and I'm the judge of the law. Our constitution
2 has said that a trial judge can't comment upon the facts of
3 the case, I can't innovate or state or hint to you how I
4 might feel about the facts of the case. Since you're the
5 sole judge of the facts of the case I don't have a right to
6 have any opinion about the facts of the case, and so you're
7 not to infer from anything that I have said to you during
8 this trial, or, anything that I am saying to you now during
9 this charge that I have an opinion about the facts of the
10 case. The law does not permit that. So it's solely a
11 matter then for you as the jury to determine the facts of
12 the case and in doing that you have to decide the effect,
13 the value, the weight, and the truth of the evidence that
14 has been presented in this trial.

15 Now as you consider what the facts of the case are
16 there are a lot of things that you can take into account.
17 You have to pass upon the credibility or the admissibility -
18 Excuse me, the credibility or the believability, the
19 credibility or the believability of the testimony that
20 you've heard and the witnesses who have offered that
21 testimony. You and you alone have to decide the force and
22 the effect and the truth of the testimony that you've heard.

23 Now there are a lot of things that you can take into
24 account and when you consider that matter of truth. You can
25 take into account the appearance, the manner of the witness

1 as he or she testified from the witness stand. You have the
2 right to ask yourself whether the witness is forthright or
3 hesitant. Was a witnesses testimony consistent or did it
4 contain discrepancies? What was the ability of a witness to
5 know the things that he or she was telling you about? Did
6 the witness have an interest to be served by the testimony
7 that was being offered in this case? Was the testimony of a
8 witness made stronger by other evidence or was it made
9 weaker by other evidence in the case?

10 You have heard in this particular case witnesses who
11 have been qualified as expert witnesses. Normally lay
12 witnesses, that is normal people like you and me, can
13 express their opinions about things that they have seen or
14 heard. They can tell you what they saw or what they heard
15 as some of the witnesses have done in this case. But they
16 can't tell you what conclusions or what opinions they
17 reached as a result of what they saw or heard.

18 But expert witnesses are different from that. Expert
19 witnesses are people who have been trained or have
20 experience in certain fields and they are qualified in those
21 fields. And once they're qualified as experts in those
22 fields they're allowed to give you their opinions about
23 those matters in which they have been qualified. But you're
24 not bound by the testimony of an expert witness. You can
25 accept or reject the testimony of an expert witness just

1 like you can any witness. Because as jurors, ladies and
2 gentlemen, you've got the right to believe a small part of
3 what a single witness tells you and to disbelieve the larger
4 part of the testimony of that same witness.

5 Or you can do it the other way around. Believe the
6 larger part and disbelieve the smaller part. Or you can
7 believe everything that a witness tells you or none of what
8 a witness tells you. But you don't exercise those
9 considerations arbitrarily. There's got to be some reason
10 for you to do it and so what we ask you to do then in
11 determining the issue of truth is to exercise your mental
12 processes.

13 And as you determine what you consider to be true we
14 ask you to use your good judgment, your common sense, your
15 sense of logic and reason, and your experiences in life.
16 And you apply these abilities that each of you has that you
17 have brought into your service this week from your separate
18 and distinct walks of life, to bear on what you have heard
19 in this courtroom and once you have done that you will be
20 able to determine the truth. And once you have found the
21 truth you take that truth and you wrap it in the mantle of
22 the law that I am now giving you. And those two things will
23 come together, the truth that you find and the law that I
24 give you, to result in a verdict which will speak the truth
25 of this case.

1 Now, ladies and gentlemen, I want to instruct you as to
2 the law of the case as it bears on the separate charges
3 which are brought in these indictments. I charge you first
4 as to the law for the crime of murder.

5 Murder is defined in our law as the killing of any
6 person with malice aforethought either expressed or implied.
7 In order for the state to prove the defendant guilty of
8 murder, it must be proven beyond a reasonable doubt that the
9 defendant killed or caused the death of a person, and the
10 killing was done with malice aforethought. The state does
11 not have to require any motive for the killing but it is
12 required to prove malice.

13 So what is malice in the eyes of the law as an
14 essential element of the crime of murder? Malice is the
15 intentional doing of a wrongful act without just cause or
16 excuse and with the intent to inflict injury. Malice
17 aforethought is the deliberate and willfully on purpose to
18 do the unlawful act.

19 Aforethought means that the intention to do the
20 unlawful act was conceived or planned sometime before the
21 actual commission of the unlawful act but it does not need
22 to exist for any particular length of time prior to the act
23 in order to be malice. Malice is a word that suggest a
24 wickedness, or a hatred, or a determination to do what one
25 knows to be wrong without just cause or legal provocation.

1 As I've said malice need not be in the mind of the killing
2 or the one causing the death at any particular length of
3 time before the act in order to render the killing murder.
4 If it is present in the mind of the one doing the killing or
5 causing it at any length of time prior to the act then it's
6 presence would be sufficient to render the killing murder.

7 Malice can be expressed or inferred. Malice is said to
8 be expressed when there is shown a violent deliberate
9 intention to unlawfully take away the life of another human
10 being. Malice can be inferred where there's no excuse or
11 legal provocation for the killing and when circumstances
12 surrounding the killing show an abandoned heart, a malignant
13 heart, malice then is a hatred, it's an ill will, it is
14 hostility toward another person. It is the intentional
15 doing of a wrongful act without just cause or excuse and
16 with an intent to inflict an injury or under circumstances
17 under which the law would infer an evil intent.

18 I tell you, ladies and gentlemen, that the defendant is
19 not required to prove the absence of malice. But the state
20 is required to prove the presence of malice beyond a
21 reasonable doubt.

22 Now, Ladies and gentlemen, as you have heard throughout
23 the trial of this case it is undisputed that Mr. Young did
24 not fire the fatal bullet that killed Khalil Singleton. And
25 so the state seeks and ask for a conviction at your hands

1 under the theory of mutual combat. Now I tell you that
2 mutual combat exist when there is a mutual intent and
3 willingness to fight between persons or groups of people.

4 Mutual intent is shown by acts and conduct of the
5 parties and circumstances attending and leading up to the
6 combat. The circumstances necessary to establish mutual
7 combat include whether there is any evidence of preexisting
8 evil or ill will between the parties, or, any dispute
9 between the parties, and whether the combatants agree to be
10 armed because the history of ill will and an agreement to be
11 armed are necessary before a defendant is engaged or deemed
12 to have been engaged in mutual combat.

13 Now if you find that mutual combat exist in this
14 particular case I tell you that everyone is presumed to know
15 the consequences of his acts. And if one voluntarily enters
16 a mutual combat where deadly weapons are used, knowing that
17 they are being used, and if death results to one of the
18 participating parties, everyone engaged in such combat is
19 equally guilty. Regardless of whether he used a deadly
20 weapon or not and regardless of whether he was on one side
21 or another, that is, on the side of the one who fires the
22 shot or not, all are equally responsible for the act where
23 all are participating in mutual combat.

24 I tell you that in this charge and in every charge
25 criminal intent is a necessary element of the crime that has

1 to be proven by the state beyond a reasonable doubt.
2 Criminal intent is always a matter that has to be determined
3 by you as a jury from the circumstances surrounding the
4 situation. There is no way to prove intent to a
5 mathematical certainty, there is no way medical science can
6 dissect a person's brain and determine what he had in mind,
7 and so the law says that criminal intent may be inferred
8 from the circumstances which were shown to have existed at
9 the time, and that's how you decide whether criminal intent
10 was actually present.

11 Criminal intent then is a state of mind and it operates
12 jointly with an act in the commission of a crime. It is a
13 mental state, it is a conscious wrong doing, and it's up to
14 you as a jury to determine what the defendant intended to do
15 based on the circumstances shown to have existed. I tell
16 you that the state has to prove criminal intent beyond a
17 reasonable doubt just as it has to prove every other element
18 beyond a reasonable doubt as I have explained that to you.

19 And on the question of intent, ladies and gentlemen, we
20 deal with what we call in the law transferred intent because
21 once again it is undisputed that Mr. Robinson fired the shot
22 that killed Khalil Singleton. It is also undisputed that
23 Mr. Robinson had no intent of killing Khalil Singleton. Mr.
24 Robinson was found guilty of the crime under the law of
25 transferred intent because if a defendant with malice

1 aforethought tries to kill another person, but by mistake
2 injures or kills a different person, the defendant still has
3 the intent to kill. The intent to kill is merely
4 transferred from the original person that the defendant
5 intended to kill to the actual person who was killed or
6 injured.

7 Now in this particular case you have to decide whether
8 or not the transferred intent that followed Mr. Robinson in
9 that case also followed to Mr. Young under the mutual combat
10 theory that all who are involved are equally responsible for
11 the acts of anyone. That's a decision that you, ladies and
12 gentlemen, have to decide.

13 Now, ladies and gentlemen, I next instruct you on the
14 other charge in the indictment and that is attempted murder
15 because Mr. Young is also charged with the attempted murder
16 of Tyrone Robinson. And under our law the statute says that
17 a person who with the intent to kill attempts to kill
18 another person with malice aforethought, either expressed or
19 implied, that person is guilty of attempted murder.

20 So, what do we mean by an attempt in the eyes of the
21 law? An attempt is an act which is done in partial
22 execution of a design to commit a crime. There has to be
23 an intent as I have just described that to you that the act
24 shall be committed. And an act not done not in full
25 execution of the crime but in pursuance of the intent, that

1 is, some act acting toward the act which is intended.

2 Now an attempt is different from the preparation to
3 commit the crime. It is also different from the intent, the
4 sole intent to commit a crime because the law does not
5 punish one for the mere entertainment of a criminal intent
6 for thinking about committing a crime. To bring the law
7 into action it is necessary that some act must be done in
8 pursuant to the intent. Immediately and directly tending to
9 the commission of the crime an act which should the crime
10 had been carried out which constitute a part and a partial
11 of the crime itself. But it doesn't reach to the
12 accomplishment of the original intent because it is
13 prevented or it's voluntarily abandoned.

14 And so attempted murder then is the attempt with malice
15 aforethought as I have just described that to you in
16 connection with murder the description is the same. To
17 commit the crime of attempted murder the state has the
18 burden of proving that the defendant had the intent to kill,
19 that he attempted to kill, and that he had malice
20 aforethought in connection with the crime of attempted
21 murder in so far as Mr. Robinson is concerned.

22 Now, ladies and gentlemen, by operation of law there is
23 included in that greater crime of attempted murder what we
24 call a lesser and included offense of assault and battery in
25 the first degree, so, I now instruct you on the offense of

1 assault and battery in the first degree.

2 The law says that if a person - that a person commits
3 the offense of assault and battery in the first degree if
4 the person unlawfully offers, or attempts, to injure another
5 person with the present ability to do it, and that the act
6 or the attempt is accomplished by means likely to produce
7 death or great bodily injury. Obviously you know what we
8 mean by death. Let me define for you what great bodily
9 injury means. Great bodily injury means bodily injury which
10 causes a substantial risk of death, or, which causes serious
11 permanent disfigurement or protracted loss or impairment of
12 a function of a bodily member or organ.

13 So to recap that, the lesser included offense of
14 assault and battery in the first degree would require proof
15 beyond a reasonable doubt that the defendant offered or
16 attempted to injure Tyrone Robinson and he had the present
17 ability to do it and the act was accomplished by means
18 likely to produce death or great bodily injury as I have
19 defined that to you.

20 Now, ladies and gentlemen, the state attempts to meet
21 it's burden of proof in this case by offering both direct
22 and circumstantial evidence. There are two types of
23 evidence which are generally presented during the trial.
24 Direct evidence is evidence that directly proves the
25 existence of a fact and doesn't require any conclusions on

1 your behalf. Of course direct evidence of an eye witness
2 who takes the stand and tells you what he or she saw or what
3 he or she heard. That's direct evidence. Somebody comes in
4 and says I saw it or I heard it and here it is. It doesn't
5 require you to conclude anything about what was seen or
6 heard, you were told what was seen or heard.

7 Now circumstantial evidence on the other hand is proof
8 of a chain of facts and circumstances that leads to the
9 existence of another fact. In other words it requires some
10 deduction on your part. A simplistic example which I use
11 and have used over the years doesn't have anything to do
12 with crime, it has to do with the weather which I suppose
13 the way we're surrounded these days is probably appropriate,
14 a cold winter night like we've been having you look out
15 across your lawn and you see the dry brown dead grass of
16 winter and you go to bed. And you wake up the next morning
17 and you look out across your lawn and you see it's covered
18 with snow and you see in that snow footprints or tracks that
19 go up to your front door.

20 Well what can you conclude from that? Quite simply you
21 can conclude that after you went to bed last night it
22 snowed. You didn't see a single flake fall but you know it
23 did. And you know that sometime after it snowed somebody
24 came to your front door. You didn't see them but you know
25 that they came there. And you did all those things of

1 course by using your simple powers of deduction. And the
2 law says that crimes can be proven by circumstantial
3 evidence. The law makes no distinction between the weight
4 or the value that you give to either direct evidence or
5 circumstantial evidence.

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

12 The state has the burden of proving the defendant
13 guilty beyond a reasonable doubt and the burden rest on the
14 state regardless of whether it relies on direct evidence or
15 circumstantial evidence or some combination of the two.

16 Ladies and gentlemen, there has been offered into the
17 record of this case a statement made by the defendant in
18 this case. You saw it on the screen, you saw the transcript
19 as you followed it. You have to decide whether or not the
20 statement was made, and if you decide that it was made, then
21 you have to decide whether he made the statement
22 voluntarily. And then you will have to decide the weight
23 that you will give to the statement. You have to decide
24 whether that statement was a product of the free will and
25 the free choice of Mr. Young. The state has to prove that

1 the statement was voluntary and they have to prove that
2 beyond a reasonable doubt.

3 If you determine that the statement was given freely
4 and voluntarily, then you can give it what weight that you
5 think it should receive. If you determine that it was not
6 the free and voluntary will of Mr. Young, then you should
7 not consider it as evidence. And when you decide whether
8 the statement was free and voluntarily given you have to
9 decide the totality of the circumstances. You can consider
10 his age, his educational background if you know it, his
11 mental ability and things of that nature.

12 And when you decide whether its been voluntarily given
13 or not you should consider whether he was advised of and
14 understood his constitutional rights because our law says
15 that before any questions can be ask of someone who is in
16 custody they have to be advised, that they have the right to
17 remain silent, that if they use the statement it can be used
18 - if they make a statement it can be used against them, that
19 they have the right to have a lawyer present, if they can't
20 afford one one will be appointed to represent them free of
21 charge.

22 You can determine the place, the length of the
23 incarceration, the nature of the questioning and all of
24 those things. You must consider all of the circumstances
25 that are surrounding this statement before you can give any

1 weight to it and if you are satisfied beyond a reasonable
2 doubt that it was made by Mr. Young uninfluenced by a
3 promise of reward or threat of harm, if you find beyond a
4 reasonable doubt that it was given voluntarily, if you find
5 that he had received his rights in those regards and
6 understood them, then you can give it the weight that you
7 think it should receive.

8 If you find that the state has not met its burden in
9 that regard then you cannot give it any weight whatsoever.

10 Now, ladies and gentlemen, finally, that's a word you
11 been hanging on for a while to hear finally. Let me tell
12 you that you don't serve as jurors in this or in any case as
13 partisans or advocates either for the State of South
14 Carolina or for the defendant. You don't serve as jurors to
15 punish your enemies nor to reward your friends. Obviously
16 that would be a perverted system of justice and would not be
17 justice at all.

18 You have been selected by both the state and the
19 defendant to serve as fair and impartial jurors. It is your
20 duty then by your joint deliberations to determine the truth
21 of this case giving to this defendant the benefit of every
22 reasonable doubt on each and every issue. And then to the
23 facts which you determine to be true, you apply the law
24 which I have just given you and thus arrive at a verdict
25 which will speak the truth of this case. That's what the

1 word verdict means. It comes from a Latin phrase, it means
2 a truthful saying. And once you have done that you will
3 have discharged your duty as jurors and you will have
4 carried out the oath that you took yesterday to well and
5 truly try this case and render a true verdict according to
6 the law and the evidence so help you God. We have every
7 reason to know that you will do just that and we have every
8 reason to expect that you will do nothing less than that.

9 Now, ladies and gentlemen, I'm going to instruct you
10 now as to what the forms of the verdict are in this case. I
11 have written them down on this sheet of paper. They are
12 written in a certain order, that order doesn't have anything
13 to do with an inference of a conclusion that can be drawn by
14 you as to whether the defendant is guilty or not guilty. I
15 simply write them down here in the order that I find easiest
16 to explain.

17 There are two separate charges, murder and attempted
18 murder. You will write a separate verdict for each of those
19 two charges. Your verdict on one charge does not
20 necessarily control your verdict on another charge. Mr.
21 Young can be convicted or acquitted of either or both of
22 these charges depending upon your view of the evidence and
23 the law that you have heard. I've given the verdict to the
24 Forelady cause she's got to fill it out.

25 Madam Forelady, the first possible verdict form as to

1 the charge of murder is, "we the jury find the defendant
2 Aaron Scott Young" and the first possible verdict form is
3 guilty of murder. That's the verdict that you will arrive
4 at if you find that the state has met it's burden of proof
5 on each of those elements as I have instructed you beyond a
6 reasonable doubt. If that's the verdict form that you
7 arrive at, Madam Forelady, you will indicate that by putting
8 an X or a check mark in the space you see provided.

9 The second possible form of verdict on that charge is
10 "We the jury find the defendant on the charge of murder not
11 guilty". That's the verdict that you will arrive at if you
12 find that the state has failed to meet its burden of proof
13 as to any of those elements of the charges as I have
14 instructed you and if that's the verdict that you arrive at
15 as to the charge of murder, likewise, you will indicate that
16 by putting an X or a check mark there.

17 As to the charge of attempted murder there are three
18 possible verdict forms because as I just told you there is a
19 lesser included charge there. As well as to the charge of
20 attempted murder the possible verdict forms are guilty of
21 attempted murder. If the state has met it's burden of proof
22 as to each of the elements of the crime of attempted murder
23 as I have instructed you beyond a reasonable doubt that
24 would be your verdict and you would indicate that by putting
25 an X or a check mark there.

1 If you find that the state has not met it's burden of
2 proof in that regard you would consider the crime of assault
3 and battery in the first degree. If the state has met it's
4 burden of proof as to each of the elements of assault and
5 battery in the first degree that would be your verdict and
6 you would indicate that by putting a check mark there.

7 If you find that the state has failed to meet it's
8 burden of proof as to those other two charges beyond a
9 reasonable doubt the verdict would be not guilty and you
10 would indicate that in the space provided.

11 I've given the verdict form to the Forelady because
12 she's the person that's got to fill it out but it's not
13 gonna her verdict. The verdict has to be unanimous, all
14 twelve of you have to agree to what the verdict is, Madam
15 Forelady, before you could fill that out and sign that form.

16 I'm gonna send you to your jury room now. I ask that
17 you wait just a moment before you begin your deliberations.
18 As hard as you might find it to believe I may have left
19 something out of what I've been telling you. Or I may have
20 misstated something and if I have I have to bring you back
21 out and correct that. But if I don't have to bring you back
22 out to correct anything we will send in these items of
23 evidence and once the items of evidence have been brought
24 into you then you can begin your deliberations but not
25 before. The sketch here is demonstrative evidence, it

1 cannot go into the jury room so take a good look at it
2 before you go in there.

3 The rest of these items are items of evidence and they
4 will be introduced to you. So please now go to your jury
5 room, wait to begin your deliberations. Your food might
6 already be there, it's supposed to be there, if it is you
7 can just chow down. And you can - While you're eating you
8 can deliberate or if you choose not to discuss this case
9 while you're eating that's up to you. You've been on our
10 time all week now we're gonna be on your time. Go to your
11 jury room; wait until you hear further before you begin your
12 deliberations.

13 Mr. Bittick, Ms. Michels, if you will stay right where
14 you are. You can take your notebooks - your notes back with
15 you, yes.

16 (JURY EXITS COURTROOM TO DELIBERATE AT 12:30 P.M..)

17 THE COURT: Can we have a separate jury - Do we have a
18 separate room that we can put these folks in, a separate
19 jury room that's not being used?

20 THE BAILIFF: We can put them in another one.

21 THE COURT: Good. Mr. Bittick, Ms. Michels, you all
22 were alternate jurors and it appears that we're not gonna
23 need your services but we can't tell right this minute -
24 You have been ask to serve as alternates because if any of
25 these original twelve hadn't showed up today for example and

1 you were not there we would have to start this whole case
2 over, everything done is wasted. But the fact that you were
3 here gave us the peace of mind to know that we were gonna be
4 able to conclude this trial today. And you're just as
5 capable of reaching a verdict as they were.

6 You've paid as good attention as they were but the fact
7 is right now it looks like all of them are in good health
8 and they're gonna be able to survive until a verdict is
9 arrived at in this case. So I'm gonna send you to an
10 alternate jury room down there and ask that you wait there.
11 Well your food will be brought into you for one thing and
12 there are magazines in there and you can make yourself as
13 comfortable as you can in that jury room. And if it looks
14 like we're not gonna need you I will excuse you later but
15 I'm asking you to stay with us for a while. Okay. Thank
16 you, folks.

17 (ALTERNATE JURORS EXIT COURTROOM AT 12:32 P.M..)

18 THE COURT: Folks, other than previously - Excuse me.

19 Other than previously noted are there any exceptions or
20 request for additional charge from the state, Mr. Stone?

21 SOLICITOR STONE: No, sir.

22 THE COURT: Mr. Vaux?

23 MR. VAUX: No, sir.

24 THE COURT: Thank you. All right. Folks, if you all
25 will confer about the evidence and its all together and when

1 that's done we can send those items in. And Ms. Nelson can
2 run up to the hotel and discharge herself while the jury is
3 deliberating. Okay.

4 (COURT IN RECESS AT 12:33 P.M..)

5 (COURT BACK IN SESSION AT 01:21 P.M..)

6 THE COURT: Thank you, folks. Please be seated.
7 I'm sorry. Folks, we have a question from the jury. As a
8 matter of fact they took this question with them into the
9 jury room and I obviously did not do a good job of
10 explaining the offenses. They say "Can we have the
11 definitions of murder, attempted murder, assault and battery
12 first degree, mutual combat definitions?" As I say before
13 they sat down they wrote these questions so they hadn't
14 given a whole lot of thought to it.

15 What ever you read into that you can read into it I'll
16 just tell you. Let me take a minute to get those things
17 back together. Thankfully I have not put all this up.

18 Okay, I'm prepared to recharge on those. Everybody
19 ready?

20 SOLICITOR STONE: Yes, sir.

21 MR. VAUX: Yes, sir.

22 THE COURT: Okay. You can bring in the jury.

23 Mike, if you'll ask them to bring in the two alternates
24 as well.

25 THE BAILIFF: Do you want the two alternates to come in

1 too, Judge?

2 THE COURT: Yeah. Sorry I didn't tell you earlier.

3 Wanda, you want to go ahead and mark this and give it
4 back to me?

5 MADAM COURT REPORTER: Yes, sir.

6 THE COURT: Thank you.

7 (WHEREUPON, COURT'S EXHIBIT NUMBER TWO, IDENTIFIED AND
8 MARKED, RECEIVED INTO EVIDENCE.)

9 (JURY REENTERS COURTROOM AT 01:25 P.M..)

10 THE BAILIFF: The jury is seated, Your Honor.

11 THE COURT: Thank you. Ladies and gentlemen, you have
12 ask to get the definition again of murder, attempted murder,
13 assault and battery in the first degree and mutual combat.

14 I will now recharge you on those particular
15 definitions. I had to send back into the chambers to get a
16 book that I carried back there. I forgot it was back there
17 so it might be a slight delay but in part of this but I
18 think we can put it all together in the same order that I
19 gave it to you earlier. Let's begin with murder.

20 Murder is the killing of any person with malice
21 aforethought either expressed or implied. In order for the
22 state to prove the defendant guilty of murder, it must be
23 proven beyond a reasonable doubt that the defendant killed a
24 person, or in this case under the state's theory. caused the
25 death of a person with malice aforethought. The state is

1 not required to prove any motive for the killing but it is
2 required to prove malice so then a key element is malice.

3 Malice is the intentional Malice is the intentional
4 doing of a wrongful act without just cause or excuse and
5 with the intent to inflict injury. Malice aforethought is
6 the deliberate and willfully on purpose to do the unlawful
7 act.

8 Aforethought means that the intention to do the
9 unlawful act was conceived or planned sometime before the
10 actual commission of the unlawful act, but it need not exist
11 for any particular length of time prior to the act.

12 Malice is a word that suggest a wickedness, or a
13 hatred, or a determination to do what one knows to be wrong
14 without just cause or excuse or legal provocation. Malice
15 need not be in the mind of the one doing the act for any
16 particular length of time before the act of killing in order
17 to render the killing murder. If it is present in the mind
18 of the one doing the killing or causing the death any length
19 of time before the act then it's presence would be
20 sufficient to render the killing murder.

21 Malice can be expressed or it can be inferred. Malice
22 is said to be expressed when there is shown a violent
23 deliberate intention to unlawfully take away the life of
24 another human being. It can be inferred when there is no
25 excuse or legal provocation for the killing and when the

1 circumstances surrounding the killing show an abandoned
2 heart, a malignant heart bent upon this type of mischief.

3 Malice then is a hatred, it is a hostility or an ill
4 will toward another person. It is the intentional doing of
5 a wrongful act without just cause or excuse and with an
6 intent to inflict an injury or under circumstances that the
7 law will infer an evil intent.

8 The state is required to prove the presence of malice
9 beyond a reasonable doubt. The defendant is not required to
10 prove the absence of malice.

11 Now, ladies and gentlemen, as we know and has been
12 apparent throughout the trial of this case the defendant Mr.
13 Young is not charged with firing the shot that killed Khalil
14 Singleton. As the indictment indicates he is charged under
15 a theory surrounding mutual combat. And so mutual combat
16 exist when there is a mutual intent and a willingness to
17 fight. Mutual intent is manifested or shown by acts and
18 conduct of the parties and the circumstances attending and
19 leading up to the combat itself. The circumstances
20 necessary to establish mutual combat include whether there
21 is any evidence of preexisting ill will or dispute between
22 the two parties, that is, Mr. Young in this case and Mr.
23 Robinson, and whether the combatants agreed to be armed.
24 It requires a history of ill will and an agreement to be
25 armed before a defendant is deemed to have engaged in mutual

1 combat.

2 Because under the law of mutual combat everyone is
3 presumed to know the consequences of his acts. And if one
4 voluntarily enters into a mutual combat where deadly weapons
5 are used, knowing that they are being used, and death
6 results to one of the participating parties, or in this case
7 under the state's theory an innocent third party, everyone
8 engaged in such combat is equally guilty. Regardless of
9 whether he used a deadly weapon or not and regardless of
10 whether he was on one side or another it makes no difference
11 where all are participating in mutual combat all are equally
12 responsible for the natural consequences that are incurred.

13 Criminal intent is a necessary element of these crimes
14 and it has to be proven beyond a reasonable doubt. Criminal
15 intent is always a matter that has to be determined by the
16 jury from the circumstances surrounding the situation.
17 There is no way to prove intent to a mathematical certainty,
18 there is no way that medical science can dissect a person's
19 brain and determine what he had in mind, so the law says
20 that criminal intent may be inferred from the circumstances
21 which were shown to have existed, and that's how you make a
22 determination as to whether criminal intent was present.

23 Criminal intent then is a state of mind and it operates
24 jointly with an act in the commission of a crime. Criminal
25 intent is a mental state, it is a conscious wrong doing, so

1 it's up to you as a jury to determine what the defendant
2 intended to do based on the circumstances which are shown to
3 have existed. I tell you that the state has to prove
4 criminal intent beyond a reasonable doubt as it has to prove
5 every other element beyond a reasonable doubt.

6 Now once again, ladies and gentlemen, as we know in
7 this case Mr. Tyrone Robinson who fired the shot that killed
8 Mr. Singleton did not intend to kill - Excuse me - Yeah -
9 did not intend to kill Khalil. But under a theory of
10 transferred intent if a defendant, in this case Mr.
11 Robinson, with malice aforethought tries to kill another
12 person, but by mistake injures or kills a different person,
13 Khalil, the defendant still has the intent to kill. The
14 intent to kill is simply transferred from the original
15 person who the defendant intended to kill to the actual
16 person who was killed or injured. That is the doctrine of
17 transferred intent.

18 Now you, ladies and gentlemen, have to determine beyond
19 a reasonable doubt first of all whether there was mutual
20 combat because that is an essential element of the state's
21 proof in regard to this, not only that the young man was
22 murdered with malice aforethought, but in this particular
23 case that there was mutual combat between Mr. Robinson and
24 Mr. Young which made the acts of one of them attributable to
25 the acts of the other, and that the transferred intent that

1 applied to Mr. Robinson in the death of Khalil Singleton
2 also applied to Mr. Young. All right.

3 Now the next charge is attempted murder. Under our law
4 a person who with the intent to kill attempts to kill
5 another person with malice aforethought, either expressed or
6 implied, commits the offense of attempted murder. I had
7 previously defined for you intent. I have also previously
8 defined for you malice. So what you have to determine is
9 whether or not Mr. Young with the intent to kill Mr.
10 Robinson and with malice attempted to kill Robinson.

11 So, what is an attempt in the eyes of the law? An
12 attempt is an act which is done in partial execution of a
13 design or a plan to commit a crime. There has to be an
14 intent that the act shall be done. And there has to be an
15 act but not the completion of the act but an act done in
16 pursuance or in partial completion of the intent. So an
17 attempt is different from preparation to commit a crime, and
18 it is also different from the intent to commit a crime
19 because it is not against the law to prepare to commit a
20 crime or even to think about committing a crime. So the
21 mere entertainment of a criminal intent is not in and of
22 itself an attempt to commit a crime. that is, some act
23 acting toward the act which is intended.

24 To bring the law of attempt to commit a crime into
25 action it is necessary that some act should be done in

1 pursuant to the intent which immediately and directly
2 tending toward the commission of the crime. An act in other
3 words that if the crime had actually been perpetrated it
4 would constitute a part and a partial of the crime itself.
5 But it doesn't reach to the accomplishment of the crime
6 obviously in that case it would not be an attempt, it would
7 be a completed act. It does not reach the accomplishment or
8 the completion of the act because its prevented or it's
9 voluntarily abandoned. That's the law on intent.

10 And as I told you here is included in that law or in
11 that charge a lesser included charge of assault and battery
12 in the first degree. In other words if you find that the
13 state has failed to meet it's burden of proof as to the
14 elements of attempted murder, then you may consider the
15 offense of assault and battery in the first degree. Or you
16 can consider it separately if you choose to.

17 A person commits the offense of assault and battery in
18 the first degree if the person unlawfully offers, or
19 attempts, as I've just described that to you, to injure
20 another person with the present ability to do it, and the
21 act is accomplished by means likely to produce death or
22 great bodily injury. And so the state has to prove in this
23 regard to sustain a conviction on the charge of assault and
24 battery in the first degree that Mr. Young offered or
25 attempted to injure another person. In this case Mr.

1 Robinson and he had the present ability to carry out that
2 injury and the act or the attempt was accomplished by means
3 that were likely to produce death or great bodily injury.

4 Of course we know what death is, I need not define
5 that. But great bodily injury means bodily injury which
6 causes a substantial rise of death, or, which causes serious
7 permanent disfigurement or protracted loss or impairment of
8 the function of a bodily member or organ.

9 Ladies and gentlemen, I think I have answered all of
10 the definitions that you sent out for me. I will ask you to
11 go back in and continue to deliberations please. Thank you.

12 MADAM FORELADY: Thank you.

13 THE COURT: Thank you. And, folks, if you will go back
14 to your alternate jury room please as well. Thank you.

15 (JURY EXITS COURTROOM AT 01:38 P.M..)

16 THE BAILIFF: The jury is clear, Your Honor.

17 THE COURT: Thank you. Mr. Stone, exceptions or request
18 for additional charge?

19 SOLICITOR STONE: No, sir.

20 THE COURT: Thank you. Mr. Vaux?

21 MR. VAUX: Yes, sir.

22 THE COURT: Yes, sir.

23 MR. VAUX: First, Your Honor, I would ask that you
24 preinstruct them on intent and malice. Without doing so you
25 omit a key part of the charge of murder. Second, - -

1 THE COURT: I'm sorry, say that again now.

2 MR. VAUX: Without including the definition of intent
3 and malice you said as I previously had instructed you about
4 malice you leave out the two key elements of the - of
5 murder. Second -

6 THE COURT: Did I not completely charge them on malice
7 this time?

8 SOLICITOR STONE: You did. I understand what Mr. Vaux
9 is saying but what you did is you said previously when you
10 were doing attempted murder ---

11 THE COURT: Yes.

12 SOLICITOR STONE: --- you had just got through giving
13 charges on malice as well as intent ---

14 THE COURT: Right.

15 SOLICITOR STONE: --- at the murder charge. So when
16 you said previously you weren't talking about the first
17 charge, you were talking about --

18 MR. VAUX: I took it - I didn't take it that it was the
19 complete charge on intent and malice.

20 THE COURT: No. I had - When I was charging murder I
21 gave the same malice charge that I gave before.

22 MR. VAUX: Right. Okay.

23 THE COURT: I chose not to give the malice charge when
24 I was charging attempted murder cause I had just given it
25 once already. I mean just two seconds before. And actually

1 that's the same way I did it when I charged them the first
2 time I think.

3 MR. VAUX: Then this time you added in the portion
4 about mutual combat you added portions of third party which
5 I don't believe you included the first time.

6 THE COURT: I did not. I did not.

7 MR. VAUX: And I think that's a comment on the facts
8 and it's an unfair burden if you will on the defendant and I
9 would take exception to that.

10 THE COURT: I understand. And I know that you're
11 right, I did add it this time. I added it for clarification
12 because the charge on - from Brown refers to - refers to a
13 death of one of the participants. And of course that is not
14 the theory that we're operating under in this particular
15 case and I don't think it's a correct statement of the law
16 as I had previously held the law to be in my previous
17 rulings pretrial. Because if the mutual combat applies only
18 to the circumstances where in this case Mr. Robinson or Mr.
19 Young were killed then I would have granted your motion to
20 quash the indictment initially.

21 But as you recall I denied that motion on the basis of
22 the fact that I held that the transferred intent is a matter
23 of law for these purposes would transfer into an innocent
24 third party for the reasons I put on the record at that
25 time. But you're right, I did add it and if I got it wrong

1 in pretrial I got it wrong again but I think it's a correct
2 statement of the facts and the law.

3 MR. VAUX: Can I have one second?

4 THE COURT: All right.

5 MR. VAUX: My only other comment is that the parties
6 took no exception to your beginning instructions and to
7 change it now is confusing to the jury and misleading to
8 them.

9 THE COURT: I understand. Of course its not unusual
10 when we recharge to try to make it a little plainer than we
11 did before to avoid confusion. But you're right it's
12 different, there's no question about that and I trust it was
13 not misleading but if it was I'll be corrected by somebody
14 else I'm sure.

15 MR. VAUX: Yes, sir.

16 THE COURT: Thank you.

17 MR. VAUX: Thank you.

18 THE COURT: Thank you. All right.

19 SOLICITOR STONE: Thank you, Your Honor.

20 THE COURT: Thank you all.

21 (COURT IN RECESS AT 02:00 P.M..)

22 (COURT BACK IN SESSION AT 03:20 P.M..)

23 THE COURT: Thank you, folks, you all can be seated.

24 The question from the jury ask for a copy of the
25 transcript of Mr. Young's interview. And as it was

1 correctly pointed out at side bar the transcript itself is
2 not in evidence. The video is, the transcript is an aide and
3 therefore the only way to do this within the rules is to
4 replay the video with the transcription below it. I do
5 think the transcription is necessary to assist the jurors
6 understanding some of it. The jury will be preinstructed of
7 course that they're ear is as good as the transcriber's and
8 they are to resolve any differences between what they think
9 it says and what it says in favor of what they think it
10 says. All right, are both sides ready for the jury?

11 SOLICITOR STONE: Yes, sir, the state's ready.

12 MR. VAUX: Yes, sir.

13 THE COURT: Good. Bring us the jury please.

14 (JURY REENTERS COURTROOM AT 03:25 P.M..)

15 THE COURT: Ladies and gentlemen, you had ask for us to
16 send in a copy of the transcript of Mr. Aaron Young's
17 interview. The transcript itself is not in evidence and so
18 I could not send the transcript in. The transcript as I
19 told you earlier is an aide to assist you if it provides
20 assistance and understanding what the audio actually says
21 and so I brought you back out so that you could hear it
22 replayed. You can hear what he's saying you can see what
23 the transcriber says. I remind you again that the
24 transcriber is just typing what he or she thought Aaron
25 Young was saying.

1 Now if your hearing says that he was saying one thing
2 and the transcription says something else, you go with your
3 hearing cause your hearing is just as good as the
4 transcribers. But if it serves as an aide to you of course
5 you can follow it, so that's the reason we're going to
6 replay the transcription and of the video and the audio of
7 Mr. Young's statement. Okay.

8 Yes, sir.

9 (WHEREUPON, STATE'S EXHIBIT NUMBER THIRTY-EIGHT,
10 PUBLISHED TO THE JURY AT 03:28 P.M..)

11 THE COURT: Ladies and gentlemen, that completes the
12 interview. I'm gonna ask you to go back to your jury room
13 and continue deliberations. Let us know if you need
14 anything further. Thank you.

15 (JURY EXITS COURTROOM AT 03:44 P.M..)

16 THE COURT: Thank you. Mr. Stone, anything further
17 from the state?

18 SOLICITOR STONE: No, sir.

19 THE COURT: Mr. Vaux, from the defense?

20 MR. VAUX: No, sir.

21 THE COURT: All right. Thank you. Folks, we'll
22 continue to stand at ease until we hear from the jury.
23 Thank you.

24 (WHEREUPON, COURT'S EXHIBIT NUMBER THREE, IDENTIFIED
25 AND MARKED, RECEIVED INTO EVIDENCE.)

1 (COURT AT EASE AT 03:45 P.M..)

2 (COURT BACK IN SESSION AT 03:58 P.M..)

3 THE COURT: Thank you, folks, please be seated.

4 Ladies and gentlemen, we are advised that the jury has
5 reached a verdict. Are both the state and the defense ready
6 to receive the verdict?

7 SOLICITOR STONE: The state's ready, Your Honor.

8 MR. VAUX: The defense is ready.

9 THE COURT: Thank you. Folks, those of you who have
10 been here following this case for the last couple of days
11 with considerable interest, I appreciate very much the
12 dignity and the respect that you have shown these
13 proceedings throughout. As the verdict is announced there
14 may be some emotional feelings that whel up in you; I
15 understand that. It will be expected. There might be
16 relief there might be disappointment.

17 I don't know what its gonna be and I don't want to
18 prolong this any longer other than to ask you to please
19 continue to use the same respect, dignity, the decorum and
20 restraint that you have used throughout these proceedings.
21 But if you feel like you might not be able to control your
22 emotions when the verdict is announced, whatever it is, I'd
23 be glad to give you this opportunity to leave the courtroom.
24 If you remain here I will expect you to abide by those
25 instructions. Thank you.

VERDICT:

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1 Bring us the jury.

2 THE BAILIFF: The jury is entering the courtroom, Your
3 Honor.

4 THE COURT: Thank you, ma'am.

5 (JURY REENTERS COURTROOM AT 04:00 P.M..)

6 THE COURT: Thank you. Madam Forelady, have you
7 reached a verdict?

8 MADAM FORELADY: Yes we have.

9 THE COURT: Is it a unanimous verdict?

10 MADAM FORELADY: It is.

11 THE COURT: Will you please hand it to the bailiff
12 please, ma'am?

13 (VERDICT RECEIVED UP BY THE COURT.)

14 THE COURT: Thank you. Madam Clerk, you may publish
15 the verdict.

16 MADAM CLERK: As to Indictment of 2012-GS-07-1932 the
17 charge of murder we the jury find the defendant Aaron Scott
18 Junior guilty of murder.

19 As to Indictment Number 2014-GS-07-1940 the charge of
20 attempted murder we the jury find the defendant Aaron Scott
21 Junior guilty of attempted murder.

22 THE COURT: Now you can ask the question.

23 MADAM CLERK: Madam Forelady, ladies and gentlemen of
24 the jury, if this is the decision of each and everyone of
25 you please indicate so by raising your right hand?

VERDICT:

-570-

1 (ALL JURORS AFFIRMED BY RAISING THEIR RIGHT HANDS.)

2 (OUTBURST FROM THE COURTROOM.)

3 A. No. No. No. No. No. No.

4 MADAM CLERK: Put your hands down.

5 THE COURT: We will give just a moment to let them deal
6 with her.

7 A. Oh, no, not my -- You all wrong, you all is wrong.

8 He's not guilty. He ain't guilty. Not my brother.

9 Oh, you all can't do this.

10 (BLACK FEMALE ESCORTED FROM THE COURTROOM.)

11 THE COURT: Mr. Vaux, does the defense desire polling
12 the jury?

13 MR. VAUX: Yes, sir, Your Honor.

14 THE COURT: Ladies and gentlemen, you are now going to
15 be polled by the clerk. That means your names are gonna be
16 called individually. As your names are called if you will
17 please stand in place right where you are she will ask you
18 is this your verdict, was this your verdict, and is it still
19 your verdict or questions to that effect, and please give
20 whatever the appropriate answer is.

21 Madam Clerk.

22 MADAM CLERK: Juror 123, please stand.

23 (ASIAN MALE STOOD.)

24 MADAM CLERK: Is this yoru verdict?

25 JUROR ONE TWENTY-THREE: Yes.

VERDICT:

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1 MADAM CLERK: Is this still your verdict?
2 JUROR ONE TWENTY-THREE: Yes.
3 MADAM CLERK: You may be seated.
4 Juror two eighty-five.
5 (BLACK FEMALE STOOD.)
6 MADAM CLERK: Is this your verdict?
7 JUROR TWO EIGHTY-FIVE: Yes.
8 MADAM CLERK: Is this still your verdict?
9 JUROR TWO EIGHTY-FIVE: Yes.
10 Juror forty-one.
11 (WHITE MALE STOOD.)
12 (DISTURBANCE AND OUTBURST FROM THE COURTROOM HALLWAY.)
13 MADAM CLERK: Is this your verdict?
14 JUROR FORTY-ONE: Yes, ma'am.
15 MADAM CLERK: Is it still your verdict?
16 JUROR FORTY-ONE: Yes, ma'am.
17 MADAM CLERK: Juror four thirty-seven.
18 (HISPANIC FEMALE STANDS.)
19 MADAM CLERK: Is this your verdict?
20 JUROR FOUR THIRTY-SEVEN: Yes.
21 MADAM CLERK: Is this still your verdict?
22 JUROR FOUR THIRTY-SEVEN: Yes.
23 MADAM CLERK: Juror one twenty-four.
24 (WHITE FEMALE STANDS.)
25 MADAM CLERK: Is this your verdict?

1 JUROR FOUR THIRTY-SEVEN: Yes.
2 MADAM CLERK: Is this still your verdict?
3 JUROR FOUR THIRTY-SEVEN: Yes.
4 MADAM CLERK: Juror forty-five.
5 (WHITE FEMALE STOOD.)
6 MADAM CLERK: Is this your verdict?
7 JUROR FORTY-FIVE: Yes.
8 MADAM CLERK: Is this still your verdict?
9 JUROR FORTY-FIVE: Yes.
10 MADAM CLERK: Juror Fifty-nine.
11 (WHITE FEMALE STOOD.)
12 MADAM CLERK: Is this your verdict?
13 JUROR FIFTY-NINE: Yes.
14 MADAM CLERK: Is this still your verdict?
15 JUROR FIFTY-NINE: Yes.
16 MADAM CLERK: Juror three sixty-seven.
17 (BLACK FEMALE STOOD.)
18 MADAM CLERK: Is this your verdict?
19 JUROR THREE SIXTY-SEVEN: Yes.
20 MADAM CLERK: Is this still your verdict?
21 JUROR THREE SIXTY-SEVEN: Yes.
22 MADAM CLERK: Juror nineteen.
23 (WHITE FEMALE STANDS.)
24 JUROR NINETEEN: Yes.
25 MADAM CLERK: Is this still your verdict?

1 JUROR THREE SIXTY-SEVEN: Yes.

2 MADAM CLERK: Juror four one one.

3 (WHITE FEMALE STANDS.)

4 MADAM CLERK: Is this your verdict?

5 JUROR ONE-ELEVEN: Yes, ma'am.

6 MADAM CLERK: Is this still your verdict?

7 JUROR ONE-ELEVEN: Yes, ma'am.

8 MADAM CLERK: Juror three eighty-six.

9 (WHITE FEMALE STANDS.)

10 MADAM CLERK: Is this your verdict?

11 JUROR THREE EIGHTY-SIX: Yes.

12 MADAM CLERK: Is this still your verdict?

13 JUROR THREE EIGHTY-SIX: Yes.

14 MADAM CLERK: Juror three sixty.

15 (WHITE FEMALE STANDS.)

16 MADAM CLERK: Is this your verdict?

17 JUROR THREE SIXTY: Yes.

18 MADAM CLERK: Is this still your verdict?

19 JUROR THREE SIXTY: Yes.

20 THE COURT: Thank you.

21 MADAM CLERK: You're welcome.

22 THE COURT: Is there anything further before the jury

23 is dismissed, Mr. Vaux?

24 MR. VAUX: No, Your Honor.

25 SOLICITOR STONE: No, sir.

1 (DEFENDANT REMOVING BRAIDS FROM HIS HAIR.)

2 THE COURT: Thank you. Ladies and gentlemen, I want to
3 thank you for your service this week. The emotions which
4 you have heard expressed in this courtroom today are
5 understandable. You heard on September the 1st of 2012 the
6 emotions that were expressed over the 911 call when the
7 event that set all of these proceedings into motion began.

8 Those were heart felt emotions as well for obvious
9 reasons. Because that was a tragic event lives were taken,
10 a life was taken, all lives were changed including lives in
11 this courtroom today. But none of that, none of that falls
12 at your feet, none of that is your responsibility. You have
13 done what you were ask to do. You have listened to the
14 evidence and the testimony and you have rendered a verdict
15 which you found to be true according to your view of the
16 evidence and the law.

17 You don't have to answer to anyone except your own
18 conscious for the verdict that you have reached. I have sat
19 here today and yesterday and I have heard the evidence in
20 this case. I was a trial judge in the earlier trial. I
21 heard the evidence in that trial as well. And I can tell
22 you, ladies and gentlemen, that you don't need to have any
23 fear of your conscious for the decision that you have
24 reached in this particular case.

25 Ladies and gentlemen, you're gonna be excused now.

1 There is still a matter of sentencing that's my
2 responsibility not yours. You are free to stay for that if
3 you want to but if you've had all of this you want to you're
4 free to go.

5 Madam Forelady, I'm gonna ask that you remain in the
6 jury room for just a moment. The Clerk has to bring the
7 indictments down there for you to sign those. You've signed
8 the sentence sheet but there's a place on the indictment
9 that has to be signed as well. That can be done in the jury
10 room, she'll bring that down there to you.

11 You were exposed this week to a side of life that is
12 foreign to you all and we understand that and we apologize
13 for that. We have to deal with those things in this court
14 more often than we would like. I appreciate the fact that
15 you have given this attention and that you have given
16 thoughtful deliberation. I never comment upon the verdicts
17 which jurors reach. I'm glad that those are your decisions
18 and not mine.

19 But I do comment upon the quality of your service. You
20 have been thoughtful, you have been attentive, you have been
21 prompt, you have been thorough and deliberate in your
22 evaluations. You did not rush to judgment. You have ask
23 for more about the law, you have ask for more about the
24 facts, you did not make a decision in this case until you
25 were sure it was the right decision and that's the way this

1 process should work. And we appreciate the thoroughness
2 that you have brought to it.

3 Let me tell you that I hope you never find yourself
4 caught up in this situation. I hope you never find yourself
5 seated over here where the Singleton family is seated, the
6 family of the victim. I hope you never find yourself seated
7 over here where the relatives of Mr. Young who were so
8 emotional and understandably so were seated. I hope you
9 never find yourself or any relatives of yours that are dear
10 to you caught up in a situation like this. But let me tell
11 you, you don't have to volunteer to get caught up in this
12 situation. These folks didn't volunteer to get caught up in
13 it either.

14 And while I hope that that never happens to you, or to
15 any family member, if it ever does and if you ever find
16 yourself seated in this courtroom, or one like it, where
17 these folks are seated, where these folks are seated, when
18 the jury comes in on Monday morning like you all did Monday
19 morning it's gonna be the jury that's gonna be selected to
20 try your case and when you turn and you look into the faces
21 of those jurors you're gonna hope that you look into faces
22 of people just like yourselves. People who have better
23 things to do and who would rather be doing those things but
24 who have been willing to set those things aside and help us
25 do the things that we have to do, unpleasant things

1 sometimes, but necessary things, things that cannot be done
2 without your services.

3 The last thing that you want us to do to try a case
4 that you have a personal interest in is to wonder around the
5 streets of Beaufort to see if we can't scrape up twelve
6 people who don't have a better thing in the world to do than
7 to come in this courtroom and decide your case.

8 Nobody wants that kind of juror. They want folks like
9 you. These folks wanted folks like you and you have given
10 that sort of jury and we are all grateful for that. You are
11 now free to talk about this case with anybody that you want
12 to if you care to but you don't have to.

13 And so if someone should ask you about how you did what
14 you did why you did what you did what went on in the jury
15 room, what your impression was of this proceeding, you don't
16 have to talk about those matters if you don't want to. You
17 are free to say anything that you would like to however if
18 you care to.

19 Ladies and gentlemen, I won't belabor the point any
20 more. Bad weather's coming in and I'm gonna let you go with
21 our thanks for what you've done in this case. Thank you.

22 (JURY DISMISSED AT 04:10 P.M..)

23 THE COURT: Mr. Vaux, I'll be glad now to hear motions.

24 MR. VAUX: Your Honor, we ask that you act as the
25 thirteenth juror and to basically either grant a new trial

1 or to act as the thirteenth juror.

2 THE COURT: Thank you, Mr. Vaux. I find that this was
3 throughout a quintessential jury question. All of the
4 issues were presented to the jury, the issue of guilt and
5 innocence of course obviously always. The issue of whether
6 mutual combat applied, or whether transferred intent
7 applied. Those matters which are obviously are now issues
8 for Appellate review or will be as they should be.

9 The jury heard everything that we've heard. The
10 verdict of the jury was supported by the evidence in this
11 case, once again taking that evidence in the light that it
12 needs to be taken in. It is supported by the evidence and
13 for that reason I must respectfully deny your motion for a
14 new trial. I decline to act as a thirteenth juror in this
15 case. The twelve jurors who did act I felt acted within the
16 facts and the law and so the motions are respectfully
17 denied.

18 MR. VAUX: Thank you, Your Honor.

19 THE COURT: All right. Is the state ready to proceed
20 to sentencing?

21 SOLICITOR STONE: The state is ready, Your Honor. If I
22 could have just a moment to speak to the family for just a
23 moment.

24 THE COURT: All right. Thank you.

25 Mr. Vaux, is the defense ready to proceed to

1 sentencing?

2 MR. VAUX: Yes, sir.

3 THE COURT: Thank you.

4 MR. VAUX: Your Honor, may Mr. Young, Senior, the
5 grandfather come forward?

6 THE COURT: I'll be glad to hear from him. You talking
7 about Mr. Benny Young?

8 MR. VAUX: Yes, sir.

9 THE COURT: Yeah. I'll be glad to. What does security
10 say to that, gentlemen? I'm gonna leave that up to you all.
11 I can hear - I'll be glad to hear him if he wants to stay
12 outside behind the bar. I'll leave those questions up to
13 the folks who are in charge of security. I never usurp
14 their responsibilities in that regard.

15 (MR. VAUX AND DEFENDANT AARON YOUNG STAND.)

16 THE COURT: You ready, Ms. Wanda?

17 Mr. Solicitor.

18 SOLICITOR STONE: Your Honor, his prior record is a
19 disturbing school for 19 - from 2011 a few months prior to
20 this incident taking place, and I think in fact that there
21 was actually some reference to that in his statement that we
22 had taken out to make sure that the jury did not have any of
23 that information. I've spoken to the family, the family
24 does not wish to address you. Of course, Your Honor, as you
25 know they addressed you after the Tyrone Robinson case and

1 that was certainly a difficult ordeal. But from that
2 standpoint, Your Honor, you are more than familiar with the
3 facts of the case and the circumstances and so from that
4 standpoint that is our position. We will leave that to you.

5 THE COURT: Thank you. Mr. Vaux, I'll be glad now to
6 hear from you, from Mr. Young, or anyone on his behalf.

7 MR. VAUX: Your Honor, I'd like for Benny Young to
8 speak, the grandfather.

9 THE COURT: All right. Mr. Benny Young, I'll be glad
10 to hear from you, sir.

11 BENNY YOUNG: Judge, ever since this thing happened our
12 family they emotionally tore up from both parts. They have
13 been here, my grandson and everything but, Your Honor, in
14 all fairness we feel and more than we feel like the people
15 in the community also felt that if the law enforcement had
16 dealt with Mr. Tyrone Robinson when he was on this rampage
17 tearing up Hilton Head, tearing up Spanish Wells, tearing up
18 Marshland Road we would still have Khalil. Now you're
19 blaming it all on little Aaron. But they took a stand
20 because nobody else wouldn't take a stand against Tyrone
21 Robinson.

22 (BENNY YOUNG SLAPPED HAND ON COURTROOM BAR/DIVIDER AND
23 POINTING.)

24 BENNY YOUNG: Law enforcement, you know this too but
25 Khalil had to die and --

1 (EMOTIONAL OUTBURST FROM COURTROOM.)

2 THE COURT: Mr. Young.

3 THE DEFENDANT: They don't care, y'all, I don't care,
4 y'all, they already convicted me so there ain't nothing you
5 can tell me, brother, that's all right.

6 Bob Bromage, you all know and all that stuff you all
7 did you all promised me I wouldn't be tried y'all and y'all
8 know this and you all didn't bring this up and you sat right
9 here and --

10 BENNY YOUNG: Aaron. Aaron.

11 (SHOUTING FROM DEFENDANT AND PERSON IN COURTROOM.)

12 THE DEFENDANT: Nothing, nothing, mother fucker, you
13 all better remember my face fuckin nigger.

14 BENNY YOUNG: Aaron.

15 THE DEFENDANT: You know you did that files stuff, man.
16 Khalil brother ---

17 (OUTBURST FROM DEFENDANT AND MULTIPLE PARTIES IN
18 COURTROOM.)

19 THE COURT: You can take Mr. Young, take Mr. Young.

20 THE DEFENDANT: --- that's why I say that in my
21 testimony right or wrong. Everything you all, you all, you
22 all, say nothin, nothin, we gave up them --

23 (DEFENDANT ESCORTED FROM COURTROOM TO HOLDING CELL.)

24 (LOUDER OUTBURST/DISTURBANCE FROM THE COURTROOM.)

25 THE COURT: Folks.

1 (COURT STANDING AND STRIKING THE BENCH.)

2 THE COURT: Let me tell you, this is not a circus.

3 BENNY YOUNG: I understand.

4 THE COURT: This is not Marshland Road. This is a
5 court of law.

6 BENNY YOUNG: Yes, sir.

7 THE COURT: And if I hear another outburst like that
8 unfortunately other members of Aaron Young's family is gonna
9 spend the night in jail. I don't want to do that. I've got
10 all that I need to do in dealing with this case. I'll be
11 glad to hear anything positive that you want to say on
12 behalf of your relatives so I can take that into account in
13 passing sentence.

14 I will not hear another word of condemnation against a
15 police officer or court officials or anybody else who make
16 up a part of this process. This jury has spoken, his guilt
17 has been determined. Tyrone Robinson is spending the rest
18 of his life in jail. They have dealt with him and now I'm
19 going to deal with Aaron Young, Junior. I do not want to
20 have to put you all in jail either.

21 And, Mr. Benny Young, you brought that on by your own
22 outburst and I can appreciate your emotion. I understand
23 that. I'm a grandfather myself but I want you to know that
24 that sort of outburst over in that neighborhood is the sort
25 of thing and that temperate by everybody on both sides of

1 this is what leads to events like this in the first place.

2 BENNY YOUNG: Yes, sir, Your Honor.

3 THE COURT: Now if there's anything else you want to
4 tell me about your grandson ---

5 BENNY YOUNG: Yes, Your Honor.

6 THE COURT: --- I'll be glad to hear from you but I'm
7 not gonna hear another word of condemnation about these
8 folks.

9 BENNY YOUNG: I understand that, Your Honor, that's
10 just the way it happened. I may have said something
11 disrespectful to the courts and I'm sorry about that but
12 that's just the way it happened. And I can't change that,
13 Your Honor.

14 THE COURT: All right, sir. I understand that.

15 BENNY YOUNG: And I appreciate the court going through
16 the decision of all this and I would really appreciate
17 lenience on my grandson.

18 THE COURT: I understand that, Mr. Young. Thank you.
19 Does anybody else wish to be heard on this matter?

20 MR. VAUX: No, sir, other than me.

21 THE COURT: All right. Mr. Vaux, I'll be glad now to
22 hear from you, sir.

23 MR. VAUX: Yes, sir. I just need a second.

24 THE COURT: I understand.

25 MR. VAUX: Your Honor, this is a unique situation.

1 THE COURT: Right.

2 MR. VAUX: Obviously from a law point of view and the
3 new law but it's also - People know it's wrong to kill
4 somebody.

5 THE COURT: Right.

6 MR. VAUX: And I mean we don't need to presuppose that,
7 we've learned that. But I'm not sure that within society
8 that the business about mutual combat is fully understood
9 and appreciated as I think Your Honor said the or the
10 solicitor said the case has been on the books since 1918 and
11 as the Chief Justice said it ain't used very often.

12 THE COURT: Right.

13 MR. VAUX: I can tell you it's the first time it's been
14 used in Beaufort County in forty-two and a half years. Your
15 Honor I think was a year or two ahead of me in law school
16 and you've tried a lot more criminal cases than I have and
17 maybe you tried a mutual combat case before ---

18 THE COURT: No, sir.

19 MR. VAUX: --- but I think if you had I'd heard about
20 it.

21 THE COURT: It's the first one here.

22 MR. VAUX: And so, Your Honor, from that point of view
23 I'd ask that you not give him the maximum. I think you can
24 send a message that you need to send.

25 THE COURT: Right.

1 MR. VAUX: Not saying obviously that I agree with the
2 jury's verdict, I understand it. But you - And I think - I
3 don't think the solicitor would disagree with me - the point
4 of the - in addition to the death of Khalil which was a
5 tragedy he has handled that from the point of view of the
6 person who pulled the trigger.

7 THE COURT: Right.

8 MR. VAUX: I think part of the reason that he's taken
9 the stand he's taken is to send a message ---

10 THE COURT: Right.

11 MR. VAUX: --- to St. Helen, to Bluffton. We've had a
12 couple of shootings this year in Bluffton which are group
13 mob, gag, whatever you want to call it.

14 THE COURT: Right.

15 MR. VAUX: You can send that message without dropping
16 the bomb imposing a life sentence. I don't think frankly as
17 a biased attorney that it's fair to sentence him to the same
18 thing that you sentenced Tyrone to.

19 THE COURT: I don't disagree with that.

20 MR. VAUX: And that's what I'd ask and I'd ask that you
21 - And he's a young man. He can be rehabilitated I hope
22 after this afternoon. Thank you.

23 THE COURT: Thank you. I understand that not only the
24 death Khalil and everything that's happened since that time
25 my understanding is that most of these folks are related.

1 Some are Robinson's and some are Young's are related. As a
2 matter of fact we had the one juror who was related to
3 everybody on both sides. And so I can appreciate the fact
4 that that even adds to the emotional terror for both
5 families and make it probably more difficult for those folks
6 to deal with each other in the future.

7 And, Mr. Benny Young, I appreciate the emotions that
8 you have. I can understand that. What I was talking to you
9 about was the venting of those emotions in such a way that
10 it created a disturbance here in the courtroom when it did.
11 I would expect you to have the feelings that you had. I
12 understand that.

13 BENNY YOUNG: Thank you, Your Honor.

14 THE COURT: Okay. Thank you. I appreciate where
15 you're coming from and I'm sorry that you as an innocent
16 party as innocent as the parties are caught up in this.
17 Victims in your own rights of some sort. Family members all
18 have to suffer loss as their loss is permanent. Your loss
19 thankfully is not that same but its still a severe loss.

20 Do we have sentencing sheets here?

21 Would you all check and see if Mr. Young wishes to come
22 out for the sentencing and if he wishes to say anything? If
23 he does not he does not have to.

24 MR. VAUX: Your Honor, may I be excused just a second?

25 THE COURT: Sure.

1 (DEFENDANT REENTERS COURTROOM.)

2 THE COURT: Mr. Vaux, do you know if Mr. Aaron Young,
3 Junior has anything he wants to say at this time?

4 MR. VAUX: He does not, Your Honor.

5 THE COURT: Thank you.

6 MR. VAUX: Now he says he wishes to say something, Your
7 Honor.

8 THE COURT: All right. Mr. Young, I'll be glad to hear
9 from you. Understand that the jury has spoken and I accept
10 the jury's verdict. What I want to hear from you is there
11 anything that you feel I should take into account in
12 deciding whether to sentence you to thirty years in jail or
13 life imprisonment. Those are - Or anything in between of
14 course. Those are the choices that I have and that's what
15 I'm trying to decide right now. So anything that you can
16 tell me that will help me make that decision I'll be glad to
17 hear from you.

18 MR. VAUX: He says he has nothing to say, Your Honor.

19 THE COURT: All right. Thank you.

20 (PAUSE.)

21 THE COURT: Mr. Young, on the charge of murder under
22 Indictment Number 1932 and the charge of attempted murder
23 under Indictment Number 1940 the sentences are the same, you
24 are to be committed to the State Department of Corrections
25 for a period of thirty years. The sentences run concurrent

1 to each other, get credit for time served.

2 SOLICITOR STONE: Thank you, Your Honor.

3 THE COURT: Thank you.

4 MR. VAUX: Thank you, Your Honor.

5 THE COURT: Thank you all.

6 (DEFENDANT ESCORTED FROM THE COURTROOM.)

7 THE COURT: All right, folks, we're still in session
8 please. Thank you.

9 Mr. Solicitor, I take it that concludes the work of the
10 court?

11 SOLICITOR STONE: I apologize, Your Honor. Yes, sir.

12 SOLICITOR STONE: Yes, sir.

13 THE COURT: All right. Thank you. Thank you ladies
14 and gentlemen, court is adjourned. Sine die. Thank you.

15 (COURT ADJOURNED AT 04:15 P.M..)

16 (END OF TRANSCRIPT OF RECORD.)

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CERTIFICATE OF REPORTER

State of South Carolina)
)
County of York)

I, Wanda Nelson, Official Court Reporter for the Sixteenth Judicial Circuit for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Beaufort County, South Carolina, on the 23rd, 24th, 25th, days of February, 2015.

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

Wanda Nelson

Wanda Nelson, CVR-M
Certified Verbatim Reporter,
Official Court Reporter,
Notary Public, in and for
The State of South Carolina.

My Commission Expires: 1/21/2021

DATE:

June 17, 2015

STATE OF SOUTH CAROLINA

COUNTY OF Beaufort
STATE VS.

Aaron Scott Young Jr

AKA:

Race: AFRICAN AME Sex: M Age: 21

DOB: SS#:

Address:

City, State, Zip:

DL#: SID#:

*CDL Yes [] No [] CMV Yes [] No [] Hazmat Yes [] No []

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

TO: Murder / Murder

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2012GS0701932

A/W#: 2012A0720300113

Date of Offense: 9/1/2012

S.C. Code §: 16-03-0010; 16-03-0020

CDR Code #: 0116

SENTENCE SHEET

[X] CONVICTED OF or [] PLEADS

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

[] NON-VIOLENT [X] VIOLENT [] SERIOUS [X] MOST SERIOUS [] Mandatory GPS(CSC w/minor 1st or Lewd Act) [] §17-25-45

The charge is: [X] As Indicted, [] Lesser Included Offense, [] Defendant Waives Presentment to Grand Jury. (defendant's initials)

The plea is: [] Without Negotiations or Recommendation, [] Negotiated Sentence, [] Recommendation by the State.

ATTORNEY:

Swanson, Hunter

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

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

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

[X] CONCURRENT or [] CONSECUTIVE to sentence on:

[X] The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.

[] The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

[] RESTITUTION: [] Deferred [] Def. Waives Hearing [] Ordered

Total: \$ plus 20% fee: \$

Payment Terms:

[] Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)

§ 14-1-211(A)(1) (Conv. Surcharge)

§ 14-1-211(A)(2) (DUI Surcharge)

§ 56-5-2995 (DUI Assessment)

§ 56-1-286 (DUI Breath Test)

Proviso 47.9 (Public Def/Prob)

§ 14-1-212 (Law Enforce. Funding)

§ 14-1-213 (Drug Court Surcharge)

§ 50-21-114 (BUI Breath Test Fee)

§ 56-5-2942(J) (Vehicle Assessment)

Proviso 90.5 (SCCA Surcharge)

3% to County (if paid in installments)

TOTAL

\$100

\$100

\$12

\$25

\$500

\$25

\$150

\$50

\$40/ca

\$5

\$3.90

\$133.90

PTUP

days/hours Public Service Employment

Obtain GHD []

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling []

Random Drug/Alcohol testing []

Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ beginning\$ paid to Public Defender Fund

Other:

[] Appointed PD or appointed other counsel,
§ 47.12 requires \$500 be paid to Clerk
during probation.

Clerk of Court/Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

Presiding Judge

Judge Code:

Sentence Date:

State's Exhibit No. 1
photo.

(Transported to the Appellate Court)

State's Exhibit No. 2
CD – 911 audio

(Transported to the Appellate Court)

State's Exhibit No. 3
photo

(Transported to the Appellate Court)

State's Exhibit No. 4
photo

(Transported to the Appellate Court)

State's Exhibit No. 7
photo

(Transported to the Appellate Court)

State's Exhibit No. 8
photo

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State's Exhibit No. 9
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State's Exhibit No. 10
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State's Exhibit No. 11
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State's Exhibit No. 16
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State's Exhibit No. 19
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State's Exhibit No. 20
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(Transported to the Appellate Court)

State's Exhibit No. 21
photo

(Transported to the Appellate Court)

State's Exhibit No. 22
photo

(Transported to the Appellate Court)

State's Exhibit No. 23
photo

(Transported to the Appellate Court)

State's Exhibit No. 38
CD – Aaron Young, Junior – interview
(Transported to the Appellate Court)

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of General Sessions

Thomas W. Cooper, Jr., Circuit Court Judge

Appellate Case No. 2015-000508
Case Nos. 2012-GS-07-1932 & 2014-GS-07-1940

The State,

Respondent,

v.

Aaron Scott Young, Jr.,

Appellant.

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.



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