

**ORIGINAL**

**VOL II of II**

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM SALUDA COUNTY

J. Michael Baxley, Circuit Court Judge

**RECEIVED**

FEB 27 2015

**SC Court of Appeals**

THE STATE,

RESPONDENT,

V.

GERALD RUDELL WILLIAMS,

APPELLANT

APPELLATE CASE # 2013-002304

RECORD ON APPEAL

DAVID ALEXANDER  
Appellate Defender

South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
PO Box 11589  
Columbia, SC 29211-1589  
(803) 734-1330

Attorney for Appellant

ALAN WILSON  
Attorney General

JOSHUA L. THOMAS  
Senior Assistant Deputy Attorney General

Office of the Attorney General  
PO Box 11549  
Columbia, SC 29211

(803) 734-3727

Attorneys for Respondent

## INDEX

|                                                      |     |
|------------------------------------------------------|-----|
| INDEX .....                                          | i   |
| TRIAL TRANSCRIPT (dated October 14 – 17, 2013) ..... | 1   |
| INTRODUCTIONS .....                                  | 9   |
| JURY SELECTION .....                                 | 12  |
| PRETRIAL MOTIONS .....                               | 52  |
| OPENING STATEMENTS(S) BY MR. MAYER .....             | 126 |
| OPENING STATEMENT(S) BY MR. CASTO .....              | 145 |
| TESTIMONY                                            |     |
| ROBERT ZEB SHORTER .....                             | 150 |
| RHONDA ADAMS .....                                   | 208 |
| YCEDRA WILLIAMS .....                                | 216 |
| JOSEPH WRIGHTON .....                                | 252 |
| AL JEROME YOUNG .....                                | 269 |
| JERRY GRENIER .....                                  | 295 |
| WILLIAM BRETT LONG .....                             | 322 |
| JESSE QUATTLEBAUM .....                              | 335 |
| KES HOLMES .....                                     | 368 |
| MARION SCOTT WILSON .....                            | 405 |
| SELINA KINARD .....                                  | 434 |
| THOMAS EDWARD DARNELL .....                          | 465 |
| JAMES WILLIAM GREEN .....                            | 500 |

|                                                                          |     |
|--------------------------------------------------------------------------|-----|
| COURTNEY SMITH.....                                                      | 527 |
| AMANDA WEBB .....                                                        | 533 |
| RENEWAL OF PRIOR MOTIONS AND OBJECTIONS.....                             | 551 |
| TESTIMONY                                                                |     |
| HUE TANG.....                                                            | 562 |
| ORIENTHAL JERMAINE CHARLEY .....                                         | 576 |
| CLOSING STATEMENT(S) BY MR. CASTO .....                                  | 641 |
| CLOSING STATEMENT(S) BY MR. MAYE.....                                    | 657 |
| CHARGE ON THE LAW.....                                                   | 690 |
| VERDICT .....                                                            | 722 |
| SENTENCING .....                                                         | 738 |
| COURT EXHIBIT 1.....                                                     | 743 |
| COURT EXHIBIT 1-A .....                                                  | 749 |
| COURT EXHIBIT 2.....                                                     | 755 |
| COURT EXHIBIT 3 ALREADY TRANSPORTED TO THE COURT AND<br>UNDER SEAL ..... | 758 |
| INDICTMENTS .....                                                        | 762 |
| CERTIFICATE OF COUNSEL.....                                              | 768 |

1 leaving fingerprints behind. That's generally why,  
2 in my opinion, why they wear gloves.

3 BY MR. YOUNG:

4 **Q** But it won't prevent the collection of evidence  
5 from the inside of that glove, will it?

6 **A** No, sir, it won't.

7 **MR. YOUNG:** No further questions.

8 **THE COURT:** All right. Then, sir, you may step  
9 down and you're free to leave, if you wish. Have a  
10 good day.

11 **THE WITNESS:** Thank you, sir.

12 **THE COURT:** Ladies and gentlemen, we're going  
13 to take our lunch break at this time. And what we  
14 will do, we will be in recess until two o'clock.  
15 And enjoy your lunch. Again, with whomever you have  
16 lunch, please don't discuss the case. Lunch is on  
17 your own. Have a good lunch. It's a beautiful day  
18 outside. We'll see you back at two o'clock. We'll  
19 remain where we are as you depart the courtroom.

20 Counsel, step up and let's talk about  
21 scheduling as the jury's leaving, please.

22 (The jury was excused for lunch.)

23 **THE COURT:** All right. Court's in recess now  
24 until two o'clock.

25 (Whereupon, there was a luncheon recess.)

1           **THE COURT:** All right. Let's bring in the  
2 jury.

3           (The jury returns to the courtroom.)

4           **THE COURT:** All right. Welcome back, ladies  
5 and gentlemen. How was lunch? We trust it was  
6 nice, and glad to have you back. You will recall we  
7 were at -- we remained in the State's case in the  
8 morning hour, we're still there.

9           Please call your next witness.

10          **MR. YOUNG:** Thank you, Your Honor. We call  
11 James Green.

12          **THE COURT:** Please come forward and take the  
13 oath of a witness, sir.

14                       JAMES WILLIAM GREEN,

15           having been duly sworn, testified as follows:

16                       DIRECT EXAMINATION

17          BY MR. YOUNG:

18          **Q**     Sir, would you give us your full and complete  
19 name, where you work and what you do for a living?

20          **A**     My name is James Green -- excuse me -- James  
21 William Green, G-r-e-e-n. I'm a firearms examiner  
22 working at the South Carolina Law Enforcement  
23 Division, commonly referred to as SLED.

24          **Q**     Sir, how long have you been doing that job?

25          **A**     Since June of 2005, so roughly eight and a half

1 years.

2 Q Just for the purpose of instructing the jury  
3 about what that means, would you tell them what that  
4 kind of job entails?

5 A Firearms identification is a subsience of the  
6 larger science of tool mark identification.  
7 Firearms identification deals with the origin of  
8 fired bullets and fired cartridge cases. If we have  
9 a case where evidence is submitted to the lab and  
10 there's only cartridge cases, for instance, we can  
11 look at the cartridge cases and based on the  
12 characteristics imparted on the areas that the  
13 cartridge cases are marked by the firearm, how many  
14 firearms may have been involved, was there one gun  
15 involved, two guns involved, three guns involved,  
16 that kind of thing?

17 So our job is primarily to determine the source  
18 of fired ammunition components, I mean bullets  
19 and/or cartridge cases, and tying them back to a  
20 particular firearm or firearms if they're submitted.

21 Q All right, sir. And what qualifies you to  
22 become this kind of person who does this job for  
23 SLED?

24 A When I was hired at SLED in 2005. I started  
25 the firearms identification course of instruction,

1       which was roughly a three-and-a-half-year course of  
2       instruction studying under court-qualified firearms  
3       examiners. At first, there's a lot of reading and  
4       studying, note taking, watching them, observing them  
5       and seeing what they do, how they do what they do.

6               And as I progressed through the training, I got  
7       to get on the microscope, the comparison microscope  
8       rather, which is two microscopes connected by a  
9       single ocular bridge and that let's us look at two  
10      different items under different magnifications or  
11      similar magnifications under different lighting  
12      sources and lighting angles. At the end of the  
13      training cycle, I was given a comprehensive final,  
14      some practical cases where my training officer  
15      created cases and I had to provide the answers.

16      **Q**     The persons you're talking about are court  
17      qualified, these persons have been with SLED  
18      themselves for a period of time?

19      **A**     Yes, sir.

20      **Q**     Okay. Now, do you have any other education or  
21      training?

22      **A**     I have a bachelor's degree from Charleston  
23      Southern. I also have a master's degree from  
24      Charleston Southern, and I completed the South  
25      Carolina Criminal Justice Academy.

1       **Q**     Okay, sir.

2               **MR. YOUNG:** Your Honor, we would --

3       **Q**     Well, let me ask you a couple other questions  
4               first. How many times have you been involved in the  
5               past in examination of firearms in terms of  
6               identification and analysis?

7       **A**     How many times have I testified or how many --

8       **Q**     How many times have you been involved in the  
9               investigation --

10      **A**     For the last eight years, thousands of case.

11      **Q**     Okay. And how many times have you been  
12             qualified as an expert and testified in cases in  
13             general sessions court or other courts?

14      **A**     Twenty times in general sessions.

15      **Q**     Have you been qualified as an expert every  
16             time?

17      **A**     Yes, sir.

18              **MR. YOUNG:** Your Honor, we would offer him, at  
19             this time, as an expert in firearms identification?

20              **THE COURT:** All right. Are there questions  
21             concerning expertise?

22              **MR. MADSEN:** Judge, I just didn't hear how many  
23             times did he say he'd been qualified as an expert?

24              **THE WITNESS:** Twenty.

25              **MR. MADSEN:** I have no objection.

1           **THE COURT:** All right. Then there is no  
2 objection and thus the witness is so qualified. You  
3 may proceed.

4           BY MR. YOUNG:

5           **Q**     Mr. Green, I'm going to start with the mundane,  
6 sir. The first mundane thing I must do is ask you,  
7 if you would please, to take a look at State's  
8 Exhibit Number 33 and also State's Exhibit Number 17  
9 and State's Exhibit Number 16 and ask you can you  
10 identify those items?

11          **A**     Ladies and gentlemen of the jury, whenever  
12 evidence is submitted to the SLED laboratory,  
13 particularly the firearms department, we mark each  
14 item, if it's large enough, with the item number,  
15 the SLED lab number, and our initials, and I did  
16 that on all of these for State's Exhibit 33. It's  
17 also still in a sealed bag, heat-sealed bag, which  
18 has my initials and my date on it. If y'all will  
19 pardon me just a minute, I'll make sure. (Pause.)

20          **Q**     Would it assist you if we open the bag?

21          **A**     I got it. State's Exhibit 33 is SLED item or  
22 lab item numbers 9 through 12 -- excuse me -- 9  
23 through 22.

24          **Q**     Okay. And those items that you are holding  
25 there, are those items that you examined?

1       **A**     Yes, sir.

2       **Q**     Sir, can you tell us the origin of those rounds  
3       in terms of how they were submitted to you?

4       **A**     Yes, sir. All of these items were in this  
5       container, container A, as I received them, which  
6       was a sealed envelope.

7       **Q**     And, sir, if you would, if you would, please,  
8       could you begin from the time they were -- may have  
9       left -- may have departed another department on the  
10      27th of August until they became in your possession?

11      **A**     Yes, sir. Agent Thomas Darnell, who testified  
12      earlier this morning, had custody of container A and  
13      then took it to, what we call, the latents evidence  
14      return holding, which is a secured evidence vault.  
15      Only people -- members of that department have it.  
16      And he did that on September 13th of 2012.

17             On September 18th of 2012, Lesa Chapman, which  
18      is administrative assistant or forensic technician  
19      for the latent print crime scene department, I  
20      retrieved container A from latents return holding  
21      and took it downstairs to evidence control or log-in  
22      and gave it to forensic technician, Patricia Crooks,  
23      who then the same day transferred it to a evidence  
24      bin. On September 18th, 2012, Patricia Crooks  
25      received container A from the bin or the shelf and

1 put it in firearm evidence intake storage.

2 Q And did, subsequently, she return it to you?

3 A Excuse me.

4 Q Did she subsequently give it to you?

5 A Yes, sir, she did. She gave it to me on the  
6 18th of September 2012.

7 Q And these -- we're talking now, specifically  
8 again, about these shell casings indicated here as  
9 State's Exhibit 33?

10 A Yes, sir. State's Exhibit 33 was in a sealed  
11 container of container A when I received it on  
12 September 18, 2012.

13 Q Now, since you're in the business of  
14 identification, you have to have something to  
15 compare that with, correct?

16 A Yes, sir.

17 Q Okay. So did you receive other firearms in  
18 connection with this for which you may make some  
19 connection to, and I would refer specifically, did  
20 you receive State's Exhibit 17 and State's Exhibit  
21 16?

22 A State's Exhibit 17 is an AA Arms model AP9,  
23 it's a 9mm Luger caliber semiautomatic pistol, which  
24 was submitted and it was SLED item 23. I did --  
25 this is a firearm exam and the serial number

1 matches. The serial number is 053915. And it bears  
2 my markings as having examined it.

3 **Q** Thank you, sir. Now, would you refer also to  
4 the second item that I referred to in the firearms  
5 box?

6 **A** State's Exhibit 16 is the Smith & Wesson model  
7 SW40VE .40 Smith & Wesson caliber pistol with the  
8 serial number of DSL5282, which I examined in this  
9 case, and it was SLED item 24.

10 **Q** All right, sir. I'd like to start with that  
11 while you hold it in your hand, and again this is  
12 the SLED item number 24. Would you describe, from  
13 the date of August 27th until you received it, who  
14 handled that firearm until it came in your  
15 possession?

16 **A** On August 27th, Agent Tom Darnell transferred  
17 container J, which is this box, to the photography  
18 department for photographing. On September 12th of  
19 2012, forensic scientist, Ben Vanadore, who works in  
20 the photography department, took custody of it, put  
21 it back -- took photographs and put it back into the  
22 studio 266.

23 The next day, September 13th, 2012, Agent Tom  
24 Darnell took custody of it, and on the same day, put  
25 it in latents evidence return holding. On the 18th,

1       it went from forensic technician, Lesa Chapman,  
2       September 18th of 2012, it went from Lesa Chapman to  
3       Patricia Crooks down at evidence control, down into  
4       firearms evidence intake storage. And later on that  
5       afternoon, Patricia Crooks got it from evidence  
6       intake storage and gave it to me on September 18th,  
7       2012.

8       **Q**     As laborious as it may sound, sir, I'm going to  
9       ask you to do exactly the same thing with the other  
10      firearm that you received. With that -- the firearm  
11      you just described was a .40 caliber?

12      **A**     Yes, sir.

13      **Q**     The other one is a 9mm type weapon?

14      **A**     Yes, sir.

15      **Q**     Would you refer to that one and give us -- from  
16      the date of August 27th?

17      **A**     On August 27th, Tom Darnell took State's  
18      Exhibit 17, or SLED item number 23, to latents  
19      evidence return holding. On August 31st, 2012, Lesa  
20      Chapman, the forensic technician for latent print  
21      department, I retrieved it and took it down to Nikki  
22      Hughes in evidence control. Nikki, on the same day,  
23      put it in firearms intake storage. On September the  
24      11th, 2012, Patricia Crooks retrieved it from the  
25      evidence room, firearms evidence intake storage.

1 And I took custody of it on September 11th, 2012.

2 Q All right, sir. So 9/11. Sir, with regard to  
3 these firearms and the cartridge casings, now that  
4 you had them all in your custody and received them,  
5 were they received in sealed containers?

6 A Yes, sir.. Everything I received was in a  
7 sealed container.

8 Q Was there any indication of any damage to the  
9 seal other than might have been done in the normal  
10 course of operations within SLED?

11 A No, sir.

12 Q And you have protocols on those, by the way,  
13 don't you, that prevent you from actually looking  
14 into them and taking further steps if there's some  
15 indication of tampering, correct?

16 A Yes, sir. If the seal is broken, we are to  
17 notify our supervisor and then put notes or like a  
18 description in our evidence tracking system  
19 notifying that when we received it, it was unsealed.

20 Q There was nothing here indicating such?

21 A No, sir.

22 Q All right, sir. Now, this comparison business  
23 that you were talking about, how do you do this?

24 A As I described before, we have a comparison  
25 microscope. What I do personally is when I get a

1 case before -- I'll get the evidence from wherever I  
2 get it from, a log-in or another examiner, I'll take  
3 a photograph of the packaging as I received it.  
4 I'll open it up and I'll take a packaging {sic} from  
5 when I received it to when I open it up to the  
6 individual items. That way when I'm repackaging, I  
7 know which bag goes with each item. Once I go  
8 through all the evidence taking pictures of it, then  
9 I'll start my examinations.

10 If we have 9mm cartridge cases, for instance,  
11 and .45s, you can shoot a 9mm and .45 sometimes if  
12 you wrap it with enough tape, but the cartridge case  
13 is going to swell, there's going to be signs. I did  
14 not see any of those signs in this case. So I did  
15 not compare the 9mm cartridge case to any of the  
16 .40s.

17 I started looking at the .40 caliber cartridge  
18 cases and seeing if they were all fired by one gun  
19 or by multiple firearms. After I did that, I  
20 started filling out the firearms worksheet listing  
21 all the pertinent information. Then I retrieved the  
22 firearms, made sure they were safe to fire. We have  
23 a two-story vertical water tank that we shoot into.  
24 We do that because the water slows the bullets down,  
25 but it doesn't add to or take away from any of the

1 markings.

2 I took each firearm by itself, shot it. I  
3 retrieved the test specimens and looked at them  
4 under the microscope to see if they were marking  
5 consistently. Once I was satis -- were satisfactory  
6 markings on the cartridge cases, I looked at them  
7 versus the evidence cartridge cases. And I do that  
8 for each firearm in the case.

9 **Q** Now, I would like you to refer specifically, I  
10 believe, to items 9 through 22, which are I believe  
11 in the State's evidence bag marked as State's  
12 Exhibit 33. Would you refer specifically to that  
13 bag and tell me if items 9 through 22 bear any  
14 relationship to the test firings and comparisons  
15 that you made with regard to the 9mm and .40 cal  
16 weapons that are in the boxes on the desk next to  
17 you?

18 **A** Yes, sir. State's Exhibit 33, referring to the  
19 one 9mm Luger caliber cartridge case, was fired by  
20 State's Exhibit 17. And then I don't know if you  
21 can see it, but all the gray cartridge cases is  
22 State's Exhibit 33, they're the Tool ammo brand .40  
23 Smith & Wesson caliber cartridge cases, items 13  
24 through 22, the SLED item numbers, they were all  
25 fired by State's Exhibit 16.

1       **Q**     All right. And those are the .40 cal rounds  
2       associated with the .40 caliber pistol that you hold  
3       there?

4       **A**     Yes, sir. State's Exhibit 16 fired the steel  
5       cartridge cases in this bag, State's Exhibit 33.

6       **Q**     All right, sir. Now, sir, while you have that  
7       Smith & Wesson semiautomatic pistol in your hand,  
8       are you familiar with the manufacturing of this  
9       particular type of weapon?

10      **A**     Yes, sir. Manufacturing in how it's actually  
11      made or --

12      **Q**     Well, in terms of the commonality of it. Is  
13      this a commonly found weapon in society?

14      **A**     Smith & Wesson is one of the major firearm  
15      manufacturers in the United States. They sell a lot  
16      of firearms. I can't give you an exact number. The  
17      Sigma series, which is -- is what part of, is their  
18      lower price point series. They've got the higher  
19      custom-end shops. So these are more prevalent than  
20      the higher-end firearms. And we see these commonly  
21      in the lab, in the firearms department.

22      **Q**     Is it one of the more common firearms found on  
23      the street?

24      **A**     Yes, sir, it is, but we encounter them quite  
25      often. I don't know if it's common on the street,

1 but we encounter them quite often.

2 Q So within your business, it's very common?

3 A I've seen quite a few of these, yes, sir.

4 Q Okay. Now, that particular weapon and as well  
5 as this 9mm are referred to as magazine fed, are  
6 they not?

7 A Yes, sir.

8 Q What is a magazine?

9 A For the Smith & Wesson Sigma, this is a  
10 detachable box magazine. What you do is you take  
11 the cartridges, you load them in here and they go  
12 all the way, you know, you can load one or you can  
13 load 14, which is the capacity of this magazine.  
14 You insert the magazine into the magazine weld and  
15 you'll hear it click, and then you can either hit  
16 the slide release or the slide latch or pull the  
17 slide back a little bit and let it go. And what  
18 that'll do is the slide will strip the top cartridge  
19 from the magazine and load into the chamber and the  
20 pistol's ready to fire.

21 Q That type of particular weapon, is it referred  
22 to in the category of single action, double action,  
23 automatic, semiautomatic? Can you describe it in  
24 those kind of terms?

25 A This is a semiautomatic double action only

1 pistol. And what that means is when you pull the  
2 trigger -- excuse me -- remember a second ago I said  
3 you put the magazine in the pistol and you let the  
4 slide go forward. When you pull the trigger,  
5 although the hammer is cocked, it's only partially  
6 cocked. Pulling the trigger completes the cocking  
7 cycle. And a full pull of the trigger releases the  
8 hammer, lets the hammer or the firing pin go forward  
9 striking the cartridge setting off the firing  
10 sequence and the slide will recoil and the firearm  
11 will be partially cocked again. You pull the  
12 trigger, complete the cocking mechanism and go that  
13 way. So it's double action meaning -- excuse me --  
14 double action only, meaning you can't shoot it  
15 without pulling the trigger completely.

16 **Q** Okay. And will it fire as often as you can  
17 pull the trigger until the magazine is empty?

18 **A** Yes, sir. As fast as you can pull the trigger  
19 barring any type of malfunction, the pistol will  
20 fire as long as you have ammunition in the magazine.

21 **Q** Okay. And if that one would carry 14 in the  
22 magazine, is it also possible to put one in the  
23 chamber ahead of it?

24 **A** Yes, sir. You can put one in the magazine,  
25 load the magazine, let the slide go forward, which

1 -- the magazine, then load 14, so that you could --  
2 with this magazine, you could fit 15 cartridges in  
3 this pistol.

4 Q So it's capable of up to 15 rounds firing?

5 A Yes, sir.

6 Q As fast as you can pull the trigger?

7 A Yes, sir.

8 Q All right. With regard to the other weapon  
9 that you examined that night -- day, excuse me,  
10 would you please examine the other box? And is  
11 there a magazine associated with that particular  
12 firearm?

13 A Yes, sir. This is also a detachable box  
14 magazine. The primary difference on these two  
15 pistols, other than caliber, is the magazine is not  
16 in the grip, it's forward of the trigger.

17 Q All right, sir. And that particular magazine,  
18 what is the capacity of that magazine?

19 A The manufacturer's specification is listed as a  
20 nominal or an approximate 20-round magazine.  
21 However, when I tested it, I was able to fit 21  
22 cartridges into it.

23 Q Okay. So the magazine is capable of up to 21  
24 in that particular magazine?

25 A Yes, sir.

1 Q Whereas another one might not be?

2 A Right. The other one may hold 20 or 19,  
3 depending on how tight the spring is.

4 Q And then it's -- is it also possible, as with  
5 the other firearm, to possibly place one in the  
6 chamber and add to the total amount of making it 22?

7 A Yes, sir.

8 Q Does that one also work in a semiautomatic or  
9 automatic fashion or single shot fashion? How does  
10 it work?

11 A This is a semiautomatic single action pistol,  
12 meaning that all you have to do is pull the trigger  
13 and the hammer falls or the striker goes forward.  
14 You don't complete the firing sequence or the  
15 cocking sequence by pulling the trigger.

16 Q Okay. And will that fire in a semiautomatic  
17 fashion as fast as you can pull the trigger?

18 A Yes, sir.

19 Q All right. Now, is -- just, from the  
20 standpoint of malfunction, just to give an expert's  
21 opinion, what does a stovepipe mean to you? Does  
22 that mean anything to you?

23 A When you hear stovepipe, that commonly means  
24 failure to extract or failure to feed. When the  
25 bolt comes forward under recoil, it strips the

1       cartridge off the magazine and for whatever reason,  
2       it doesn't go into the chamber, it'll do what they  
3       call stovepipe. It'll stick straight up. And it's  
4       just a design, not a design flaw, but a malfunction  
5       in the gun from when it takes something off the  
6       magazine, for whatever reason, it doesn't feed in  
7       the proper origination.

8       **Q**     So, in that case, basically, would it be a  
9       situation where the round has been fired from the  
10      cartridge possibly and then the actual ejection  
11      process isn't completed in some way?

12      **A**     You could have a stovepipe with an empty fired  
13      cartridge case or you could have a stovepipe with a  
14      unfired cartridge.

15      **Q**     Thank you. Would you return that to the box,  
16      please, sir?

17      **A**     (Witness complies.)

18      **Q**     And, sir, as a final question, you issued a  
19      report with these conclusions then; is that correct?

20      **A**     Yes, sir.

21           **MR. YOUNG:** I don't have any further questions.  
22      Would you please answer those the defense may have  
23      for you?

24           **THE COURT:** Cross-examination.

25

\*\*\*\*\*

1 CROSS-EXAMINATION

2 BY MR. MADSEN:

3 Q Agent Green, and I think the report that the  
4 Solicitor asked you about, you had issued or dated  
5 it January 15th of 2013; is that correct?

6 A Hang on. Let me grab my copy.

7 Yes, sir.

8 Q And besides the items of evidence that the  
9 Solicitor asked you about, you received another  
10 firearm that I believe was identified as item two,  
11 correct?

12 A Yes, sir.

13 Q And that was a Smith & Wesson model SW40VE  
14 semiautomatic pistol, correct?

15 A Yes, sir.

16 Q And that's actually -- item number two is  
17 exactly the same make and model as item number 24  
18 that was submitted to you?

19 A Yes, sir.

20 Q And you did the same type of test firing on  
21 that gun, didn't you?

22 A Yes, sir.

23 Q And, in fact, you indicated that items 10, 11  
24 and 12, the cartridge casings had been fired by  
25 pistol number two?

1       **A**     Yes, sir.

2       **Q**     And I believe you indicated that item number  
3       nine was fired by the, I'm going to call it, the  
4       Tec-9, which I think is the piece of evidence, 16,  
5       in front of you?

6       **A**     State's Exhibit 17 is the AA Arms, which is  
7       what --

8       **Q**     State's 17, okay.

9       **A**     -- people call it Tec-9 because they look  
10      similar.

11      **Q**     It's not a Tec-9, though?

12      **A**     No, sir.

13      **Q**     Okay. Sorry.

14      **A**     They're virtually identical.

15      **Q**     And so you're also provided some slugs, are you  
16      not?

17      **A**     Yes, sir, some bullets, yes.

18      **Q**     And when we say bullets, what you're talking  
19      about is what's been fired out of the end. So that  
20      cartridge casing is left. The bullet is basically  
21      the projectile?

22      **A**     Right. A cartridge is a complete unfired piece  
23      of ammunition. And once it's fired, you have what's  
24      called the cartridge case, which the primer which  
25      designates the gunpowder inside, and you've got a

1 bullet or a projectile that travels down the barrel  
2 once the cartridge is fired.

3 Q And item number seven was a fired bullet that  
4 you received?

5 A Yes, sir.

6 Q And then item number eight you list as two  
7 fired bullets, correct?

8 A Yes, sir.

9 Q And you've got in parentheses to note that item  
10 number eight came to you as bullet taken from  
11 kitchen of residence on the evidence submission  
12 forms, didn't you?

13 A Yes, sir.

14 Q But it's not a bullet; there were two bullets  
15 in there, weren't there?

16 A Correct.

17 Q So that had passed through a bunch of people's  
18 hands prior to getting to you. It's listed as one  
19 bullet, but when you find out -- or you put on there  
20 and say, hey, that's wrong, this is actually two  
21 bullets, and then you divide it up into 8.1 and 8.2,  
22 don't you?

23 A Yes, sir.

24 Q Additionally, when you receive item number two,  
25 you also put on your report in italics that, hey,

1       there's some unfired cartridges that weren't listed  
2       in the evidence submission form, but I found them in  
3       there also?

4       **A**     Yes, sir.

5       **Q**     So that's passed through a bunch of hands and  
6       you say, whup, that's a little bit different than  
7       what I received. There's something else in there,  
8       right?

9       **A**     Right. Yes, sir.

10      **Q**     And the same thing for item number 23, which is  
11      the 9mm?

12      **A**     Yes, sir. There were some unfired cartridges  
13      there as well.

14      **Q**     And that wasn't caught by anyone prior to you?

15      **A**     If it -- as with all these, if it were, it was  
16      not noted, so yes, sir.

17      **Q**     And so that's why you put it in there to say,  
18      hey, that's a little bit different?

19      **A**     Right. I hadn't seen any indication, so I put  
20      it on there.

21      **Q**     And the slugs that you test, you can't match  
22      them to any of the firearms that are submitted to  
23      you, can you?

24      **A**     Correct. I looked at them versus each other  
25      and then I looked at each one of those versus tests

1 from the guns.

2 Q And you were negative on all of that, weren't  
3 you?

4 A On the two Smith & Wesson pistols. On the 9mm,  
5 it was negative. On the Smith & Wesson pistols, it  
6 was inconclusive, meaning it could have been -- or  
7 they could have been fired by this gun, the other  
8 gun or the combination of those guns or some other  
9 guns that weren't submitted with the same rifling  
10 specifications.

11 Q You just can't tell?

12 A Right. There's not enough markings for me  
13 there to say yes or no.

14 Q But your report had also indicated that they  
15 would be consistent with bullets located into some  
16 kind of .40 Smith & Wesson or a 10mm auto caliber  
17 cartridges?

18 A Yes, sir. They're basically -- the 10mm  
19 cartridge is the parent cartridge of the .40 Smith &  
20 Wesson caliber cartridge. So they use the same  
21 diameter bullets.

22 Q Just a different -- one's in, I guess, inches  
23 and the other one's millimeters, is that --

24 A The .40 Smith & Wessons actually -- well, the  
25 10mm is in millimeters, but the .40 Smith & Wesson

1 actually determines -- is the measurement in inches  
2 of the diameter of the base of the bullet.

3 Q And you had mentioned also some gun type  
4 manufacturer. Smith & Wesson's a big gun  
5 manufacturer. Everyone's heard of that.

6 A Yes, sir.

7 Q There are other ones. Glock, I think, is a  
8 pretty large gun manufacturer?

9 A Yes, sir.

10 Q H&K, which is Heckler and --

11 A Heckler & Koch, yes, sir. They're primarily  
12 European, but you're starting to see more of them  
13 over here, yes, sir.

14 Q Hi-Point?

15 A Yes, sir.

16 Q Any other big -- handgun?

17 A Ruger.

18 Q Ruger?

19 A Taurus.

20 Q Taurus is a big one. So there are a bunch of  
21 different that make .40 caliber weapons also?

22 A Yes, sir.

23 Q And in your business, there's a pretty big  
24 difference, when you receive something and it says  
25 it's a slug, to you that means a fired bullet, does

1           it not?

2           **A**     Yes, it does. It's not the correct  
3           terminology, but we've come to expect that's what  
4           people call it.

5           **Q**     Well, and in fact, I think on the SLED  
6           evidence, it'll list fired bullets as slug, doesn't  
7           it?

8           **A**     Well, slugs in terms of firearms identification  
9           is a term used for shotguns where you shoot slugs  
10          out of a shotgun. It's a big piece of lead or  
11          copper-coated lead to be shot out of a shotgun, but  
12          people do commonly describe incorrectly bullets as  
13          slugs.

14          **Q**     And as far as the fired bullets that you  
15          received, none can be matched to either of those two  
16          weapons or item number two that you received, can  
17          they?

18          **A**     The 9mm I can definitively say did not fire  
19          those bullets.

20          **Q**     Because it's a different caliber?

21          **A**     Well, different caliber, difficult rifling  
22          specifications. The bullets submitted had the same  
23          rifling specifications like those on State's Exhibit  
24          16 and on SLED item two. They both had the same  
25          number of lands and grooves, which is the rifling.

1 They both had the same dimension, land and groves.

2 When a firearm company, Glock, HK, Hi-Point,  
3 Smith & Wesson, all the ones we just spoke about  
4 design a firearm, they design it with certain class  
5 characteristics. They say, we're going to make a  
6 .40 Smith & Wesson caliber pistol. We want it to  
7 have five lands and grooves with a right-hand twist,  
8 and then we want the lands and grooves, which is the  
9 rifling in the barrel, to have a certain  
10 measurement.

11 The bullets submitted have the same  
12 measurements as State's Exhibit 16 and the other  
13 gun. That's not saying they were fired by those  
14 guns. They're just saying the rifling  
15 specifications were similar.

16 Q And that's because they're the same make and  
17 model?

18 A Yes, sir.

19 Q And if I understand correctly, if I'm going to  
20 use a gun, generally in this -- do you have to have  
21 the magazine to actually fire it?

22 A That pistol, no, sir. As long as there's a  
23 cartridge in the chamber, that pistol will fire  
24 without a magazine.

25 Q But to get the cartridge in the chamber, I

1       guess I would have to load the magazine first,  
2       right?

3       **A**     Not necessarily, no, sir.  You could always  
4       drop one in the chamber and let the slide close  
5       forward.  As long as the ejector snaps over the rim,  
6       it'll fire.

7       **Q**     But you can load into here --

8       **A**     Yes.

9       **Q**     -- and then you would place it into the bottom  
10      down here --

11      **A**     Yes, sir.

12      **Q**     -- and push that up and in.  And then I guess  
13      they kind of call, I don't know if there's a  
14      scientific term, but they rack it back or, in other  
15      words, pull this back?

16      **A**     Yeah.

17      **Q**     Were you -- let me show you what's been marked  
18      as Defense Exhibit Number 1 and Number 2.  Were you  
19      given any unfired bullets in packaging such as that?

20      **A**     Let me check my notes, but I don't believe so.  
21              No, sir.

22      **Q**     If you did, you would generally -- I mean,  
23      protocol would dictate that you have that in your  
24      report, wouldn't it?

25      **A**     Yes, sir.  It'd be like -- I think, that was a

1 Federal brand. It'd be like one Federal brand  
2 nominal 50-round capacity ammunition box containing  
3 however many unfired cartridges are in there.

4 **MR. MADSEN:** That's all the questions I have.

5 **THE COURT:** Is there redirect?

6 **MR. YOUNG:** Your Honor, the State has no  
7 further questions.

8 **THE COURT:** Any objection to releasing the  
9 witness?

10 **MR. YOUNG:** No, sir. Thank you.

11 **THE COURT:** Hearing none, sir, you are free to  
12 leave. You're not required to leave, but you're  
13 free to go.

14 **THE WITNESS:** Thank you, sir.

15 **THE COURT:** Please call your next witness.

16 **MR. YOUNG:** Thank you, Your Honor. The State  
17 calls Courtney Smith.

18 **THE COURT:** Please come forward and take the  
19 oath of a witness.

20 COURTNEY SMITH,

21 having been duly sworn, testified as follows:

22 DIRECT EXAMINATION

23 BY MR. YOUNG:

24 **Q** Ma'am, would you give us your complete name and  
25 tell us where you currently work?

1       **A**     Courtney Smith. I currently work in  
2       Charleston, South Carolina, at the Kiawah Island  
3       Golf Resort.

4       **Q**     And have you ever worked for a law enforcement  
5       agency?

6       **A**     Yes.

7       **Q**     Who have you worked for, ma'am?

8       **A**     The South Carolina Law Enforcement Division,  
9       commonly known as SLED.

10      **Q**     Were you employed in that agency as recently as  
11      this year?

12      **A**     Yes.

13      **Q**     When did you depart?

14      **A**     September the 27th, 2013.

15      **Q**     And, ma'am, when you departed, what was your  
16      job?

17      **A**     I was a forensic technician in the evidence  
18      control department.

19      **Q**     Did you hold any other position while you were  
20      there?

21      **A**     No.

22      **Q**     Okay. And, ma'am, are you familiar with the  
23      process of which these documented cases are brought  
24      in and then evidence is received? Is that part of  
25      what you have to know how to do?

1       **A**     Yes.

2       **Q**     All right. Did you -- are you familiar with a  
3       case numbered L12-04591?

4       **A**     Yes.

5       **Q**     Okay. And, ma'am, in connection with that, did  
6       you receive any evidence with that case number while  
7       you were there at SLED?

8       **A**     Yes.

9       **Q**     From whom did you receive such evidence?

10      **A**     I received item number 35 from Marion Wilson of  
11      the Saluda County Sheriff's Office.

12      **Q**     Okay. And when did you receive that?

13      **A**     July 2nd, 2013, at 1:31 p.m.

14      **Q**     And, ma'am, did that particular item of  
15      evidence, did it bear any description at the time  
16      you received it as to what it was?

17      **A**     Yes. It was a buccal swab described as swabs  
18      obtained from Gerald Rudell Williams.

19      **Q**     Ma'am, would you be able to recognize the  
20      container in which that might have been located if  
21      you saw it again?

22      **A**     Sure.

23      **Q**     All right. I'm going to hand you what has been  
24      admitted as State's Exhibit Number 34. Would you  
25      please examine that and tell me if you recognize it?

1       **A**     I can recognize this by the lab number that's  
2       placed on the front of the bag.

3       **Q**     What is that?

4       **A**     It appears to be item number 35.

5       **Q**     Okay. Is that the item number 35 that you  
6       received?

7       **A**     Yes. Per my chain of custody, item number 35  
8       is the item that I received for L12-4591.

9       **Q**     Could you hand it back to me for a moment,  
10      please, ma'am?

11      **A**     (Witness complies.)

12      **Q**     Now, when this item is received at SLED, what  
13      actions are taken at your station in order to turn  
14      it in?

15      **A**     First, we make sure that the evidence does not  
16      appear to be tampered with, and then I would place  
17      that evidence into that heat-sealed bag. I would  
18      seal it and have the submitting officer initial and  
19      date the heat seal at the top and fill out the front  
20      of the bag.

21      **Q**     Does this particular item, State's Exhibit  
22      Number 34 and your item, I believe, 35, does that  
23      particular item bear those markings?

24      **A**     I'm sorry? I couldn't hear you.

25      **Q**     Does it bear those markings?

1       **A**     Yes, it does.

2       **Q**     Did he place those markings on it in your  
3       presence?

4       **A**     Yes.

5       **Q**     Ma'am, when you received that item, was it in  
6       the sealed container that it's currently in?

7       **A**     Yes, it was.

8       **Q**     All right. Did you make any change in that  
9       container in any way whatsoever?

10      **A**     No, I did not.

11      **Q**     And other than to place it inside another  
12      sealed envelope?

13      **A**     I just placed this inside this bag and sealed  
14      it.

15      **Q**     And sealed it. And that's the only change you  
16      made to that?

17      **A**     Correct.

18      **Q**     And then made a recording of that at that time?

19      **A**     Yes.

20      **Q**     And what action did you take after you received  
21      that?

22      **A**     After I received this, I then logged the  
23      information into the computer system, and then I  
24      would have taken this and placed it on DNA intake  
25      shelf 72.

1       **Q**     And why is there such a shelf?

2       **A**     Our shelves are in our secure evidence room and  
3       it's just where we file all the evidence until it's  
4       ready to be picked up by the analyst.

5       **Q**     Okay. All right, ma'am, do you have any record  
6       as to who may have retrieved it from that shelf at a  
7       subsequent time?

8       **A**     Per my chain of custody, it would have been  
9       forensic technician, Patricia Crooks.

10      **Q**     And when did she retrieve it?

11      **A**     She retrieved it on July 9th, 2013, at 2:22  
12      p.m.

13      **Q**     And that was the last entry before it went to  
14      the person for testing?

15      **A**     Yes.

16           **MR. YOUNG:** Okay. Would you please answer any  
17      questions the defense may have for you?

18           **MR. MADSEN:** No questions.

19           **THE COURT:** All right. Ma'am, then you are  
20      free to leave, you're not required to go, but you're  
21      free to go, if you wish.

22           **THE WITNESS:** Thank you very much.

23           **THE COURT:** Please call your next witness.

24           **MR. YOUNG:** Thank you, Your Honor. The State  
25      calls Amanda Webb.

1           **THE COURT:** Please come forward, take the oath  
2 of a witness.

3                           AMANDA WEBB,  
4           having been duly sworn, testified as follows:

5                           DIRECT EXAMINATION

6 BY MR. YOUNG:

7       **Q**     Ms. Webb, if you'll give us your full and  
8 complete name and tell us where you work and what  
9 you do for a living.

10      **A**     My name is Amanda Webb. And I work with the  
11 South Carolina Law Enforcement Division in the DNA  
12 department and I work criminal cases that involve  
13 DNA testing.

14      **Q**     Yes, ma'am. So what do you really do as a  
15 person who does the DNA testing?

16      **A**     Any time there's a crime committed where they  
17 would like to try to find -- to identify a person  
18 who might have been at the crime scene, they will  
19 collect evidence items, and I can develop a DNA  
20 profile from the evidence items. And then I also  
21 get submitted known standards and that's DNA  
22 collected from a known individual. And so if a DNA  
23 profile is developed from an evidence item, I can  
24 compare that to the DNA from a known person to see  
25 if they might have perhaps left some DNA behind at

1 the crime scene.

2 Q Yes, ma'am. Now, are you familiar -- are you  
3 familiar with the process of becoming a DNA expert,  
4 so to speak, from the personal standpoint of having  
5 gone through all of the process of becoming a DNA  
6 expert?

7 A Yes, I have.

8 Q All right. And how did you come to be one?

9 A Well, I have a Bachelor's of Science degree in  
10 forensic chemistry and I also have a Master's of  
11 Science in forensic science. And after completing  
12 those degrees, I was hired on at SLED, and I was  
13 trained for about a year and a half. And I had to  
14 take many tests, written, practical, laboratory  
15 tests. I take tests annually from an outside  
16 laboratory that sends items that I have to correctly  
17 get the answer on. And, also, my work is reviewed  
18 by two other analysts before a report ever goes out.

19 Q Yes, ma'am. And so in connection with that,  
20 have you ever been qualified as an expert in the  
21 past to testify about DNA analysis?

22 A Yes, I have.

23 Q Do you have any expertise also in statistical  
24 analysis associated with that?

25 A Yes, I do.

1       **Q**     All right. And how many times have you been  
2       qualified as an expert?

3       **A**     About 20.

4       **Q**     All right. And are those in courts in South  
5       Carolina?

6       **A**     Yes, they all are.

7               **MR. YOUNG:** Your Honor, we would submit  
8       Ms. Amanda Webb as a qualified expert in DNA testing  
9       and statistical analysis associated with it.

10              **THE COURT:** Are there questions for the witness  
11       on expertise?

12              **MR. MADSEN:** There are no questions and no  
13       objection.

14              **THE COURT:** Very good. The witness is so  
15       admitted. You may proceed.

16              **MR. YOUNG:** Thank you, Your Honor.

17       BY MR. YOUNG:

18       **Q**     Ms. Webb, based upon your job and what you do,  
19       did you receive, at some point, lab entries  
20       associated with lab number L12-04591?

21       **A**     Yes, I did.

22       **Q**     All right. How many such lab entries did you  
23       receive?

24       **A**     I received eight.

25       **Q**     Okay. In connection with specific items, and I

1 will refer to 26 -- 25.1, 26.1 and 35, did you  
2 receive those entries as part of that?

3 **A** Yes, I did.

4 **Q** Those three entries that you received, were  
5 they accompanied by a specific buccal swab submitted  
6 by M. Scott Wilson as item 35?

7 **A** Yes, there was.

8 **Q** All right. Would you be able to examine  
9 State's Exhibit Number 34 and tell me if you  
10 recognize that?

11 **A** Yes. State's Exhibit Number 34 is my item  
12 number 35 and that is a buccal swab or a DNA  
13 standard that I know is -- was collected from Gerald  
14 Williams.

15 **Q** All right. Now, Mr. Williams' standard was  
16 submitted to you how? How did you get that?

17 **A** After it was submitted to the laboratory and  
18 placed on the DNA intake shelf, I then requested  
19 that item when I was ready for my analysis. And I  
20 requested it from log-in technician, Patricia  
21 Crooks, and she got the buccal swab from the shelf.  
22 And I went to the log-in area, and she transferred  
23 it to my custody so I could perform my analysis.

24 **Q** What date did that occur on?

25 **A** That was July 9th of this year.

1       **Q**     And how did it get to Ms. Crooks? Are you  
2       aware of that?

3       **A**     Yes, I am. When it was submitted to the  
4       laboratory, it was received by the evidence log-in  
5       technician, Courtney Smith, on July 2nd. And then  
6       she placed it on the DNA shelf the same day.

7       **Q**     Yes, ma'am. All right. Now, that particular  
8       item of evidence when you received it, you're going  
9       to then start your analysis?

10      **A**     Yes, that's correct.

11      **Q**     All right. You have to have something to  
12      compare it to, correct?

13      **A**     Yes, that's right.

14      **Q**     Now, did you also receive for comparison  
15      State's Exhibits 35 and 36, which I believe will be  
16      reflected in your SLED lab entries as 25.1 and 26.1?  
17      Would you examine those and tell me if you received  
18      those?

19      **A**     Yes. State's Exhibit 35 is my item number  
20      26.1. That's swabs from purple latex glove pieces.  
21      And State's Exhibit 36 is my item 25.1, and that is  
22      also swabs from purple latex glove pieces.

23      **Q**     Thank you. Now, Your Honor -- excuse me --  
24      ma'am, with regard to State's -- excuse me -- item  
25      25.1, and I'll refer to your exhibit number -- your

1 item number is 25.1 and 26.1, how were those created  
2 to your knowledge and how did they get to you?

3 **A** Those were created by latent print analyst, Tom  
4 Darnell, and those were created on August 27th,  
5 2012. And then those were transferred to -- he  
6 transferred those to latent evidence return holding  
7 so it could be returned to log-in. And then the  
8 latent print crime scene assistant, Lesa Chapman,  
9 removed those from the return holding and took them  
10 to the evidence log-in -- the evidence control room  
11 where evidence technician, Nikki Hughes, placed them  
12 on the DNA intake shelf because there was a DNA  
13 assignment.

14 **Q** Okay, ma'am. And what days did that occur on  
15 with regard to the actions of Lesa Chapman and --  
16 through the DNA intake shelf, what day did that  
17 happen on?

18 **A** Lesa Chapman removed them from the latent  
19 evidence holding August 31st of 2012, and she  
20 transferred those to evidence log-in technician,  
21 Nikki Hughes, on August 31st, 2012. And evidence  
22 technician, Nikki Hughes, placed them on the DNA  
23 intake shelf August 31st of 2012. And then when I  
24 needed to get the items for analysis, I contacted  
25 evidence technician, Patricia Crooks, and she

1 removed the items from the DNA intake shelf on May  
2 of -- 22nd, this year, and transferred these items  
3 to my custody May 22nd, this year.

4 Q Okay. So, now, you have in your possession  
5 those three items that are now before you, State's  
6 Exhibit 36 and 35 and State's Exhibit Number 34.  
7 You have those three items for DNA comparison; is  
8 that correct?

9 A Yes, that's correct.

10 Q And did you make a comparative effort with  
11 regard to those items?

12 A Yes, I did.

13 Q Would you just briefly tell this jury what do  
14 you do to make that happen?

15 A Sure. Once I get an item of evidence with a  
16 DNA request, I try to remove the DNA from the item.  
17 In this case, it was swabs. So you cut the tip of  
18 the cotton swab, put it in the tube with some  
19 reagent solution to extract the DNA off of the swab,  
20 and then you see how much DNA you have to work with.  
21 And then the final step is to try to develop a  
22 profile, and I was able to do so in this instance.

23 Q Okay. If I could, please, just go back a  
24 couple steps first. Now, from the time you received  
25 those items -- at the time you received those items,

1           were they still in the sealed containers?

2           **A**     Yes, they were.

3           **Q**     All right. If they had not been in the sealed  
4           containers, would you have performed any form of  
5           analysis?

6           **A**     No, I would not have. I would have halted on  
7           any analysis, and I would have made a phone call to  
8           the person who had them before me to try to see why  
9           it wasn't sealed.

10          **Q**     But you took no such action?

11          **A**     That's correct.

12          **Q**     All right. At that time, then when you began  
13          your analysis, you received these from sealed  
14          containers and then began your analysis?

15          **A**     Yes, that's correct.

16          **Q**     All right. And you develop this profile. Can  
17          you tell the Court, the jury, for the purposes of  
18          just simple understanding, what DNA really is? What  
19          is that?

20          **A**     Sure. Sure. DNA is, it's really a chemical  
21          found in the cells of your body. In this instance,  
22          I was looking for the DNA in skin cells since it was  
23          gloves that was being tested. When you wear an item  
24          such as gloves, your skin cells will shed off and be  
25          donated to the item. So I was testing for skin

1 cells in this instance. And DNA has the benefit of  
2 identifying an individual. Other than identical  
3 twins, everyone has a unique DNA profile. So if you  
4 can get a DNA profile, it can identify a person.

5 **Q** Okay. Now, this unique part of the DNA profile  
6 that you developed, did you do comparisons as to  
7 that unique profile against these items?

8 **A** Yes, I did.

9 **Q** Were you able to identify any matches between  
10 the items submitted as a known standard from Gerald  
11 Williams as opposed to the other two items which  
12 came from those gloves?

13 **A** Yes, sir, I was.

14 **Q** And what were you able to determine?

15 **A** The DNA profile from 25.1, which was swabs from  
16 the pieces of the purple latex glove, matched the  
17 DNA profile of Gerald Williams. And then we perform  
18 a statistical calculation to sort of help give  
19 weight to any evidence. And my statistic in this  
20 case is the probability of randomly selecting an  
21 unrelated individual having a DNA profile matching  
22 this item is approximately one in 14 quadrillion.

23 And to put that in perspective of quadrillion,  
24 it goes million, billion, trillion and then  
25 quadrillion. And, essentially, what that means is

1       it's just how rare a profile is in the population.  
2       It means that in order for someone to have DNA that  
3       would be the same as what was found on the swabs  
4       from the gloves picking someone from a population,  
5       it would have -- in order to find someone who could  
6       match, it would be out of 14 quadrillion people.  
7       So, to me, that means it's a pretty rare profile.

8       **Q**     And which specific sample was this that you  
9       referred to as one in 14 quadrillion?

10      **A**     25.1.

11      **Q**     25.1?

12      **A**     Uh-huh.

13      **Q**     That would be State's Exhibit 36?

14      **A**     State's Exhibit 36.

15      **Q**     Okay. And did you develop a profile with  
16      regard to the other item?

17      **A**     I'm sorry? From the other --

18      **Q**     Did you develop a profile with regard to the  
19      other item?

20      **A**     Yes, I did. 26.1, the swab from purple latex  
21      glove pieces, yes, that also matched the DNA profile  
22      of Gerald Williams.

23      **Q**     Thank you, ma'am. Now, I think people have a  
24      -- I'm really still trying to wrap my hands and arms  
25      around the idea of quadrillion. How many people are

1 on the earth?

2 **A** Approximately seven billion.

3 **Q** And this is 14 quadrillion?

4 **A** Quadrillion, yes.

5 **MR. YOUNG:** Thank you, ma'am. No further  
6 questions.

7 **THE COURT:** And is there cross-examination?

8 **MR. MADSEN:** Yes, Your Honor.

9 **THE COURT:** Go ahead.

10 CROSS-EXAMINATION

11 BY MR. MADSEN:

12 **Q** Now, you're going to have to help me with all  
13 of the ins and the outs there. But you do these --  
14 you do a little chart that you did in your report,  
15 like that right there, correct?

16 **A** Yes.

17 **Q** And there's 13 different areas. What are those  
18 called?

19 **A** Loci or locations.

20 **Q** And then the numbers inside them are the  
21 alleles; am I saying that correct?

22 **A** Yes, that's correct.

23 **Q** So each of us have 13 different loci and then  
24 within those loci, we'll have two different alleles;  
25 is that correct?

1       **A**     There's a possibility of up to two for an  
2       individual. You could have one.

3       **Q**     In other words, I guess what you're saying is,  
4       say, with Gerald Williams at TH01, his alleles would  
5       be a nine and a ten, correct?

6       **A**     Yes, that's correct.

7       **Q**     Of course, you have under D16S539, you just  
8       have a nine there, but that actually means he would  
9       be a nine, nine there?

10      **A**     Yes, that's correct.

11      **Q**     And those allele would mean that you're getting  
12      one of those from your father and one of those from  
13      your mother?

14      **A**     Yes, that's correct.

15      **Q**     And so besides the evidence that the Solicitor  
16      talked to you about, you analyzed some other items  
17      of DNA as compared to the buccal swab that you  
18      received from Gerald Williams, correct?

19      **A**     Yes, I did.

20      **Q**     And besides the buccal swab from Gerald  
21      Williams, you weren't given any buccal swab from an  
22      O.J. Charley or an Al Jerome Young, were you?

23      **A**     No, I wasn't. I only received a buccal swab  
24      from Gerald Williams.

25      **Q**     And one of the swabs that you got, which was

1 23.1 was a swab from grip of 9mm pistol, correct?

2 A Yes, that's correct.

3 Q And you developed a profile from that and you  
4 were able to exclude and say, Gerald Williams is not  
5 a contributor to the grip of the 9mm pistol,  
6 correct?

7 A Yes, that's correct.

8 Q There's DNA on there; it's not his DNA?

9 A Right.

10 Q Then on what was listed, you also test 23.2,  
11 which was the swab from the trigger of the 9mm  
12 pistol?

13 A Yes, I did.

14 Q And there's no DNA profile on there?

15 A Correct. There was no DNA found, meaning there  
16 might not have been DNA on it or there just wasn't  
17 enough DNA to tell anything about it.

18 Q And when someone's collecting DNA -- well, when  
19 someone tries to do that, how they collect it and  
20 handle it and process it and get it to you, that can  
21 be very important, can't it?

22 A Yes, it can.

23 Q Because you're doing, I guess what you said,  
24 it's called touch DNA?

25 A Yes.

1 Q You can get DNA from my blood?

2 A Yes.

3 Q From my saliva, from my ocular, from any of the  
4 fluids that I have, correct, my perspiration?

5 A Yes, that's correct.

6 Q But you were doing touch DNA here?

7 A Yes.

8 Q Which you said I guess -- I say skin cells  
9 sloughing off; you say they're --

10 A Shedding, sloughing, yes.

11 Q -- shedding. We're all shedding as we're  
12 walking around here?

13 A Yes.

14 Q And then next you get swabs from the grip,  
15 which is 24.1 of the .40 caliber -- of a .40 caliber  
16 pistol, correct?

17 A Yes, that's correct.

18 Q And then you also do it for, I guess, 27.1,  
19 which were swabs from blue latex gloves?

20 A Yes, that's correct.

21 Q And you indicate in there that you can't  
22 include or exclude Gerald Williams on either of  
23 those?

24 A Yes, that's correct. There just wasn't enough  
25 DNA on those items to really make a clear decision

1 one way or another if Gerald Williams' DNA was  
2 there.

3 Q And so if we go down -- if you look at your  
4 chart there, I guess, is it table one?

5 A Yes.

6 Q You look at table one there, you've got at the  
7 first identifier, which is D8S1179, Gerald Williams  
8 at that location is a 14, 14?

9 A Yes.

10 Q He got a 14 from his mother and he got a 14  
11 from his father at that location?

12 A Yes.

13 Q But the grip of that, the 24.1, that's a 13  
14 there and there's a 14 there?

15 A Yes, that's correct.

16 Q No way Gerald's giving that 13 over?

17 A No. The 13 wouldn't have come from Gerald.

18 Q And then if you go a little bit farther and you  
19 look at D3S1358, Gerald at that location would be a  
20 16, 16?

21 A Yes.

22 Q And at that location, there's a 15?

23 A Yes, that's correct.

24 Q And so Gerald's not giving that part of any DNA  
25 to that grip there?

1       **A**     No. He wouldn't be donating the 15.

2       **Q**     And then if you go to D19S433, there's a 13, 14  
3       on the grip. He would be a 13, 13. No way in the  
4       world that that 14 comes from him?

5       **A**     Not the 14, no.

6       **Q**     And then you also have 24.2. And so let me ask  
7       you a quick question: That 24.2, that basically  
8       means that that's some DNA that is given to you, I  
9       guess, on some type of cotton ball or something like  
10      that, but ultimately that's coming from item number  
11      24?

12      **A**     Yes, that's correct. When you -- this was  
13      swabbed with a cotton swab, and it was item 24 that  
14      was swabbed, which was a .40 caliber pistol, and so  
15      that's what it was coming from.

16      **Q**     And that would be this here if that's item  
17      number 24?

18      **A**     Yes, that's correct.

19      **Q**     So that's a swab from that gun's grip?

20      **A**     24.2, I think it's the trigger, a swab from the  
21      trigger.

22      **Q**     Excuse me, I misspoke. That is the swab from  
23      the trigger of that gun?

24      **A**     Yes.

25      **Q**     And Gerald Williams, that is not his DNA on

1       that trigger. He is excluded as a contributor,  
2       correct?

3       **A**     That's correct, Gerald Williams was excluded.

4       **Q**     So that's someone else's DNA on that trigger?

5       **A**     Yes.

6       **Q**     And his DNA is the only standard that was  
7       submitted to you?

8       **A**     Yes, that is correct.

9       **Q**     And whenever you are submitted items that have  
10      potential DNA on them, you, as a DNA expert, you  
11      can't tell if it's been on there an hour, a day, a  
12      month, a year or any point in time how that's  
13      deposited on there?

14      **A**     That's correct. Unfortunately, you can't tell  
15      when a DNA was deposited on an item. There's no  
16      time stamp on DNA.

17      **Q**     And you issued your report on September 20th of  
18      2013, correct?

19      **A**     Yes, I did.

20              **MR. MADSEN:** That's all the questions I have.

21              **THE COURT:** Redirect.

22              **MR. YOUNG:** The State has no further questions.

23              **THE COURT:** All right. Then, ma'am, you're  
24      free to leave. You're not required to leave, but  
25      you may if you wish. Have a good day.

1           **THE WITNESS:** Thank you, Your Honor.

2           **THE COURT:** Please call your next witness.

3           **MR. MAYE:** May it please the Court, Your Honor.

4           The State rests at this time.

5           **THE COURT:** The State rests at this time.

6           All right. Then, ladies and gentlemen, what we  
7           will do is we'll take our afternoon break at this  
8           time. The Court will have certain matters we'll  
9           need to take up at the end of the State's case, so  
10          our break may be a little bit extended, probably  
11          about 20 minutes. If you wish to go outside, we'll  
12          give you that opportunity. And we'll remain where  
13          we are while you depart the courtroom.

14          (The jury retires to the jury room.)

15          **THE COURT:** All right. Ladies and gentlemen,  
16          we're going to stand down, take about a five-minute  
17          break. Court's in recess.

18          (Brief Recess.)

19          **THE COURT:** Are we ready, Mr. Maye?

20          **MR. MAYE:** The State's ready, Your Honor.

21          Thank you.

22          **THE COURT:** All right. Let's begin by taking  
23          any motions that the defense may have here at the  
24          close of the State's case. Well, first of all, is  
25          there anything further with regard to the State's

1 case?

2 **MR. MAYE:** Nothing from the State, Your Honor.

3 Thank you.

4 **THE COURT:** All right. And now from defense,  
5 are there motions or issues --

6 **MR. CASTO:** Yes, sir, Your Honor, there are.  
7 At this time, we'd like to renew all prior motions  
8 and objections made both pretrial and during the  
9 trial of this case. Specifically, Your Honor, at  
10 this time, when the evidence is viewed in a light  
11 most favorable to the State, we state that they have  
12 not carried their burden. They've fallen short.  
13 And, at this time, we move for a directed verdict,  
14 Your Honor.

15 Specifically, Your Honor, this is a case where  
16 there are -- is an awful lot of physical evidence.  
17 There has been no statement made by my client about  
18 anything, any knowledge or anything in his regard as  
19 to what was going on whatsoever. The evidence  
20 presented basically raised -- raises an inference of  
21 guilt in this case, one that would not survive  
22 this -- in this case, Your Honor, and basically one  
23 where the State has failed to meet their burden,  
24 Your Honor. So, at this time, we respectfully move  
25 for a directed verdict because the State has not met

1           their burden.

2           **THE COURT:** All right. Let me just briefly  
3           hear from the State as to what response you would  
4           have. Go ahead.

5           **MR. MAYE:** Your Honor, we would very  
6           respectfully submit that there is a wealth of both  
7           circumstantial and direct evidence that would create  
8           jury issues. Taking this in the light most  
9           favorable to the State, we certainly would submit  
10          that there's some evidence to go forward and would  
11          ask that the Court allow this to go to the jury.

12          **THE COURT:** All right. Mr. Casto, I'm going to  
13          respectfully deny your motion for the following  
14          reasons: First of all, it's not for the State to  
15          weigh the evidence. The State is not the judge of  
16          the facts; the jury will do that.

17          The question for the State -- the Court at this  
18          juncture is, is there evidence in this record  
19          properly admitted tending to prove the guilt of the  
20          accused? And I find that there is, specifically.  
21          There is -- there was -- there were weapons found  
22          after a shooting, gloves found with those weapons,  
23          your client's DNA on those gloves, those weapons  
24          fired rounds into the house, trailer house, in  
25          question. That's sufficient, in this Court's view,

1 to create a jury issue and that evidence  
2 appropriately admitted.

3 I'm going to respectfully deny, again, the  
4 previous motions you've made to suppress evidence,  
5 as well as to dismiss the indictments. And,  
6 finally, further deny your motion here at the end of  
7 this State's evidence to direct a verdict in the  
8 defendant's favor.

9 Now, is there anything further with regard to  
10 post-State's case motions at this juncture?

11 **MR. CASTO:** Not at this time, Your Honor.

12 **THE COURT:** All right. Let me speak with your  
13 client then, if I may.

14 **MR. CASTO:** Yes, sir.

15 **THE COURT:** And, Mr. Williams, I'd ask you to  
16 stand, if you would please. And would you accept  
17 the oath of a witness from our clerk?

18 GERALD RUDELL WILLIAMS,  
19 having been duly sworn, testified as follows:

20 **THE COURT:** And just -- you can put your hand  
21 down now.

22 Let me turn to the State just one moment and  
23 ask one question: Without telling me what there  
24 are, do you believe there are convictions in the  
25 defendant's past that would be admissible if he took

1       the trial -- excuse me -- if he took the stand in  
2       the trial, Mr. Maye?

3                   (Pause.)

4               **MR. MAYE:** I'm checking his record, Your Honor.  
5       I apologize for not doing so prior to this time.

6               **THE COURT:** Thank you.

7               **MR. MAYE:** Your Honor, within the ten years, he  
8       has, it looks like, three convictions for petit  
9       larceny, like magistrate court which would involve  
10      -- it's two convictions of petit larceny in 2005,  
11      Your Honor, that would be crimes involving  
12      dishonesty; breaking into a motor vehicle, Your  
13      Honor, in '05 --

14              **THE COURT:** That's sufficient. You've answered  
15      my question.

16              **MR. MAYE:** Yes, sir, Your Honor. And there are  
17      a few other things as we're coming forward.

18              **THE COURT:** Thank you. I really wasn't focused  
19      on what the charges are, just simply if you believe  
20      there are convictions.

21              So, Mr. Williams, have you had ample time to  
22      talk with your lawyers concerning your rights at  
23      this point in the trial to either testify or remain  
24      silent?

25              **DEFENDANT:** Yes, sir.

1           **THE COURT:** All right, sir. And, of course,  
2           you've been in the courtroom, so you realize now the  
3           State has rested, which means that we turn to the  
4           defendant, if you wish to put up a case or to  
5           contest these charges; and do you understand that?

6           **DEFENDANT:** Yes, sir.

7           **THE COURT:** All right, sir. And in the course  
8           of your -- you and your attorneys offering a case in  
9           defense, you have the right to testify; and do you  
10          understand that, sir?

11          **DEFENDANT:** Yes, sir, I do.

12          **THE COURT:** And if you take the stand and  
13          testify, which of course is your right, are you  
14          aware that that would be under oath, it would be in  
15          the presence of the jury and you would be subject  
16          not only to direct examination by your own lawyer,  
17          but then cross-examination by the State?

18          **DEFENDANT:** Yes, sir.

19          **THE COURT:** All right, sir. And, furthermore,  
20          if you have some convictions in your past that may  
21          be admissible, those convictions may come in on the  
22          question of whether you are a credible and  
23          believable witness, not whether you committed this  
24          crime for which you're charged; and do you  
25          understand that, sir?

1           **DEFENDANT:** Yes, sir.

2           **THE COURT:** Now, is what I just told you about  
3 your right to testify, the same thing that your  
4 lawyers told you about your right to testify?

5           **DEFENDANT:** Yes, sir.

6           **THE COURT:** All right, sir. And do you have  
7 any questions about your right to testify as I've  
8 explained it?

9           **DEFENDANT:** No.

10          **THE COURT:** All right, sir. Now, by the same  
11 token, you have the right to remain silent, which is  
12 your constitutional right as well. And if you  
13 invoke your right to remain silent, I will tell the  
14 jury that you have no burden of proof here and they  
15 should not even consider the fact that you remain  
16 silent in their deliberations because it is your  
17 right to remain silent; and do you understand that,  
18 sir?

19          **DEFENDANT:** Yes, I do.

20          **THE COURT:** And is that, what I've just told  
21 you, is that the same thing your lawyers have told  
22 you about your right to remain silent?

23          **DEFENDANT:** Yes, sir.

24          **THE COURT:** And have you fully understood what  
25 I've explained to you about your right to remain

1       silent?

2               **DEFENDANT:** Yes, I have.

3               **THE COURT:** All right. Now, let me ask counsel  
4       standing with you, Mr. Casto, is there anything  
5       further you would have me explain to Mr. Williams  
6       about his right to testify or his right to remain  
7       silent?

8               **MR. CASTO:** No, sir, Your Honor.

9               **THE COURT:** All right. Is there anything  
10      further the State would have me take up with  
11      Mr. Williams about his right to remain silent or his  
12      right to testify?

13              **MR. MAYE:** Nothing from the State, Your Honor.

14              **THE COURT:** Very good.

15              Mr. Williams, have you made a determination of  
16      whether or not you intend to testify?

17              **DEFENDANT:** I would like to remain silent.

18              **THE COURT:** All right, sir. And let me ask  
19      then, having made that decision, have you -- has  
20      this been your decision or someone else's?

21              **DEFENDANT:** It's been my decision, Your Honor.

22              **THE COURT:** All right. Has anyone tried to  
23      force you to do this?

24              **DEFENDANT:** No, sir, Your Honor.

25              **THE COURT:** So you're telling me this is a

1 decision that you, yourself, have made at this point  
2 in the trial?

3 **DEFENDANT:** Yes, I have.

4 **THE COURT:** All right. Very good. Thank you,  
5 sir. You may be seated.

6 And, Mr. Casto, let me ask, will defense be  
7 calling witnesses?

8 **MR. CASTO:** Yes, Your Honor.

9 **THE COURT:** Okay. Are you ready to proceed?

10 **MR. CASTO:** We are with our first witness. The  
11 other witness, we've requested him be brought from  
12 the jail.

13 **THE COURT:** All right. And I assume is he on  
14 the way?

15 **OFFICER:** Your Honor, I've made that request to  
16 the jail. We're having some manpower issues with  
17 transportation, but he should be here shortly.

18 **THE COURT:** All right. Well, it would be our  
19 hope that we could complete the testimony this  
20 afternoon based on the fact that you have what seems  
21 to me to be two witnesses.

22 **MR. CASTO:** That's correct, Your Honor.

23 **THE COURT:** All right. So let's -- we'll wait  
24 on that transport. And this person in custody  
25 knowingly thus will not have to be dressed in

1 civilian clothes for presentation to the jury; am I  
2 correct?

3 **MR. CASTO:** That's correct, Your Honor.

4 **THE COURT:** All right. Then let's go ahead and  
5 bring in the jury.

6 **MR. CASTO:** Your Honor, I'm sorry, if I may,  
7 since the jury's out, it might be a fitting time to  
8 speak to something else so we wouldn't have to stop  
9 when that person is transported here. It's my  
10 understanding that the person that will testify for  
11 us does have criminal history, and we'd like to just  
12 place on the record certain convictions that may or  
13 may not be asked about and perhaps for some  
14 clarification with the jury out now so we wouldn't  
15 have to stop.

16 **THE COURT:** All right. Well, have you  
17 discussed that with the State?

18 **MR. CASTO:** I have not.

19 **THE COURT:** Well, then I'll let --

20 **MR. CASTO:** I beg the Court's indulgence.

21 **THE COURT:** I'll let you do that first. Thank  
22 you.

23 (Pause.)

24 **THE COURT:** Have we resolved this issue,  
25 Mr. Casto?

1           **MR. CASTO:** I believe we have. There are some  
2 matters that we need to take up to which we cannot  
3 agree, but the bulk, yes.

4           There are a couple drug convictions. Let's  
5 see, the defendant, O.J. Charley, has a 2004 PWID  
6 marijuana. The defense's position -- and a 2011  
7 public -- PWID conviction as well, Your Honor. We  
8 submit that both of those are subject to Rule 609  
9 where they carry more than a year, but we'd submit  
10 that a balancing test must be determined by the  
11 Court. And we would submit that those aren't  
12 probative for truthfulness and they should not be  
13 asked about, Your Honor.

14          **THE COURT:** All right. Well, help me test -- I  
15 have no knowledge -- how many charges are there and  
16 what is it that you agree can come in?

17          **MR. CASTO:** We agree to the -- Mr. Charley's  
18 pled in June 11th, 2012, to attempted murder, Your  
19 Honor, and the 2005 -- I'm sorry -- the 2005 false  
20 information to law -- or to police, that comes in as  
21 well.

22          **THE COURT:** And you say, your position is 2004  
23 and 2011 PWID charges should not be admitted?

24          **MR. CASTO:** And as well a 2005 aiding and  
25 escape, that should not be admitted.

1           **THE COURT:** All right. Do you want to be heard  
2 on those, Mr. Maye?

3           **MR. MAYE:** Briefly, Your Honor. We would  
4 maintain that the two counts of PWID marijuana  
5 should be admitted, respectfully. Certainly, the  
6 giving false information charge in '05, we would  
7 maintain that the aiding the escape of prisoners  
8 from custody of law enforcement should be admitted,  
9 and the 2012 attempted murder. I'll leave it to the  
10 Court's discretion on the balancing test issues or  
11 anything the Court thinks is appropriate.

12           **THE COURT:** All right. Very good. Thank you.  
13 We'll just take that matter up and let me  
14 consider it, we'll take it up -- I will advise you  
15 here in a bench conference right before the witness  
16 testifies, all right?

17           **MR. CASTO:** Yes, sir, Your Honor. And I've  
18 also been advised that he should be here within 15  
19 minutes.

20           **THE COURT:** All right. Very good. Are you  
21 ready to call your first witness?

22           **MR. CASTO:** Yes, sir, Your Honor.

23           **THE COURT:** All right. Please bring in the  
24 jury.

25                   (The jury returns to the courtroom.)

1           **THE COURT:** All right. Welcome back, ladies  
2 and gentlemen. You will recall at the end of our  
3 first afternoon session, the State has rested.  
4 We're now ready to move forward to the defendant's  
5 case. The defendant informs me they will call  
6 witnesses.

7           So, Mr. Casto, please call your first witness.

8           **MR. CASTO:** Your Honor, we'd call Hue Tang to  
9 the stand.

10          **THE COURT:** Please come forward and take the  
11 oath of a witness, sir.

12                               HUE TANG,  
13          having been duly sworn, testified as follows:

14          **THE COURT:** You may proceed.

15          **MR. CASTO:** Thank you, Your Honor.

16                               DIRECT EXAMINATION

17          BY MR. CASTO:

18          **Q**    Hi. How are you, sir?

19          **A**    Good. How are you?

20          **Q**    Just fine. Would you spell your first name and  
21 your last name for the court reporter?

22          **A**    First name spelled H-u-e. Last name T-a-n-g.

23          **Q**    And your first name is pronounced "way"?

24          **A**    That's correct.

25          **Q**    Mr. Tang, where do you work?

1       **A**     I'm employed by South Carolina Law Enforcement  
2       Division.

3       **Q**     And did you have the chance to come across some  
4       evidence of gloves in this case?

5       **A**     Yes, sir, I have.

6       **Q**     All right. And what is the testing that you  
7       did on those gloves, what is it called?

8       **A**     Fracture match.

9       **Q**     All right. And, basically, would you describe  
10      to me what exactly fracture matching really is?

11      **A**     Fracture match is to phys -- fitting the two  
12      piece of evidence together to establish if, at one  
13      time, there was one single unit.

14      **Q**     Okay. And do you -- what tools do you use to  
15      consider that?

16      **A**     I do obviously a visual examination and  
17      microscopic testing.

18      **Q**     Okay. And you had a chance to review the  
19      evidence in this case, correct?

20      **A**     Yes, sir.

21      **Q**     And you had the chance to look at, I believe,  
22      item 25?

23      **A**     Item 25, 26, 27 compared to item 28.

24      **Q**     And what you tried to do was take these pieces  
25      and piece them together; is that correct?

1       **A**     Yes, sir, general.

2       **Q**     And were you able to do that in this case?

3       **A**     No, sir, because --

4           **MR. MAYE:** Your Honor, at this point in time, I  
5     just ask if they're going to offer opinion  
6     testimony, if they'll qualify him as an expert.  
7     I'll be happy to stipulate to his qualifications as  
8     an expert if they're going to offer him in the form  
9     of opinion testimony.

10       **THE COURT:** Sustained.

11       **MR. CASTO:** We can do that.

12     BY MR. CASTO:

13       **Q**     Mr. Tang, let's back up a little bit and talk  
14     about your qualifications, okay?

15       **A**     Yes, sir.

16       **Q**     Where did you go to school?

17       **A**     I received a Bachelor of Science, major  
18     chemistry from the University of South Carolina.

19       **Q**     Okay. And then did you take any course work  
20     after that?

21       **A**     I take advanced courses from the University of  
22     South Carolina and I received additional training --

23           **MR. MAYE:** Your Honor, I hate to interrupt him,  
24     but I can speed this up. If they're going to offer  
25     him as an expert, I'll stipulate to his

1       qualifications if they'll just tell me what they're  
2       going to offer him as an expert in.

3               **THE COURT:** All right. What will be the area  
4       of expertise, Counsel?

5               **MR. CASTO:** Forensic matching, Your Honor --  
6       I'm sorry -- fracture match identification.

7               **MR. MAYE:** Agent Tang is well-qualified. I'll  
8       absolutely stipulate to his qualification as an  
9       expert.

10              **THE COURT:** All right. So qualified. You may  
11       proceed then, Counsel. Thank you.

12       BY MR. CASTO:

13       **Q**     And you had the chance to review the evidence  
14       in this case, right?

15       **A**     That's correct.

16       **Q**     And did you take these pieces of this glove and  
17       try to match them up?

18       **A**     Yes, sir. I attempt to fracture match this  
19       glove from item 25, 26 to number 28.

20       **Q**     And did you just do it visually?

21       **A**     Perform visually and there were missing pieces  
22       that, able to establish the connection of the item  
23       number 25, 26 to number 28.

24       **Q**     Okay. And you're saying that -- were you able  
25       to piece these gloves together?

1       **A**     No, sir. As I state, there were missing pieces  
2       for us -- for me to establish the connection of the  
3       item 25, 26 to 28.

4       **Q**     And that's exactly what you stated in your  
5       report; isn't that right?

6       **A**     That's correct.

7       **Q**     And final question, you issued that report  
8       September 21st, 2012; is that right?

9       **A**     That's correct.

10       **MR. CASTO:** No further questions.

11       **MR. MAYE:** Just briefly.

12                               CROSS-EXAMINATION

13       BY MR. MAYE:

14       **Q**     Agent Tang, let me see if I can get this  
15       straight. Basically, if I took this piece of paper  
16       and tore it in half --

17       **A**     Yes, sir.

18       **Q**     -- and gave you each half of it, if you had  
19       both halves of this, you could go down here and you  
20       could basically look at it, either through a  
21       microscope or whatever technique you would use, and  
22       you could tell me that those parting lines match up  
23       and this is the bottom piece of this paper and this  
24       is the top piece of this paper?

25       **A**     That's correct.

1       Q     Right? But if I tore this part out and you  
2       only had this much, you really can't tell me  
3       anything about the parting line? Say, I took this  
4       and I threw it away somewhere else or it fell off  
5       somewhere else --

6       A     That's correct.

7       Q     -- you just can't make a match, can you?

8       A     That's correct.

9       Q     And with those two pieces of gloves, if you'd  
10      have actually had every bit of what was there  
11      originally, you could have matched the parting lines  
12      up, right?

13      A     That's correct.

14      Q     Okay. But, for example, if you've just got the  
15      thumb and the forefinger of the glove, just a little  
16      bit of it here, and, for example, if somebody tore  
17      off this portion of it and threw some of it down, if  
18      any of the rest of it fell off at any other point in  
19      time, you just couldn't make a match, could you?

20      A     That's correct.

21      Q     And, in this case, that's exactly what you've  
22      got. You just don't have enough of a glove to make  
23      a match, right?

24      A     That's correct.

25      Q     Okay. So there's absolutely nothing in your

1 report that would indicate that the portions of that  
2 purple glove that we found out there, say, with the  
3 guns, don't match the pieces that we got off his  
4 fingers at the jail? I mean, you can't say anything  
5 one way or another about that because you don't have  
6 enough of the glove, right?

7 **A** That's correct.

8 **Q** And, for example, whatever that we found in the  
9 van there, you can't do any matching as to any other  
10 pieces because you just don't have all of it there,  
11 right?

12 **A** That's correct.

13 **Q** Okay. So, very respectfully, it just doesn't  
14 tell us anything one way or another because we don't  
15 have enough of the glove, do we?

16 **A** That's right. I'm unable to perform the  
17 examination.

18 **MR. MAYE:** Okay. Thank you. Nice to see you.

19 **THE COURT:** And now is there redirect?

20 **MR. CASTO:** Briefly.

21 REDIRECT EXAMINATION

22 BY MR. CASTO:

23 **Q** We understand what the Solicitor's saying, but  
24 the pieces you tried to match up could be from  
25 multiple different gloves, correct?

1       **A**     I'm not quite understanding the question.

2       **Q**     In other words, he took a piece of paper, just  
3       one sheet of paper, but your task was to match up a  
4       bunch of different gloves and pieces, correct?

5       **A**     From two gloves, 25, 26 to 28.

6       **Q**     Okay. And you weren't able to do that?

7       **A**     That's right.

8               **MR. CASTO:** Thank you.

9               **THE COURT:** All right, sir. Then you may step  
10       down and you're free to leave.

11              **THE WITNESS:** Thank you.

12              **THE COURT:** Thank you, sir.

13              And has your other witness arrived, Counsel?

14              **MR. CASTO:** I beg the Court's indulgence.

15                     (Pause.)

16              **OFFICER:** He's here, Your Honor.

17              **THE COURT:** All right. Step up just a moment,  
18       please.

19                     (Whereupon, a bench conference was held off  
20       the record, in the presence of the jury, but out of  
21       the hearing of the jury.)

22              **THE COURT:** All right. Ladies and gentlemen,  
23       we have one matter we need to take up as a matter of  
24       law outside your presence. I'm advised, just for  
25       your own personal scheduling in your minds, this is

1 the last defense witness. We believe there will be  
2 no further witnesses for the defense. I'm not aware  
3 of any reply witnesses from the State. So it's most  
4 likely that if we take our next witness, we're going  
5 to stop for the day, come back and argue and charge  
6 in the morning and then the case given to you at  
7 some point tomorrow morning for deliberation. I  
8 just tell you that for your information.

9 But if you'll give us a moment while we resolve  
10 one issue, we'll let you return to the jury room,  
11 have an extra break and we'll send for you in just a  
12 moment. Thank you.

13 (The jury retires to the jury room.)

14 **MR. YOUNG:** Your Honor, you don't want the  
15 co-defendant in the courtroom yet?

16 **THE COURT:** No. We'll just leave him out for a  
17 moment while we take up this issue. Thank you for  
18 asking.

19 (Pause.)

20 **THE COURT:** All right. Counsel, at this time,  
21 let's take up the matter of what charges, what prior  
22 convictions will be admissible for the upcoming  
23 witness. Of course, this witness is not the  
24 accused, but I wish to undertake a on-the-record  
25 balancing test as to these particular charges. And

1        what I'd like to hear is an argument from both  
2        sides, and let's begin with the defense, as to why  
3        these charges, convictions should not come in. And  
4        then if the State wishes to argue as to why they  
5        should, we'll be glad to hear from that as well.

6                **MR. MAYE:** Your Honor, if I can expedite this,  
7        we originally talked about, outside the presence of  
8        the jury or at side bar where the jury could not  
9        hear, we spoke about the two PWID convictions, and  
10       the Court had indicated a tendency not to allow  
11       those. I would relent on those and would state for  
12       the record that the State would not seek to -- we  
13       would agree with the Court's ruling on that. We  
14       would not seek to have a balancing test or any kind  
15       of factors as to those. I'll just concede those.

16               So the only issues then would be as to, even  
17       though this is a witness other than the accused,  
18       would be the attempted murder charge of the  
19       co-defendant, a giving false information to law  
20       enforcement and the rescuing from escape charge that  
21       we spoke about, Your Honor.

22               **THE COURT:** So those are the three the State  
23       wishes to put in?

24               **MR. MAYE:** Yes. We would seek to introduce  
25       those. We believe those would be probative of

1 truthfulness and would survive those tests. We're  
2 not even going to ask you to do -- given the fact  
3 that the Court had preliminarily indicated that you  
4 were inclined not to admit the PWID, we're just  
5 going to concede those.

6 **THE COURT:** Very good. Thank you.

7 And so our record will be clear, the Court felt  
8 that under Rule 403 analysis, which of course is  
9 pertinent here as well, that the totality of the  
10 additional two charges for drug distribution or  
11 possession with intent to distribute would be  
12 excessive, that was the Court's initial inclination.

13 Now, as to the charges that the State wishes to  
14 put in, if you wish to be heard on this matter, then  
15 I'll be glad to hear from you, Mr. Casto.

16 **MR. CASTO:** Just very briefly, Your Honor. We  
17 understand that the conviction in 2005, the false  
18 info to law enforcement, I mean, that's essentially  
19 the heart of the rule and we understand that, you  
20 know, obviously -- basically, that factors, hits on  
21 one of the Colf factors with regard to veracity  
22 and/or credibility.

23 And, Your Honor, we think that the attempted  
24 murder charge is relevant because ultimately  
25 Mr. O.J. Charley has pled guilty to his involvement

1 in this case. But with regard, we take issue to the  
2 2005 aiding and escape, Your Honor. We feel that,  
3 in conducting the balancing analysis or the Colf  
4 factors, Your Honor, that that should be excluded as  
5 well, just to place on the record.

6 **THE COURT:** On what basis?

7 **MR. CASTO:** Your Honor, I don't believe that it  
8 really directly centers on the witness' credibility.  
9 I think that it's -- the 2012 attempted murder is  
10 something that is clearly relevant because he's pled  
11 involving this case, and it just doesn't seem to  
12 have that same ring of dishonesty or untruthfulness  
13 as the false information to law enforcement.

14 **THE COURT:** All right. Thank you.

15 And now you want to be heard on that, Mr. Maye?

16 **MR. MAYE:** Your Honor, just briefly. I know  
17 that it's not extended to witnesses other than an  
18 accused, but certainly these convictions would be  
19 within year -- within a year. The Colf factors,  
20 although the courts have not extended that to a  
21 witness other than the accused, but his -- the  
22 importance of his testimony certainly would be  
23 pretty critical in this case, he'd be a testifying  
24 co-defendant in this case, would certainly be the  
25 centrality issue -- or credibility issue, the

1           centrality of it would certainly be an issue.

2           But we do think that rescuing prisoners, Your  
3           Honor, we think that would be certainly a dishonest  
4           and intentional act. It's not like the drug charges  
5           that the Court spoke of earlier, and we would think  
6           that those would impact on his credibility.

7           I tell you what, Your Honor, if the ones that  
8           they will stipulate to are the giving false  
9           information to law enforcement and the attempted  
10          murder, that one charge, I'll concede. We're going  
11          to agree on that. I will just concede that the  
12          Court not -- would not impeach him on that. I think  
13          I can remove that. If that's the only one that  
14          they've got a point of contention about, I think we  
15          can just agree on it, and I'll just concede that we  
16          won't talk -- ask him about that.

17          **MR. CASTO:** Best thing he said all day.

18          **THE COURT:** All right. Very good. Then  
19          because it is by consent of counsel, the Court does  
20          not believe it's necessary for us to take this  
21          matter up any further.

22          Just one moment, please.

23          (Pause.)

24          **THE COURT:** All right. Then because this is by  
25          consent, I would simply say that it's not really

1       necessary for the Court to go further, but I do  
2       believe those two convictions would clearly fall  
3       within the realm of admissibility when looking at a  
4       prejudicial versus a probative value under Colf.  
5       I'm well aware that the Supreme Court -- our  
6       appellate court actually has not yet extended the  
7       Colf factors to witnesses, but I believe that it  
8       should be clear on this record that we did examine  
9       those, reviewed those, counsel's reached a consent,  
10      and thus we're ready to go forward. The Court  
11      accepts that consent and believes it's within the  
12      ambit of the Colf factor analysis.

13               And thus please bring in the -- let's begin by  
14      bringing in the jury. Let's bring them first.

15               (The jury returns to the courtroom.)

16               **THE COURT:** All right. Ladies and gentlemen,  
17      thank you for your patience, your courtesy. Welcome  
18      back. We've resolved the issues that were before  
19      us. Now, Mr. Casto, please call your next witness.

20               **MR. CASTO:** The defense calls O.J. Charley.

21               **THE COURT:** All right. Please bring in  
22      Mr. Charley.

23               Please come forward, sir, if you would, right  
24      here to take the oath of a witness.

25                               \*\*\*\*\*

1                   ORIENTHAL JERMAINE CHARLEY,  
2           having been duly sworn, testified as follows:

3                   DIRECT EXAMINATION

4           BY MR. CASTO:

5           **Q**     Mr. Charley, I'd like to ask you a few  
6           questions, all right. Would you spell your first  
7           name -- or spell your full name for the court  
8           reporter, please?

9           **A**     Oriental, O-r-i-e-n-t-h-a-l, Jermaine,  
10          J-e-r-m-a-i-n-e, Charley, C-h-a-r-l-e-y.

11          **Q**     Mr. Charley, were you involved in this  
12          incident, the shooting incident that took place on  
13          April 13th, 2012?

14          **A**     Yes, I was.

15          **Q**     All right. Before we get into that, I want to  
16          take you back to the day before all that happened,  
17          okay? Now, a couple days before this happened, did  
18          you meet up with Al Young?

19          **MR. MAYE:** Your Honor, I'm going object to the  
20          leading of this witness. These are leading  
21          questions.

22          **THE COURT:** Sustained.

23                 Let's talk to the jury about that for a moment.  
24          We haven't had that come up previously. But when  
25          you call your own witness, you cannot ask what's

1 called a leading question. A leading question is a  
2 question that basically has an answer within it.

3 So as an example, if this was a car wreck case,  
4 which clearly it's not, and you asked -- you had  
5 your own witness on the stand and you said, what  
6 color was that car, that's appropriate. But if you  
7 said, was the car blue, that's not appropriate  
8 because you've answered the question within the  
9 question. And so you cannot call your own witness  
10 and lead the witness by basically testifying through  
11 your questions. That's the objection that's raised.  
12 The Court sustains that objection.

13 Please rephrase. Don't lead your witness.

14 **MR. CASTO:** Yes, sir, Your Honor.

15 BY MR. CASTO:

16 **Q** Before that incident, did you come to Saluda in  
17 the days prior to this incident?

18 **A** Yeah. I guess that's what they call it.  
19 Saluda's in the country.

20 **Q** And who did you come to Saluda to meet?

21 **A** J. We call him J. I guess his name Al Jerome,  
22 something like that.

23 **Q** Is that Al Jerome Young?

24 **A** Yeah.

25 **Q** But what do you call him?

1       **A**     We call him J.

2       **Q**     You call him J.  And how did you get to Saluda?

3       **A**     I drove.

4       **Q**     And what car did you drive to Saluda in?

5       **A**     I drove a red Expedition.

6       **Q**     And when you got to Saluda, where did you go?

7       **A**     I went to a trailer in the country.  It was a

8       blue trailer out in the country.

9       **Q**     And who lived there?

10      **A**     My understanding, J and his sister and some

11      dude.

12      **Q**     And why did you travel -- now, first and

13      foremost, where did you come from?

14      **A**     I came from -- that day, I come from Aiken that

15      day.

16      **Q**     Okay.  And why did you come to see Al Young?

17      **A**     Because he said -- well, he gave me some sob

18      story about how he owed his PO \$3,000.

19      **Q**     Okay.  And so what time did you arrive at his

20      house?

21      **A**     I'd say about, maybe about 1:30, like 1:30,

22      1:25, 1:30.

23      **Q**     And when you got there, what did you do?

24      **A**     We went -- he told me that he had to meet

25      somebody at the washing -- at the laundry mat, and I

1 guess that's Ridge Spring.

2 Q Did you give him a ride?

3 A Yes.

4 Q And where did you give him a ride to?

5 A To the laundry mat in Ridge Spring. I guess  
6 that's Ridge Spring.

7 Q Okay. And whose idea was it to go to the  
8 laundry mat?

9 A His. He said he had to meet somebody there.

10 Q Did you know who that was?

11 A No.

12 Q Now, how long did it take you to get to the  
13 laundry mat?

14 A I'd say around about -- from there, about seven  
15 to ten minutes, if that. About seven to ten  
16 minutes.

17 Q And to be clear, what day do you think this was  
18 on?

19 A Tuesday.

20 Q Okay. Now, did something happen when you got  
21 to the laundry mat?

22 A Yeah.

23 Q And what was that?

24 A Well, he pulled a gun on me and told me to give  
25 him everything that I had in the truck.

1 Q Who pulled a gun on you?

2 A J.

3 Q And by J, you mean Al Jerome?

4 A Yes.

5 Q Okay. Did he hit you with the gun?

6 A No, he didn't hit me with it. He just pointed  
7 it at me.

8 Q Do you know what kind of gun it was?

9 A It looked like a .40 caliber. I know it was  
10 bigger than a nine.

11 Q And what color was it?

12 A Black.

13 Q And you say this was on a Tuesday?

14 A Yes.

15 Q Now, is it just you and him in the car?

16 A Yes.

17 Q And you told us that he pulls a gun on you and  
18 what did you do?

19 A I went to pleading with him. I tell him, Man,  
20 I got your \$3,000. Why you doing this? And he was  
21 like he didn't want to hear that, just give me  
22 everything that's in here.

23 Q And where was your money located?

24 A I had \$3,000 in my pocket and I had 29,000 in  
25 the console between the driver's seat and the

1 passenger seat.

2 Q And all of that money was -- whose money was  
3 that?

4 A Mine.

5 Q Was it anyone else's?

6 A No.

7 Q Was any part of that money Al Young's?

8 A No.

9 Q You had \$3,000 in your pocket and you had  
10 another, you said, 29 elsewhere in the car?

11 A Yes, sir.

12 Q And how much money did he take from you?

13 A \$32,000.

14 Q When he robbed you -- and now to be clear, he  
15 robbed you with a gun. He didn't ask for it?

16 A I don't understand what you mean by he didn't  
17 ask for it.

18 Q In other words, in other words, he pointed a  
19 gun at you and did you give it to him?

20 A Yeah. I gave him the 3,000, then he went in  
21 the console -- well, he started searching and he  
22 went in the glove compartment, then he went in the  
23 console, then he took it out the console.

24 Q And once he took all your money, where did he  
25 go?

1       **A**    He went across the street. Well, he ran across  
2       the street, I guess, behind the store. It's like a  
3       store in front of the laundry mat. He ran behind  
4       the store.

5       **Q**    And did you follow him?

6       **A**    I got out to try to see where he ran, but he  
7       disappeared. So I got back in the truck and drove  
8       around the corner and see if he was back there, but  
9       I didn't see him.

10      **Q**    Did you see him anymore that day?

11      **A**    No.

12      **Q**    Did you get your money back that day?

13      **A**    No.

14      **Q**    And did you have a weapon during that incident  
15      at all?

16      **A**    No.

17      **Q**    Did you try and stop by his house at some point  
18      after?

19      **A**    Yeah. I went by there after I had picked my  
20      daughter up from school. I had to go pick my  
21      daughter up from school.

22      **Q**    Where is she in school?

23      **A**    At that time, she was in Head Start in Aiken.

24      **Q**    In Aiken. So you -- just so I'm clear, you  
25      left and you went to Aiken; is that right?

1       **A**     Yes.

2       **Q**     Did you try to make contact with Al Young?

3       **A**     Yes.

4       **Q**     Okay. And, at some point, did you ever make  
5       contact with him about this money?

6       **A**     Yes, I did.

7       **Q**     Okay. And based on the nature of that  
8       conversation, if you were to try come and collect  
9       it, what did you think was going to happen to you?

10      **A**     Well, he told me that he would shoot -- he  
11      would shoot me, shoot up the truck and anybody else  
12      who came and tried to get it.

13      **Q**     And, in fact, you had already seen him with a  
14      gun, right?

15      **A**     Yes.

16             **MR. MAYE:** Object to the leading.

17             **THE COURT:** Counsel, that's twice now.

18             **MR. CASTO:** Yes, sir.

19             **THE COURT:** If we have a third time, we're  
20      going to have to stop with the questioning.

21             **MR. CASTO:** Yes, sir.

22             **THE COURT:** Thank you. Go ahead.

23      BY MR. CASTO:

24      **Q**     And did you eventually travel back to Saluda to  
25      get your money?

1       **A**     Yes, sir.

2       **Q**     And what day was that?

3       **A**     Thursday night coming into Friday morning,

4       about midnight -- close to midnight.

5       **Q**     Okay. And did you talk anyone into going with

6       you?

7       **A**     I talked -- I asked Gerald if he would drive

8       for me.

9       **Q**     Did you talk with anyone else?

10      **A**     Yeah, I talked to Rico.

11      **Q**     Who is Rico?

12      **A**     Rico's the dude with the guns.

13      **Q**     Okay. And how do you know Rico?

14      **A**     I met him pulling some watermelons at the

15      watermelon market.

16      **Q**     Does Rico have a last name?

17      **A**     He told me it was Riverez.

18      **Q**     And you know him from the watermelon field. Is

19      that the type of work that you all were involved in?

20      **A**     Yes, sir.

21      **Q**     And let me ask you this: Why take Gerald?

22      **A**     I needed a driver.

23      **Q**     Okay. Well, can you drive?

24      **A**     Yes, I can drive, but I don't have a license.

25      **Q**     Okay. Now, does Gerald have a license?

1       **A**     I don't know.

2       **Q**     But you needed a driver and so that's why you  
3       asked Gerald to go?

4       **A**     Yes.

5       **Q**     And let me ask you this: Why does Gerald even  
6       want to go?

7       **A**     Because I told him I would pay him for going.

8       **Q**     I'm sorry?

9       **A**     I told him I would pay him for going.

10      **Q**     Pay him with what?

11      **A**     I'd pay him some money.

12      **Q**     Now, let me ask you this: What vehicle did  
13      y'all take to go down there?

14      **A**     We went in a van.

15      **Q**     Okay. And who owns that van?

16      **A**     At that time, my wife was the owner.

17      **Q**     And in order to take her van, what did you tell  
18      the wife?

19      **A**     Well, I told her that I had to go to the store  
20      and get some things and that I'll be back.

21      **Q**     And, and that wasn't true, was it?

22      **A**     Not all true, no.

23      **Q**     Okay. And what did you tell Gerald that you  
24      were going to do that night?

25      **A**     I told him I was going to see some girls.

1       **Q**     Okay. Did you ever mention anything about  
2       getting money back?

3       **A**     No.

4       **Q**     Did you ever mention anything about being  
5       robbed before?

6       **A**     No.

7       **Q**     You ever mention anything about Al Young?

8       **A**     No.

9       **Q**     Did you ever mention anything about guns?

10      **A**     No.

11      **Q**     Did you ever mention anything about doing a  
12      shooting?

13      **A**     No.

14      **Q**     Did Gerald have any idea about what you were up  
15      to or what you were going to do?

16      **A**     No. Not to my knowledge, no.

17      **Q**     Okay. Was there anything on you or in the van  
18      that would give him an idea?

19      **A**     Not -- I mean, not if he -- I don't know. I  
20      don't think so. I didn't have no guns or nothing in  
21      there.

22      **Q**     And so before this incident, did Gerald have  
23      any idea what was going on?

24      **A**     No.

25      **Q**     And during this incident when it was going on,

1 did he have any idea what was really happening?

2 **A** No.

3 **Q** And let's stop here. You -- do you have a  
4 conviction for giving false information to the  
5 police in 2005?

6 **A** Yes.

7 **Q** Okay. And do you have a conviction for  
8 attempted murder in 2012?

9 **A** No.

10 **Q** Did you --

11 **A** Yes, yes. I'm sorry. I apologize. Yes.

12 **Q** Did you plead guilty in this case to attempted  
13 murder?

14 **A** Yes.

15 **Q** And when did that take place?

16 **A** June the 11th.

17 **Q** Of what year?

18 **A** 2012.

19 **Q** So you've already pled guilty?

20 **A** Yes.

21 **Q** All right. And you've told us all this, but  
22 it's in the first time -- let me ask you this: Did  
23 -- so you have Gerald and he's driving. Did someone  
24 else follow you down there?

25 **A** Yes.

1       Q     Okay. And did Gerald ever know about that  
2       other person following you all down there that  
3       night?

4       A     No.

5       Q     And who was that other person?

6       A     Rico and somebody, whoever was driving for him.

7       Q     So how did Rico get there?

8       A     He was in a, looked like a box Chevy Caprice.

9       Q     Did -- so his ride -- did his ride stay?

10      A     No, not -- no, not to my knowledge. I didn't  
11      see him. They kept going.

12      Q     Okay. Now, let's talk about what's in the van  
13      at this point. Were there any guns in that van?

14      A     No.

15      Q     Were there any gloves in that van?

16      A     I had blue gloves in there.

17      Q     Okay. Where did you get those from?

18      A     The hospital, Aiken.

19      Q     Why were you at the hospital in Aiken?

20      A     Because my -- well, my son and my daughter  
21      have, I think, they have epilepsy and they have  
22      seizures or fiber {sic} seizures, and my son had a  
23      recent one. You know, they was sitting there, so I  
24      just took them and said I can take them for cleaning  
25      up or whatever if we needed them.

1       **Q**     Were those in the van that night?

2       **A**     Yes.

3       **Q**     And about -- what time did y'all leave?

4       **A**     Probably about 11:30, between 11:30 -- about  
5       11:30, 11:45, somewhere up in there.

6       **Q**     Was there anything in that van that would  
7       communicate to Gerald what was really going on?

8       **A**     No.

9       **Q**     Let me ask you this: How did Gerald know where  
10      to go?

11      **A**     I told him.

12      **Q**     One question, when you arrived, why did you  
13      park so far away?

14      **A**     I didn't want the van to be there at -- well, I  
15      didn't want the van to be there.

16      **Q**     And why not?

17      **A**     Because I didn't want -- I didn't want them to  
18      see -- I didn't want J to see me coming.

19      **Q**     What did you tell Gerald about parking so far  
20      away?

21      **A**     I told him just to sit here. I was going to  
22      the girl house to see what they was talking about  
23      and I'll come back.

24      **Q**     And once you arrive, when is Rico dropped off?

25      **A**     Rico is dropped off, like, when we was riding,

1 I told Gerald to hit the brakes right quick and then  
2 Rico was dropped off wherever he hit the brakes at.

3 Q And once you arrive and you get out of the van,  
4 what are your instructions to Gerald?

5 A I told him to wait till I come back. I'd be  
6 right back.

7 Q And does he sit in the van?

8 A He was there when I left.

9 Q And do you leave Gerald at the van and -- and  
10 once you leave Gerald at the van, where do you walk  
11 to?

12 A I walked down the road to the trailer.

13 Q At what point -- where did you meet up with  
14 Rico?

15 A Before I got to the trailer.

16 Q Okay. Now, does Rico have anything with him?

17 A Yes.

18 Q And what does he have?

19 A He gave me a Tec-9 and he had another hand --  
20 he had a handgun.

21 Q And before this point, did you have a gun?

22 A No.

23 Q What gun did Rico have?

24 A It looked like a .40 caliber. I don't know  
25 exactly.

1       **Q**     Do you know what color it was?

2       **A**     It was like -- it look like silver. We call

3       that chrome, that's what we call it.

4       **Q**     And once you meet up with Rico, where do y'all

5       walk towards?

6       **A**     Walked up the dirt road and down -- up the dirt

7       road and down by the trailer.

8       **Q**     And as you get to the house, were there any

9       lights on?

10      **A**     There's TV on, wasn't no lights. It was a TV

11      on.

12      **Q**     No lights. Is the TV on?

13      **A**     There's a TV on.

14      **Q**     Could you hear anything from inside the home as

15      you got close?

16      **A**     The TV was on in the den. I heard J shout,

17      Where the MF is that.

18      **Q**     How do you know it was him?

19      **A**     I know his voice.

20      **Q**     How long have you known Al Jerome or J?

21      **A**     Roughly three to four years.

22      **Q**     And so you hear that. And did the people

23      inside that house, did they open up that door?

24      **A**     No.

25      **Q**     They didn't?

- 1       **A**     No.
- 2       **Q**     Okay. Did they -- throughout this incident,
- 3       did anyone ever open up their door?
- 4       **A**     Yeah, J did.
- 5       **Q**     What did he do when he opened it?
- 6       **A**     He came out and fired two shots in the air.
- 7       **Q**     Did he shoot first?
- 8       **A**     Yes.
- 9       **Q**     And after he shoots, what did you do?
- 10      **A**     I shot one shot in the air.
- 11      **Q**     And so you fired -- is it the 9mm?
- 12      **A**     Yes, sir.
- 13      **Q**     Okay. Now, how many shots did you fire?
- 14      **A**     One.
- 15      **Q**     Okay. And in what direction did you fire it?
- 16      **A**     In the air.
- 17      **Q**     Okay. And what about Rico; did he shoot?
- 18      **A**     He had to shoot.
- 19      **Q**     Okay. Now, after you shoot, did you have any
- 20      problems with the 9mm?
- 21      **A**     It jammed.
- 22      **Q**     Okay. Were you able to shoot it anymore?
- 23      **A**     No.
- 24      **Q**     And so what did you do?
- 25      **A**     I ran.

1 Q Why?

2 A Because the gun jammed.

3 Q Okay. Did you have another weapon?

4 A No.

5 Q Do you know where or what direction Rico shot?

6 A I'm guessing he was shooting at the house. I  
7 don't know because I didn't stay to see.

8 Q As you ran, did you hear other shots?

9 A Yeah, there were shots. I wasn't counting  
10 them, though.

11 Q And based on that incident, do you know how  
12 Rico got out of there?

13 A No, I really don't.

14 Q Do you know if Rico ever got arrested?

15 A No, I don't.

16 Q And so when you make it back to the van, is  
17 Gerald, is he still in the van?

18 A Yes, he was in the van when I got back.

19 Q Okay. Now, almost immediately did you see law  
20 enforcement lights?

21 A When I got in the van, they pulled up within,  
22 within five seconds, saying, within five seconds,  
23 they pull up behind us.

24 Q And, at that point, does Gerald Williams, does  
25 he ask you what happened?

1           **THE COURT:** Counselor, hang on. Don't lead  
2 your witness, all right. So let's talk about that.  
3 You just said, Did the defendant ask you what  
4 happened? The appropriate question is what happened  
5 then, not whether someone asked him something or  
6 what they did. Just let him tell the story, not  
7 you.

8           **MR. CASTO:** Yes, sir.

9           **THE COURT:** So be careful because this is a  
10 witness that you've called and it's not appropriate  
11 for you to testify for him.

12          **MR. CASTO:** Yes, sir.

13          **THE COURT:** So let's strike that question and  
14 move to your next issue.

15          **MR. CASTO:** Yes, sir.

16 BY MR. CASTO:

17 **Q** When you got back into the van, did Gerald say  
18 anything?

19 **A** Yeah. He asked me, he said, What happened?

20 **Q** Did he look shocked?

21          **THE COURT:** Counsel, move to the next issue.  
22 I'm going to preclude the remainder of that issue  
23 because that's an inappropriate question.

24 Ladies and gentlemen, please disregard that.  
25 This is not for the lawyer to testify as to what was

1 the -- what was anyone's reaction. It's for this  
2 witness.

3 So no more about that question. Move to  
4 another issue. Go ahead.

5 **MR. CASTO:** Yes, sir.

6 BY MR. CASTO:

7 **Q** Where is Gerald seated in the car?

8 **A** The driver's seat.

9 **Q** Where were you seated?

10 **A** Passenger.

11 **Q** And when you make it back into the van, what  
12 happened next?

13 **A** We sat there for, like, two to three minutes.  
14 The police, they didn't come to the van, so I told  
15 him to ease off.

16 **Q** And what happened next?

17 **A** He eased off. Once he eased off, they pulled  
18 in front -- they pulled -- yeah, on the left side.  
19 Then they pulled in the front of us and they said,  
20 Stop. We stopped.

21 **Q** Was Gerald driving fast or slow?

22 **A** No. He drove slow.

23 **Q** And once the van is stopped, does Gerald try to  
24 run?

25 **A** No.

1           **Q**     Do you try to run?

2           **A**     No. They tell us to shut the van off. He cut  
3           the van off and said -- either they said throw the  
4           keys out the window or stick his hands out the  
5           window. He stick his hands out the window, open the  
6           driver door from outside the car.

7           **Q**     Okay. And, at that point, did he get out?

8           **A**     Yes.

9           **Q**     And what did law enforcement instruct him to  
10          do?

11          **A**     Put his hands above his head and to take steps  
12          back and --

13          **Q**     Like walk backward?

14          **A**     Yes. Said walk backwards and then place your  
15          hands, like, cross them on the back of your head,  
16          lay down. And then when he did that, they  
17          instructed me to do the same thing.

18          **Q**     And is it at that point y'all were taken into  
19          custody by law enforcement?

20          **A**     Yes.

21          **Q**     At any point, did Gerald Williams have any idea  
22          what your true plans were that night?

23          **A**     No.

24          **Q**     And you pled guilty, it was in June; is that  
25          right?

1       **A**     Yes.

2               **MR. MAYE:** Your Honor, I'm going to object to  
3       the leading again and ask him...

4               **THE COURT:** Again, that's a preliminary matter,  
5       but he's pled guilty. Go ahead. Don't lead your  
6       witness, Counsel.

7       BY MR. CASTO:

8       **Q**     And you've communicated and wrote this --

9               **MR. MAYE:** Your Honor, I'm going to object to  
10       this. He's trying to talk about some prior  
11       statement other than his statement here, some sort  
12       of prior consistent statement. I'm going to object  
13       to that.

14              **MR. CASTO:** Your Honor, may we approach?

15              **THE COURT:** First of all, that sounded leading,  
16       Counsel, to begin with, but come on up to the bench  
17       for a moment, please.

18              **MR. CASTO:** Yes, sir.

19              **THE COURT:** Just one moment, ladies and  
20       gentlemen.

21                       (Whereupon, a bench conference was held off  
22       the record, in the presence of the jury, but out of  
23       the hearing of the jury.)

24              **THE COURT:** All right. Ladies and gentlemen,  
25       excuse us for a moment there. Thank you for your

1       patience. An issue about admissibility of certain  
2       evidence the Court -- that has resolved here at the  
3       bench.

4               And now you may proceed with your questions,  
5       Mr. Casto.

6       BY MR. CASTO:

7       **Q**     To pick up where we left off, you said you pled  
8       guilty June 11th of 2012, to attempted murder in  
9       this case; is that right?

10      **A**     Yes.

11      **Q**     And the next day you wrote a letter to Judge  
12      William P. Keesley; isn't that right?

13      **A**     Yes.

14      **Q**     And in your letter, you outlined --

15               **THE COURT:** What was in the letter would be  
16      what you'd ask him, Counsel, rather than lead him as  
17      to the contents of the letter would be to ask him  
18      what was the content.

19               **MR. CASTO:** Yes, sir.

20               **THE COURT:** Thank you.

21      BY MR. CASTO:

22      **Q**     And do you recall the letter I'm speaking  
23      about?

24      **A**     I think I wrote two of them, if I'm not  
25      mistaken.

1       **Q**     And if you had a copy of the letter, would that  
2       refresh your memory?

3       **A**     Yeah.

4               **THE COURT:** Well, Counsel, actually, first of  
5       all, he's not said he doesn't have a recollection.  
6       He simply said he wrote two letters. So question  
7       him about the contents before you refresh his  
8       memory. It may not be necessary.

9               **MR. CASTO:** Yes, sir.

10              **THE COURT:** Go ahead and, if you wish, ask him  
11       what was the content of the letter.

12       BY MR. CASTO:

13       **Q**     Do you remember the contents -- or what was the  
14       contents of the letter to Judge Keesley?

15       **A**     One of them was that Gerald didn't know -- he  
16       didn't know about the shooting. And one of them was  
17       about that I had apologized, I guess, because I  
18       had -- it appeared that I had made some type of  
19       mistake who was in there, and I just said I wanted  
20       to resolve the case and get it back in court.

21       **Q**     When you were in where?

22       **A**     In McCormick, court in McCormick.

23       **Q**     What were you doing in court in McCormick?

24       **A**     Pleading guilty to attempted murder.

25       **Q**     Okay. What kind of mistake would you have

1       made?

2       **A**     They had -- I guess it was the judge had asked  
3       me was anything promised to me. And I asked my  
4       lawyer what to say and he was, like, well, just tell  
5       him --

6               **MR. MAYE:** Your Honor, I'm going to object to  
7       anything that he's saying. That's hearsay. He's  
8       trying to claim his lawyer put --

9               **THE COURT:** Just a moment. That's not  
10      necessary to explain further.

11              Ladies and gentlemen, that's clearly hearsay.  
12      It is what someone else outside of this court said.  
13      The best evidence of that is to bring that person in  
14      here. The Court's going to decline to allow that  
15      impermissible testimony in this proceeding.

16              Please move to your next question.

17              **MR. CASTO:** Yes, sir, Your Honor.

18      BY MR. CASTO:

19      **Q**     And in that letter to Judge Keesley, do you  
20      remember the contents of that letter?

21      **A**     The main thing was that Gerald didn't know  
22      about the shooting and I had -- he thought we was  
23      going to see some girls.

24      **Q**     Okay. And you mention that you wrote another  
25      letter; is that right?

1       **A**     Yes.

2       **Q**     And who did you write that other letter to?

3       **A**     Keesley.

4       **Q**     Okay. And do you remember the contents of the  
5       other letter to Judge Keesley?

6       **A**     The one when I was apologizing about what  
7       happened in court.

8       **Q**     Okay. And Mr. Williams, did he ever have any  
9       earthly idea what was really going on?

10      **A**     No.

11           **MR. CASTO:** Nothing further. Please answer any  
12       questions the State has.

13           **THE COURT:** Now, ladies and gentlemen, on  
14       cross-examination, you can ask leading questions,  
15       and the purpose of that is to see whether the  
16       witness holds to what they testified to on direct.  
17       Leading questions are permissible.

18           You may proceed.

19                               CROSS-EXAMINATION

20       BY MR. MAYE:

21       **Q**     Mr. Charley, you went down and pleaded guilty  
22       to one count of attempted murder in front of Judge  
23       Keesley on June the 11th of 2012, right?

24       **A**     Yes, sir.

25       **Q**     But you got two of the other counts against the

1 other victims, Mr. Wrighton -- you pleaded guilty to  
2 the count involving Al Young, but the State, we  
3 dropped the charges against Mr. Wrighton and Ycedra;  
4 isn't that right?

5 **A** Yes, sir.

6 **Q** Okay. Because you had agreed to cooperate with  
7 law enforcement and then talked to Investigator  
8 Shorter at length about this incident, didn't you?

9 **A** No, I never agreed to cooperate.

10 **Q** So you didn't stand up there in McCormick where  
11 it was placed on the record in that guilty plea that  
12 you had agreed to testify truthfully and that the  
13 versions of facts that we, the State, have in this  
14 case is truthful and that you intend to testify in  
15 accordance with that should we need you to testify  
16 against the co-defendant. And the co-defendant is  
17 Gerald Williams; isn't that right?

18 **A** Yes.

19 **Q** Were you not there at that plea?

20 **A** Yes, I was there.

21 **Q** Okay. And you stood and heard every word that  
22 the State put on the record, didn't you?

23 **A** That must have been when we was in -- when we  
24 had the thing about the -- when I had a  
25 misinterpretation about I had done messed up, that's

1       why I was apologizing.

2       **Q**     You stood there in a courtroom just like this  
3       one?

4       **A**     Yes, sir.

5       **Q**     In front of a judge and pleaded guilty and got  
6       a deal, right?

7       **A**     Yes, sir.

8       **Q**     You remember that?

9       **A**     Yes, sir.

10      **Q**     And you remember all of the words that were put  
11      on the record during that plea, don't you?

12      **A**     Most of them, yeah.

13      **Q**     You remember Investigator Shorter getting up  
14      and giving the full version of the facts in this  
15      case about how this was money over drugs and all of  
16      the details in this case?

17      **A**     I remember that.

18      **Q**     And you concede you talked to Investigator  
19      Shorter and told him all about how this went down  
20      beforehand, didn't you?

21      **A**     Yes, but I never told him it was about no  
22      drugs.

23      **Q**     You stood right there in that courtroom and  
24      heard it talked about a dispute over whether or not  
25      it was drug money, Mr. Young had taken \$32,000 from

1       you, talking about the pistol being jammed,  
2       Mr. Williams being involved. All of that was placed  
3       on the record at the time of that plea, wasn't it?

4       **A**     To my understanding, both of us had agreed --  
5       you had agreed to eight years for both of us. He  
6       didn't take it and I took it.

7       **Q**     You didn't get eight years. You hadn't even  
8       been sentenced yet. You don't have any idea what  
9       you're going to get, do you?

10      **A**     No, not now obviously.

11      **Q**     The bottom line is your sentence was deferred  
12      until after you were supposed to cooperate against  
13      Mr. Williams; isn't that right?

14      **A**     I'm guessing that's how it's turning out to be.

15      **Q**     And you're double-crossing the State now after  
16      agreeing to testify and providing all the  
17      information about this crime to the State; isn't  
18      that right?

19      **A**     Yes, I guess that's how it's looking.

20      **Q**     That's exactly how it's looking because that's  
21      exactly how it is, isn't it?

22      **A**     Yeah, but I don't remember agreeing to testify  
23      against him.

24      **Q**     Were you standing in the courtroom when we put  
25      all of that on the record --

1       **A**     Yes, sir.

2       **Q**     -- as a reason for the judge about why we were  
3       dismissing those other two charges against you?

4       **A**     Yes, sir, I was there.

5       **Q**     Do you think the State just out of the goodness  
6       of its heart, would have just thrown out two charges  
7       on you?

8       **A**     I don't know..

9       **Q**     It was because you had given information on  
10      your co-defendant and implicating him completely in  
11      this case, isn't it?

12      **A**     Yes, sir.

13      **Q**     And now you want to try to pull his fat out of  
14      the fire after you got a deal and come up here and  
15      lie to this jury to help him; isn't that right?

16      **A**     Yes, sir.

17      **Q**     So you concede what you -- all this tale that  
18      you've told the jury up here is just a lie to try to  
19      pull his fat out of the fire?

20      **A**     Yes, sir.

21      **Q**     All of it's a lie because Gerald Williams was  
22      with you, wasn't he?

23      **A**     Yes, sir.

24      **Q**     You'd previously told Zeb that this was about  
25      drugs and you got ripped off and you were mad; isn't

1           that correct?

2           **A**     No.

3           **Q**     You're still maintaining that he robbed you?

4           **A**     Yes, he did.

5           **Q**     But Zeb went through and talked with you about  
6           that and you gave him a version of the story where  
7           you had been robbed, but then you backed up after  
8           Zeb said, well, you know there's a camera out there  
9           at the laundry mat that's going to make a liar out  
10          of you; isn't that right?

11          **A**     Yeah.

12          **Q**     And you started telling a different tale when  
13          Zeb was smart enough to tell you there was a camera  
14          out at the laundry mat?

15          **A**     No. I still said I got robbed.

16          **Q**     When did you go to the police, O.J., if you got  
17          robbed?

18          **A**     I didn't go.

19          **Q**     You're telling this jury up here -- you've  
20          already admitted that you're a liar and you got up  
21          here and just told a whole passel of lies in front  
22          of them trying to pull his fat out of the fire,  
23          you're still maintaining that he robbed you there?

24          **A**     Yeah.

25          **Q**     But you didn't go to the police. You want them

1 to believe that somebody took \$32,000 because you  
2 were a good samaritan and wanted to help somebody  
3 out, but you wouldn't go to the police over a 32,000  
4 dollar armed robbery?

5 **A** No. I mean, they wasn't going to give me back  
6 my money.

7 **Q** So you were going to go get your money back one  
8 way or another; isn't that right?

9 **A** Yeah, I was going to get it back.

10 **Q** You went with five guys out there to this  
11 trailer to, didn't you, the day before?

12 **A** No.

13 **Q** You deny doing that. You didn't go out there  
14 with five people?

15 **A** No, I didn't go out there with five people.

16 **Q** You called Al Young and told him, I'm here with  
17 your family, threatening his family wanting him to  
18 give you the money back to let him know that you had  
19 found his family, threatening them in hopes he'd  
20 give you the money back?

21 **A** No.

22 **Q** You didn't talk to Ycedra out there and ask for  
23 his cell phone number and ask where he was?

24 **A** I asked her where he was at.

25 **Q** And you called him and said, I'm here with your

1 family. Because you knew if there was any hope of  
2 you getting that money back, you'd have to let him  
3 know that you were going to kill his family; isn't  
4 that right?

5 **A** No.

6 **Q** Well, what was the purpose of going there with  
7 five thugs from Williston if it wasn't to intimidate  
8 him into trying to give you the money back?

9 **A** I didn't go there with five thugs from  
10 Williston.

11 **Q** Who did you go there with?

12 **A** I went there by myself.

13 **Q** You went there right by yourself?

14 **A** Yeah.

15 **Q** And you're as sure about that as everything  
16 else you've told this jury under oath?

17 **A** Yes.

18 **Q** The truth of the matter is you threatened him  
19 because you wanted that 32 grand back; isn't that  
20 right?

21 **A** No.

22 **Q** You never threatened him?

23 **A** No.

24 **Q** You just asked him politely, now, you've  
25 committed an armed robbery on me. And you just

1 stood around there at that house politely and asked  
2 where he was?

3 **A** Yeah.

4 **Q** Okay. And in the conversations that you had  
5 with Al Young, you just politely said, Mr. Young,  
6 you know, you've robbed me of 32 -- you say it's  
7 \$32,000, and I'd please like my money back?

8 **A** No. I didn't tell him I'd please like my money  
9 back. I told him I need it back. I told him I need  
10 at least 20 of it. You can keep 10 or 12. I just  
11 need 20. I got a family. I need to take care of my  
12 family. I can't take care of my family if I don't  
13 have no money. And he said --

14 **Q** You were just going to -- this guy that  
15 committed an armed robbery on you, you were just  
16 going to let ten slide?

17 **A** Yeah, he could have got 12. As long as I would  
18 have had 20, I would've had enough. I would've had  
19 enough to get by for a little while at least.

20 **Q** But you didn't get your money back that day  
21 because he wasn't there in spite of your threats  
22 towards his family, did you?

23 **A** I didn't threaten his family.

24 **Q** Did you get your money back that day?

25 **A** No, sir.

1       **Q**     So you came back with Gerald Williams to kill  
2       him, didn't you?

3       **A**     No. I came back to get my money. If killing  
4       was in the process, I mean, I don't -- I can't say  
5       what would have happened, but I did come back to get  
6       my money.

7       **Q**     With Gerald Williams and he knew full well what  
8       was going on; isn't that right?

9       **A**     He knew.

10      **Q**     He knew. Of course, he knew. And you took up  
11      this ugly looking -- which pistol did you have now?  
12      You already told one version of this to Zeb about  
13      who had which gun. Which one did you have and which  
14      one did Gerald have?

15      **A**     Gerald didn't have any of the guns. He knew,  
16      but he didn't have no gun.

17      **Q**     He went down there to this trailer without a  
18      gun?

19      **A**     He didn't have a gun.

20      **Q**     You took both guns?

21      **A**     I had the Tec.

22      **Q**     How did this other one get out there shooting  
23      up that trailer?

24      **A**     Rico had that one.

25      **Q**     You're still going to try to tell the jury that

1       there's some unknown dude out there named Rico  
2       Riverez that shadowed you without Gerald Williams  
3       knowing it. You're going to still try to tell them  
4       that?

5       **A**     Yeah.

6       **Q**     You realize you can get charged with perjury  
7       for lying over and over again up here? Have you  
8       talked with Mr. Screen about that?

9       **A**     Yes, sir.

10      **Q**     Do you need time to talk to him again?

11      **A**     Nah.

12      **Q**     So you're going to sit here and try to convince  
13      12 intelligent people that Gerald Williams and you  
14      rode up here and he's still -- are you going to try  
15      to tell them that he stayed in the car still?

16      **A**     No.

17      **Q**     He went with you to the scene, didn't he?

18      **A**     Yeah.

19      **Q**     Are you sure you want to stick with the part  
20      about this unknown dude, Rico Riverez?

21      **A**     No.

22      **Q**     Do what?

23      **A**     No.

24      **Q**     Because that's a lie, isn't it?

25      **A**     Yeah.

1       **Q**     The bottom line is you went out there to the  
2       trailer to get your money back and y'all shot this  
3       trailer up, didn't you?

4       **A**     Yeah.

5       **Q**     And you ran?

6       **A**     Yeah.

7       **Q**     And y'all ditched some gloves?

8       **A**     Yes, sir.

9       **Q**     Because you weren't going to put on rubber  
10      gloves to come down there and visit somebody if you  
11      didn't have evil intent. You had rubber gloves to  
12      cover your tracks; isn't that right?

13      **A**     Yes, sir.

14      **Q**     Which gun did you have and which one did Gerald  
15      have?

16      **A**     I had the Tec.

17      **Q**     The Tec?

18      **A**     Yes, sir.

19      **Q**     How many rounds did you get off in the Tec  
20      before it jammed?

21      **A**     One.

22      **Q**     Just one?

23      **A**     Yes, sir.

24      **Q**     Well, it's got a 20-round magazine. You're  
25      telling the truth now. It's got a 20-round

1 magazine.

2 A Yes.

3 Q How many rounds did you have loaded in it?

4 A I really don't know. I know it wasn't full.

5 To my knowledge, I think it -- you said it was 20?

6 Q It holds 20.

7 A I thought it held 30. I got off one round.

8 Q They make a 30-round for it, but this one's

9 only a 20.

10 A Yeah.

11 Q Do you remember how many rounds you had in it?

12 A No. I know I didn't -- it didn't get but one

13 round off because when I shot it, it jammed.

14 Q Why would you have gone down there with this

15 big 'ol ugly thing, this assault-style pistol, with

16 a 20-round magazine and not fully loaded it?

17 A I don't know. I didn't check.

18 Q You didn't even check to see if it was loaded?

19 A No, I didn't check to see if it was fully

20 loaded.

21 Q But Gerald's was fully loaded, wasn't it?

22 A I don't know. I didn't check.

23 Q But it was empty when the police found it and

24 it got empty, didn't it?

25 A Yeah.

1       **Q**     Okay. Gerald wasn't very smart, though. After  
2       y'all had gone to all of the trouble to put rubber  
3       gloves on to not leave fingerprints and to not leave  
4       evidence behind in this case, he tore off part of  
5       that glove and left his DNA there in that pile,  
6       didn't he?

7       **A**     To my knowledge, that's what you say. I didn't  
8       see it, but that's what you say.

9       **Q**     And, in fact, when Investigator Shorter  
10      informed you, when they brought Gerald up here to  
11      the jail and he still had two pieces of those blue  
12      -- purple rubber gloves stuck to his fingers, that's  
13      when you knew it was all over; isn't that true?

14      **A**     Yes, sir.

15      **Q**     Because y'all were caught at that point in time  
16      and you told Investigator Shorter the truth, didn't  
17      you?

18      **A**     Yes, sir.

19      **Q**     It's hard to keep up with what you say when you  
20      start telling lies, isn't it?

21      **A**     Well, I tried to help him. I mean, yeah,  
22      you're right.

23      **Q**     Because the bottom line is he didn't have --  
24      Gerald Williams did not have any involvement in the  
25      beef that you had with Al over the money, right?

1       **A**     No, he didn't.

2       **Q**     How were you able to persuade him to come up  
3       here and help you?

4       **A**     I get the money back, I'd pay him some.

5       **Q**     And so he was going to come up here and do  
6       whatever had to be done just for money?

7       **A**     I guess.

8       **Q**     Was he -- were you not concerned about the fact  
9       that there might have been those little kids in the  
10      house when y'all opened fire on it?

11      **A**     I know they wasn't in there.

12      **Q**     How did you know the little kids weren't in  
13      there?

14      **A**     Because the girl, Ycedra, she had looked so  
15      scared, like she -- when I came -- when I went and  
16      asked was her brother there, she looked like she was  
17      scared, like she had knew what had happened, but I  
18      didn't never threaten her. I don't quarrel with  
19      women, that's not my thing.

20      **Q**     But when the two of you opened up on the  
21      house --

22      **A**     It wasn't -- the van that they drive -- the  
23      Explorer that they drive wasn't in the yard.

24      **Q**     Yeah, but Ycedra was in there. Ycedra is a  
25      cousin of Gerald's. You didn't have any beef with

1 Ycedra?

2 **A** No.

3 **Q** And you didn't have any beef with Joseph, did  
4 you?

5 **A** No.

6 **Q** Why in the world would you have shot the whole  
7 house up not caring about whether they lived or  
8 died?

9 **A** I can't say I was not caring about whether they  
10 lived or died. He shot, so I shot in the air,  
11 that's how it happened.

12 **Q** Y'all blew this trailer apart, man. Look at  
13 that door. Isn't that right?

14 **A** It's not a 9mm bullet in that door.

15 **Q** So Gerald Williams had to be the one that shot  
16 this trailer all up?

17 **A** I guess. I don't know. I know I didn't.

18 **Q** Well, if you didn't do it, he had to then,  
19 didn't he?

20 **A** Yeah.

21 **Q** About how many bullets do you think you had  
22 loaded in this .40?

23 **A** I don't know. I didn't check.

24 **Q** Who loaded the .40?

25 **A** It was already loaded when I bought it.

1       **Q**     And you didn't even look at it?

2       **A**     No.

3       **Q**     Y'all were going to go down there and shoot it  
4       out with a man that y'all knew had a gun, you knew  
5       Al had a gun from -- if you're still going to stick  
6       to this story about the armed robbery, you already  
7       knew this guy had robbed you at gunpoint?

8       **A**     Yes, sir.

9       **Q**     And you -- did you supply this to Gerald or did  
10      he bring it himself?

11      **A**     I gave it to him.

12      **Q**     You gave it to him, but you didn't even look in  
13      the magazine to see how many were in there?

14      **A**     No.

15      **Q**     You took the time to get rubber gloves to cover  
16      your track, y'all got stocking masks, you got the  
17      bandanna, all of that stuff?

18      **A**     The stocking -- the hats, those are my kids'  
19      hats. Those are always in the van. The glove --

20      **Q**     Y'all just went down there without anything  
21      covering your identity?

22      **A**     I had on something.

23      **Q**     What did you have on to cover your identity?

24      **A**     I had a bandana.

25      **Q**     You had the bandanna on?

1       **A**     Yes, sir.

2       **Q**     What did Gerald have? Did he just go down  
3       there for all the world to see?

4       **A**     Yes, sir.

5       **Q**     Now, you're telling the ladies and gentlemen of  
6       the jury that you only got -- managed to get one  
7       shot off before your nine jammed, right?

8       **A**     Correct.

9       **Q**     How many more shots did you hear Gerald fire at  
10      the house afterwards?

11      **A**     I don't know if he fired shots. I don't know  
12      which way they was going. I know he shot, but I  
13      don't know which way they were going.

14      **Q**     Well, y'all ran right back there together?

15      **A**     Actually, I left him.

16      **Q**     How did the guns end up in the same pile  
17      together? For goodness' sakes, tell the truth at  
18      this point in time.

19      **A**     I'm telling you the truth. I left him, but he  
20      caught up with me. I'm telling you the truth.

21      **Q**     Okay. And so the guns end up in a -- because  
22      the police have got the pictures -- the guns end up  
23      in a big pile right there together. The purple  
24      glove that Gerald tore off his hand, for goodness'  
25      sakes, it's laying on top of the gun.

1       **A**     I know.

2       **Q**     Why didn't y'all throw them up further in the  
3       woods? Were y'all just not thinking?

4       **A**     Just wanted to get away. I heard the police  
5       cars coming. They was coming. They were responding  
6       to the call. They didn't see us, so we just --

7       **Q**     Did you see them come by the first go-round?

8       **A**     I seen them come every time.

9       **Q**     Where were y'all hiding at that point in time?

10      **A**     We wasn't hiding. We was walking.

11      **Q**     Did they just blow by you on the road?

12      **A**     They blew by us.

13      **Q**     How were y'all dressed? All in black?

14      **A**     This is what I had on, what I got on right now.

15      **Q**     And they just didn't see you?

16      **A**     Couldn't.

17      **Q**     But there was nobody in the van. The van was  
18      empty because the cops had already checked it?

19      **A**     Well, I didn't see them stop. When I seen them  
20      coming, they just kept coming. I didn't see no cops  
21      stop and check no van. They kept coming. They went  
22      on the dirt road. When we made it to the van, then  
23      they came back. That's when they pull up behind us.

24      **Q**     He got in the driver's side, right?

25      **A**     Correct.

1       Q     Okay. When Long pulled up, where were you?  
2       Were you still laying in the ditch when Long pulled  
3       up and made the circle to get behind you?

4       A     No. Long didn't never pull up and make a  
5       circle.

6       Q     How did he get around behind you then to get  
7       in, because he had come from up at the church?

8       A     No. This is how it happened: The law, I guess  
9       they was responding to the call, they come from,  
10      like, say from that way, if -- that window right  
11      there {indicating}.

12      Q     Okay.

13      A     They come this way. They go past. They turn  
14      and go right there. Then I guess somebody must have  
15      radioed and said something about it's a van up the  
16      road. So he comes back --

17      Q     Who came back?

18      A     The law. He came back. When he came back, he  
19      was going back up that way, then he pulled behind us  
20      like that.

21      Q     Do you remember getting up out of the ditch  
22      when the officer got behind you with the lights on;  
23      do you remember that?

24      A     No. I was in the van.

25      Q     Are you saying that you beat all the officers

1 back up there getting in the van?

2 A Yes.

3 Q Okay.

4 A I did.

5 Q Do what now?

6 A I did.

7 Q You beat them back up there?

8 A Yes.

9 Q Okay. So you're sure that you weren't laying  
10 in the ditch or anything when the officer got back  
11 up there?

12 A No, I wasn't laying in the ditch. I was in the  
13 van sitting down.

14 Q All right. What were y'all going to do when  
15 you kept pulling up and stopping and starting and  
16 opening the doors? Were y'all going to jump out and  
17 run or what were you doing?

18 A We never pulled up, start and stopped. We sat  
19 there for, like, two or three minutes. They never  
20 approached the van.

21 Q Well, the officer was screaming and yelling at  
22 you with his gun drawn, wasn't he?

23 A No. They -- they started screaming and yelling  
24 after the police pulled aside of us and told us to  
25 pull over. When we pull over, then it was red dots

1 all over the place.

2 Q Red dots all over the place?

3 A Yeah, there was red dots all over the place.

4 Said, Driver, shut off the engine, stick your hands  
5 out the window.

6 Q Uh-huh.

7 A Open the door from the outside. Then he did  
8 that. After he did that, said, Passenger, do the  
9 same. And I did that.

10 Q And you got caught and took you into custody,  
11 right?

12 A Yeah.

13 Q And you knew the game was up when they got the  
14 gloves off of him and he wasn't even smart enough to  
15 get rid of the guns?

16 A Yes, sir.

17 Q I guess, you should have brought somebody  
18 smarter with you to do this?

19 A I should have never did it at all.

20 Q And Gerald should have never agreed to come  
21 with you to potentially murder someone for money  
22 either, should he?

23 A No.

24 Q Well, I guess, I need to ask you some of this.  
25 Now, we did agree to drop the two charges against

1 the other two people; that's correct?

2 A Correct.

3 Q And ask you to come and testify against Gerald  
4 since he wanted a trial, correct?

5 A Yes.

6 Q And you did agree to do that; isn't that  
7 correct?

8 A According to the document -- according to the  
9 record in McCormick, yes.

10 Q Well, there's been nothing misleading about  
11 what I read you here --

12 A That's what I said. According to the record in  
13 McCormick, yes, sir, that is correct.

14 Q And you remember all of that, don't you?

15 A Yes, sir.

16 Q And Investigator Shorter treated you with  
17 courtesy when you were cooperating once you realized  
18 that the game was up, did he not?

19 A No.

20 Q He did not treat you with courtesy?

21 A No. His words were, Whatever's going to happen  
22 to you is going to happen to you; I can't say  
23 nothing about a man that's defending his house.  
24 That's what he told me.

25 Q Well, you know -- you don't disagree with Al

1 Young shooting back out when y'all are shooting up  
2 this house?

3 A He shot first.

4 Q You're saying he came outside and shot?

5 A Yes, sir.

6 Q But you're saying he shot up in the air?

7 A Yes, sir.

8 Q So y'all are going to blister this house from  
9 one end to another with three people inside of it in  
10 retaliation for him shooting up in the air?

11 A I didn't shoot at the house.

12 Q Well, if you didn't shoot, then Gerald Williams  
13 tore that house up from one end to the other with  
14 his .40 and emptied it; isn't that right?

15 A I don't know. I guess. I don't know. I  
16 wasn't there for all of that.

17 Q Well, you don't think he stopped along the way  
18 and ditched out some rounds? I mean, when the  
19 police found his gun, it's completely and totally  
20 empty?

21 A I didn't stay to see -- I didn't stay to see  
22 the gunfight.

23 Q You didn't empty it, did you? You're saying  
24 you didn't fire this .40. So if you didn't have to,  
25 who had to have emptied this gun into that trailer?

1       **A**     I mean, if it was emptied into the trailer, I  
2       guess it was him.

3       **Q**     It had to be him, didn't it, if what you're  
4       telling them is true, if you didn't really have 20  
5       rounds in there and you didn't get off a boatload of  
6       them before it jammed?

7       **A**     No, that jammed trust me.

8       **Q**     Well, then he ended up having a lot more nerve  
9       than you did because he stuck around in spite of the  
10      fact that you say somebody had shot up in the air.  
11      Now, he wasn't shooting up in the air because the  
12      bullets were coming out of this door. They were  
13      coming from both ways. You know there are bullet  
14      holes in this door both directions. You still want  
15      to stick to that stuff about how he was shooting in  
16      the air in spite of that?

17      **A**     The man came out the door, he shot in the air,  
18      closed the door.

19      **Q**     When do the bullets come back out?

20      **A**     I guess he was in the house shooting. I guess  
21      when the gunfight happened, he didn't come back out.  
22      He must have been shooting from inside the house to  
23      shoot back out.

24      **Q**     Well, if he didn't point the gun at you and he  
25      only shot in the air, why did you take off running?

1       **A**     Why did I take off running?

2       **Q**     Why did you take off running if he was only  
3       shooting in the air and he wasn't shooting at you?

4       **A**     Because I shot in the air and my gun jammed.

5       **Q**     So you had a jammed gun, so you --

6       **A**     I wasn't going to stay to no gunfight with a  
7       jammed gun, I can't shoot it.

8       **Q**     But obviously Gerald Williams didn't have a  
9       jammed gun because he poked that trailer full of  
10      holes. You would tell them -- isn't that right?

11      **A**     If it's coming from both directions, I guess  
12      that has to be correct. I can't --

13      **Q**     Well, only a few came from the inside, but a  
14      boatload came from the outside in; isn't that right?

15      **A**     I don't know because I didn't stay to see it.

16      **Q**     You couldn't hear it?

17      **A**     I could hear the shots, but I didn't stay to  
18      see it. Just because I hear the shots don't mean I  
19      could tell you which way it was coming from.

20      **Q**     But you know you heard a lot of shots, right?

21      **A**     I heard a few.

22      **Q**     It was more than a few?

23      **A**     It all depends on what you call a few. Between  
24      two guns....

25      **Q**     A lot of shots got fired, didn't they?

1       **A**     About ten probably, might be ten, I don't know.  
2       I don't know. I didn't count them, but I'm just  
3       saying a lot of shots to me would be like 50.

4       **Q**     You would have shot that house up 50 times with  
5       three people inside of it?

6       **A**     I didn't say I would have shot it up. I told  
7       you what a lot of shots to me is. A lot of shots, a  
8       lot is 50.

9       **Q**     This trailer is eaten up with bullet holes,  
10      isn't it?

11      **A**     (Witness reviewing document.)

12      **Q**     Looks pretty bad, doesn't it? That door looks  
13      pretty rough, doesn't it?

14      **A**     It all depends on -- I mean, you said look  
15      rough, but there's holes -- there's holes in that  
16      door that come from inside. So I don't know which  
17      holes come from inside and which holes go in the  
18      door. It might be just as many holes that go from  
19      the inside as it go on the outside. So it could --  
20      I mean, it could be either way, either way the door  
21      took the damage. It just took the damage both ways.

22      **Q**     Whatever bullet holes are in that trailer from  
23      the outside in had to have been fired by Gerald  
24      Williams because you're saying they weren't fired by  
25      you?

1           **A**     No, they weren't fired by the Tec.

2           **THE COURT:**   Anything further?

3           **MR. MAYE:**    I think that's about it.

4           **THE COURT:**   All right.   Thank you.

5                     Is there redirect?

6           **MR. CASTO:**   Yes, sir, Your Honor.

7           **THE COURT:**   You may proceed.

8           **MR. CASTO:**   Briefly.

9                               REDIRECT EXAMINATION

10          BY MR. CASTO:

11          **Q**     Did Al Jerome shoot first?

12          **A**     Yes.

13               **THE COURT:**   Counsel, excuse me, that's a  
14               leading question.   Again, this is your witness you  
15               called.   And there's been no declaration of  
16               hostility, thus you cannot lead your witness.

17               **MR. CASTO:**   Yes, sir.

18          BY MR. CASTO:

19          **Q**     Who shot first?

20          **A**     Al Jerome.

21          **Q**     And where did you come up with the eight years?

22          **A**     They told me that -- they told me that --

23          **Q**     Who told you?

24          **A**     It was agreed between my lawyer and the  
25               Solicitor that eight years would be what the

1 sentence would be. When we got to McCormick, we was  
2 offered eight years a piece. He didn't take it and  
3 I took it. And I guess between -- somewhere in  
4 between there, it switched, I guess because he  
5 didn't take it, that the only way that I could have  
6 got it or something like that was that if I testify.  
7 I'm guessing that's -- that's how it's looking now.  
8 But to my understanding that -- what I was thinking,  
9 that I had pled to eight years, which was an  
10 agreed -- was an agreed negotiation sentence between  
11 my lawyer and the Solicitor.

12 **Q** And when did you find out that was gone?

13 **A** Just now.

14 **Q** Is that when your story changed?

15 **A** I can't really say that it is.

16 **MR. CASTO:** Thank you.

17 **THE COURT:** Redirect.

18 **MR. MAYE:** Just one or two.

19 **RECROSS-EXAMINATION**

20 **BY MR. MAYE:**

21 **Q** Mr. Charley, you agree that when you plead  
22 guilty, everything gets put on the record so there  
23 are no misconceptions about what's going on; isn't  
24 that right?

25 **A** Yes, sir.

1       **Q**     And you actually just pleaded to one count and  
2       nobody told you anything about what sentence you  
3       were going to get, did they?

4       **A**     You and my lawyer had negotiated a deal of  
5       eight years.

6       **Q**     It's right on the record here.  There's no deal  
7       in this and you are pleading straight up and your  
8       sentence was going to be deferred, and it's right  
9       here in the transcript; isn't that right?

10      **A**     Yeah, it's in the transcript, but I would have  
11      never plead to no open plea to attempted murder.

12      **Q**     So you're now going to try to claim that we had  
13      some outside deal that's contrary to what's written  
14      down here?

15      **A**     Yes, sir.

16      **Q**     You know the judge told you if anything wasn't  
17      placed on the record, that you lose it.  Do you  
18      remember the judge telling you that?

19      **A**     No, I don't.  But it's a possibility that he  
20      did state it, but I don't remember him saying that.

21      **Q**     Would you agree the judge said, Any plea  
22      bargains the State might have made with you, any  
23      agreement about dropping charges, reducing charges,  
24      recommending sentences, anything like that, they  
25      have to say it on the record in open court here or

1       you're going to lose it; you understand? Remember  
2       the judge saying that?

3       **A**     No, I don't remember him saying that, but he  
4       might have did say that.

5       **Q**     He certainly said that, didn't he?

6       **A**     If it's on the record, I guess he had to say  
7       it.

8       **Q**     And you said that you agreed with it, okay, all  
9       right.

10           Are you trying now to hedge your bet and work  
11       yourself out some deal on the back side of this now  
12       and say you got some deal in hopes it'll get you a  
13       lighter sentence?

14       **A**     No, sir. I'm just -- I'm telling the truth. I  
15       mean, I tried to help -- tried to help him out. And  
16       this -- I mean, the right thing to do is just tell  
17       the truth.

18       **Q**     And you tried to help your co-defendant by  
19       getting up here and lying, bald-faced lying, to 12  
20       people, didn't you? More than 12, but 12 actual  
21       jurors?

22       **A**     Yes, sir, I did. It's wrong. I'm wrong. I'm  
23       sorry. I mean, that's just -- it is what it is, a  
24       lie. I apologize and it's not right.

25           **THE COURT:** Anything further?

1           **MR. MAYE:** No. Thanks.

2           **THE COURT:** Very good.

3           All right, sir. You may -- please watch your  
4           step as you're stepping down. And we will return  
5           you now to the detention center.

6           Are there any further witnesses for the  
7           defense?

8           **MR. CASTO:** The defense rests, Your Honor.

9           **THE COURT:** The defense rests.

10          Is there further testimony or reply testimony  
11          from the State?

12          **MR. MAYE:** Your Honor, no, sir, no reply.  
13          Thanks.

14          **THE COURT:** All right. Then very good, ladies  
15          and gentlemen, that means the testimonial phase of  
16          this case has ended. Let me just, while it's fresh  
17          on our minds, I want to make one comment about  
18          sentences and sentencing.

19          First of all, you heard some testimony earlier  
20          about what potential sentences or allegedly agreed  
21          sentences may have occurred, but just so we'll have  
22          an understanding that it's typically not within the  
23          purview of the jury what a particular sentence is  
24          for a particular charge, and that's because our  
25          roles are divided. The jury are the judges of the

1 facts. You listen to the testimony and you  
2 determine whether or not the facts put forward meet  
3 the crime and whether or not the State has proved  
4 beyond a reasonable doubt a particular defendant's  
5 involvement in a crime.

6 Once the jury makes a decision of guilt or  
7 innocence, then the judge makes the decision of what  
8 is the appropriate sentence. The reason for that is  
9 that judges, of course, are more knowledgeable about  
10 sentence ranges, the statutory requirements of  
11 sentencing, averages and norms, and other things  
12 that impact sentencing that the jurors just simply  
13 wouldn't know in a day-to-day -- actually, one week,  
14 five-day service as a juror.

15 And so in your deliberations, you should not  
16 consider what a potential sentence may be or even  
17 what an appropriate sentence may be. You simply  
18 make the decision of whether or not the State meets  
19 the burden of proof to prove beyond a reasonable  
20 doubt guilt, or fails to do so, which would be not  
21 guilty. And then the court, as the judge of the  
22 law, makes the determination about sentencing.

23 I'll also tell you that in the event there's  
24 some discussion between parties about a particular  
25 sentence, that is not necessarily binding upon the

1        court which has the authority to impose the sentence  
2        at whatever range is permitted by the general  
3        assembly, the legislature, which sets the minimums  
4        and the maximums for particular charges and the  
5        sentences that go with those charges under South  
6        Carolina law. I just simply give you that as an  
7        explanation so you'll have an understanding and can  
8        put in perspective some of the testimony that you've  
9        heard here today.

10            Now, we're going to end this -- today's  
11        proceeding and come back tomorrow for argument and  
12        charge, as I mentioned to you earlier, and then the  
13        case will go to you for deliberation. I suspect,  
14        I'm not certain, but if we go into the lunch hour  
15        tomorrow, I will tell you that the county will  
16        provide lunch for you. I just tell you that in  
17        advance because I don't want you worrying that  
18        someone is supposed to meet you somewhere for lunch  
19        at a particular time. So just, please, leave that  
20        open, if you would, and we'll see how -- what type  
21        of time or how long it takes in the morning for  
22        arguments, charge on the law, deliberation and all  
23        the various things that we will do tomorrow.

24            What I'm going to ask you to do is to be here  
25        at 9:30 tomorrow morning. I'll tell you the lawyers

1       and the Court will be here a little bit earlier than  
2       that as we prepare for closing arguments to make  
3       sure that we're ready to go at 9:30, but we would  
4       ask that you be here at 9:30.

5               Now, the last thing I want to say to you, and  
6       then I'm going to hush so you can go on about your  
7       business, that please keep an open mind because,  
8       first of all, you have not heard the law that  
9       affects the charges that are alleged here against  
10      the defendant from the Court. You haven't heard the  
11      charge on the law. You haven't heard the arguments  
12      of counsel. And so, please, keep an open mind.  
13      Just get a good night's rest and come back tomorrow  
14      morning at 9:30.

15             Any questions now about scheduling from anyone?

16             All right. Then we'll see all 14 of you  
17      tomorrow at 9:30. And out of respect for you, we'll  
18      sit where we are while you leave the courtroom.  
19      Have a good day, ladies and gentlemen.

20             (The jury was excused for the day.)

21             **THE COURT:** All right. Counsel, now here at  
22      the close of all evidence, but before we take up any  
23      motions, is there an objection to the  
24      contemporaneous charge that the Court gave so that I  
25      would still have an opportunity to correct any error

1 in that charge tomorrow morning, from either side,  
2 about the discussions of sentencing, the sentencing  
3 prerogatives, the sentencing parameters? What says  
4 the State?

5 **MR. MAYE:** Your Honor, I don't have any  
6 objection. Really, it's almost a matter of first  
7 impression. It's filled, if ever -- my tenure came  
8 up with a most unusual case, but I don't have any  
9 objection.

10 **THE COURT:** What says the defense?

11 **MR. CASTO:** No objection, Your Honor.

12 **THE COURT:** All right. Now, are there motions  
13 here at the close of all the evidence from either  
14 party? First, the defense.

15 **MR. CASTO:** Yes, sir, Your Honor. At this  
16 time, we renew all prior motions and objections  
17 raised at pretrial, during the trial. We'd also  
18 renew our motion for a directed verdict at this  
19 time.

20 **THE COURT:** All right. Based upon the Court's  
21 previous rulings on your pretrial motions, again, I  
22 will deny those motions. And, of course, the Court  
23 will deny any directed verdict request at this  
24 juncture as there was additional evidence against  
25 the defendant put in during the testimony of the

1 last witness. For those reasons, the Court denies  
2 the motions.

3 And, Counsel, we will -- we are printing and  
4 going to give to you the -- what we believe will be  
5 the appropriate charge. You can take it home with  
6 you and study it tonight. I'd ask you to be back at  
7 nine o'clock tomorrow morning here. We'll have a  
8 charge conference at 9:00 after you've had a chance  
9 to review it. Then at 9:30 promptly with the jury,  
10 we will proceed.

11 Anything else for the record before we close,  
12 for the day from the State?

13 **MR. MAYE:** None from the State, Your Honor.

14 **THE COURT:** From the defense?

15 **MR. CASTO:** No, sir, Your Honor.

16 **THE COURT:** Then this court is adjourned until  
17 9:30 tomorrow morning.

18 (The proceedings were concluded for October  
19 16, 2013.)

20 (The following proceedings were held on  
21 October 17, 2013.)

22 **THE COURT:** All right. Ladies and gentlemen,  
23 we are advised that all of the jurors are here.  
24 We've given you a copy of the verdict form. We'll  
25 have an opportunity to talk about it before we

1 actually go to the jury because we'll certainly take  
2 a break before that time, but we wanted you to have  
3 the opportunity to review it.

4 My intention would be now to call the jury in.  
5 I am going to appoint juror number 198, Mr. Brandon  
6 J. Warren, as Foreperson. So we'll seat him in the  
7 foreperson's seat. And is there anything else  
8 before we bring in the jury from the State?

9 **MR. MAYE:** Nothing from the State, Your Honor.  
10 Thank you. The verdict form seems appropriate and  
11 nothing from the State.

12 **THE COURT:** And from the defense?

13 **MR. CASTO:** No, sir, Your Honor.

14 **THE COURT:** All right. So just to make sure  
15 we're all on the same page, the defense will argue  
16 first, the State will argue last and then the Court  
17 will charge. Any objection to that procedure?

18 **MR. MAYE:** None from the State, Your Honor.  
19 Thank you.

20 **MR. CASTO:** None from the defense, Your Honor.

21 **THE COURT:** Then hearing none, please bring in  
22 the jury and let's seat Mr. Warren in the  
23 foreperson's seat.

24 (The jury enters the courtroom at 9:32 a.m.)

25 **THE COURT:** Good morning, ladies and gentlemen.

1 Welcome back to the courtroom. I trust you had a  
2 good evening yesterday. And let me ask before we  
3 begin today's proceedings, is there any member of  
4 the jury panel who's had a discussion of the facts  
5 concerning this case with any third person or with  
6 anyone; if so, please raise your hand?

7 Let's let the record reflect no one has raised  
8 their hand.

9 Thank you again for complying with our request  
10 in that regard. You will recall that at the end of  
11 the day, we had reached the close of the testimonial  
12 phase of the case. And now this morning we're going  
13 to begin with closing arguments and then the charge  
14 on the law, and you'll retire to deliberate.

15 Now, Mr. Warren, didn't mean to make you  
16 nervous, but I asked that you be seated in the  
17 foreperson's seat and I'd ask you to serve as  
18 Foreperson of the jury. Just a comment or two about  
19 that, if I may, and I'll talk with you a little bit  
20 further at the close of the charge that I'll give  
21 you on the law about your role as foreperson. But,  
22 in advance, I want to say to you thank you for your  
23 willingness to serve and to assist the jury and lead  
24 the jury as a decision is made in this case. Thank  
25 you, sir.

1           **FOREPERSON:** Yes, sir.

2           **THE COURT:** Now, you may recall at the  
3 beginning of the case when I was discussing the  
4 procedures, I mentioned to you that at the end of  
5 the case, we'd have closing arguments from both  
6 sides, the charge on the law, you would retire to  
7 deliberate. And the way we're going to proceed is  
8 the defense will argue first, the State has the  
9 burden of proof so they're given final argument, and  
10 then I will give you the charge on the law.

11           Is there any objection to that procedure from  
12 either the State or the defense?

13           **MR. MAYE:** None from the State, Your Honor.  
14 Thank you.

15           **MR. CASTO:** None from the defense, Your Honor.

16           **THE COURT:** All right. Very good. Counsel  
17 prepared to argue? Both sides are prepared to argue  
18 at this time?

19           **MR. MAYE:** The State's prepared.

20           **MR. CASTO:** Yes, sir, Your Honor.

21           **THE COURT:** All right. Very good.

22           Now, let's go back and you will recall at the  
23 -- also at the beginning of the case, I mentioned to  
24 you that what the lawyer's argument to you will be,  
25 whatever it may be here at the close of the case, is

1 not evidence. It's the lawyers' positions on what  
2 the evidence is. The evidence in the case is what  
3 the witnesses have said and what the exhibits, which  
4 you'll have back in the jury room with you when you  
5 retire to deliberate, what they show.

6 So with that understanding, at this time, the  
7 Court recognizes defense counsel for closing  
8 argument.

9 **MR. CASTO:** Thank you, Your Honor. May it  
10 please the Court.

11 **THE COURT:** Yes, sir, Mr. Casto.

12 CLOSING ARGUMENT

13 **MR. CASTO:** In certain places in the world,  
14 well, they have manual labor and they have manual  
15 labor in its worst form, its most raw form. And in  
16 certain places in undeveloped countries, they have  
17 people whose job it is to break these boulders. And  
18 they don't do it with machinery, they do it with  
19 their bare hands. And they're watching work -- what  
20 they do is they have these huge boulders and they  
21 feel all around with them -- with their hands, and  
22 what they're doing in that instance is they're  
23 looking for that soft spot. And they take the  
24 sledge hammer and they hit it as hard as they can so  
25 that boulder will break, and those people have done

1       it for years and they're very good at it, and that's  
2       the breaking point of that boulder.

3               Well, people also have their own breaking  
4       point, their own place where the pressure around  
5       them rises so much that it changes everything that  
6       they do, and it's no exception with the witnesses in  
7       this case. You know, we stood right here when the  
8       trial started and we said this, we said, If you're  
9       going to lie about the small things, you're surely  
10      going to lie about the big things, and that's what  
11      we saw from several witnesses in the trial of this  
12      case. What do these witnesses do when the  
13      pressure's on, what do they do when they feel  
14      threatened, scared, when they want to save themselves?  
15      They lie. And it happened over and over throughout  
16      the trial this week.

17             We'll take each one in turn. We've heard from  
18      all of these witnesses that testified, but  
19      specifically the ones that were in the house,  
20      including O.J. Charley. And we submit to you that  
21      reasonable doubt does, in fact, exist in this case.  
22      And reasonable doubt, to begin with, is that it's  
23      that type of doubt that will cause a reasonable  
24      person to pause or to hesitate before they act, to  
25      pause or to hesitate before they act. And so ask

1       yourself this, do you have a doubt and do you have a  
2       reason for that doubt?

3             Enter the witnesses. Case in point, the first  
4       one, where are their breaking points with each one?  
5       O.J. Charley, he came in and what did he say? We  
6       asked him on direct and he fleshed out everything,  
7       but then we saw exactly where his breaking point  
8       was. Did -- when did you find out that you no  
9       longer had a deal? Because his testimony was that  
10      he thought he did. He says, Just now. And in that  
11      instance, everything he said changed.

12            What did he say before? It was orchestrated by  
13      him, that ultimately this was his money, that this  
14      was his issue with Al Young inside that house,  
15      \$32,000 had been taken from him in an instance and  
16      he was just left without his money. None of that  
17      money was Gerald's whatsoever and so this was his  
18      issue. And remember he stepped up to the plate and  
19      he had already pled guilty in this case to attempted  
20      murder, already pled guilty. And he comes before  
21      you and we see the dramatic change in his testimony  
22      when he realizes he hadn't been sentenced yet, that  
23      was brought out, there was no more deal, and, in  
24      that instance, he changes everything.

25            But what does he say before that? It was set

1 up by him, that him and O.J. -- that O.J. and Gerald  
2 had nothing in this world going on and he didn't  
3 know what was going on when he took him down there,  
4 basically used Gerald as somebody that's a pawn to  
5 be thrown away just like he threw him away  
6 yesterday. And he took him out there and Gerald  
7 drives. Did he know anything at all about what was  
8 going on whatsoever? No, he didn't. Could he have  
9 known by what was in the car? No, he didn't. And  
10 step-by-step, they get there, he stays with the van,  
11 O.J. gets out, meets up with another person who's  
12 not arrested, and goes out and commits this act,  
13 runs back.

14 Could everything that O.J. said on  
15 cross-examination be believed? And the answer's no.  
16 Why? Because Brett Long, that officer that was  
17 sitting right behind that van, sees one person  
18 emerge and get in the passenger seat. He doesn't  
19 say two people. He says one person. Get in the  
20 driver's seat? No. But get in the passenger seat.

21 Does O.J. Charley, where is his breaking point?  
22 Well, for him, it's this: He's trying to save  
23 himself and we saw it the exact second that that  
24 happened yesterday afternoon when he knew that he  
25 was in trouble and we get a radically different

1 story. That's where his breaking point was. And  
2 what does he do with that? He begins to lie.

3 And we go on through the other testimony of Al  
4 Young, the person inside. Is what he says, is what  
5 he says believable? The State calls him -- the  
6 State calls him, Joseph Wrighton, Ycedra Williams.  
7 How much of their testimony can be believed and is  
8 it colored with deception? And the answer to that  
9 question is yes.

10 Do we get the truth from Al Jerome Young? His  
11 ammunition is found inside that home. If we didn't  
12 mention it, the State would not have even talked  
13 about it or what have you. His ammunition is found  
14 right inside his room. And his shell casings are  
15 also found from his gun outside that residence and  
16 they're scattered about with the other bullets  
17 contained in this bag, and they're all found at the  
18 same place. And what's the reason that he gives for  
19 that? He comes in and he says, Target practice.

20 Does he say where his target practice takes  
21 place? Yes, he does. And notice it's different  
22 from where Ycedra said his target practice took  
23 place. Is he lying about this instance -- or this  
24 incident? Yes. Is he lying about the very heart of  
25 what happened that night? Absolutely.

1           It gets even more interesting than that, that  
2       this \$32,000 O.J. just handed it over to him and  
3       then he just disappears and then O.J.'s ripped off  
4       with \$32,000, but he had contributed \$6,000 of his  
5       own money. Well, that's clearly not what O.J. says.  
6       Is he lying about that? Absolutely. Absolutely.

7           It gets really interesting when we ask Al  
8       Jerome, Well, did you think O.J. was going to be mad  
9       or going to retaliate against you? And, basically,  
10      what his answer is, no. So why did you get the gun?  
11      Well, he stutters and he doesn't know what to say.  
12      Better question for him, Where did you get the gun?  
13      Some dude. Where did you get the ammunition? Well,  
14      you know, someone else got it for him.

15           But the best story that he told, as he slowly  
16      gets into other areas, well, you know, that  
17      substance that we found that wasn't drugs, but --  
18      that it was roach powder, doesn't that color  
19      everything that he says? And can he be believed as  
20      we wade through, if he's going to even lie about  
21      that, can we trust him with the larger issues?

22           He shot his weapon first that night. And he's  
23      also going to come in and tell you that he needed  
24      roach powder so bad that he just had not sandwich  
25      bags, postage stamp -- I mean, imagine what that

1       even looks like to put roach powder in each  
2       individual one and then not to transfer it to  
3       anything else. He's lied to his core so much so  
4       that even his drugs are a lie. They're fake.  
5       They're a counterfeit substance and they're made to  
6       look like something else much like him and much like  
7       his testimony and you can't believe that in order to  
8       convict Gerald. Do you have a doubt and do you have  
9       a reason for that doubt when you consider O.J.'s  
10      testimony, when you consider Al Young's testimony?

11             The other two folks inside, Ycedra Williams and  
12      Joseph Wrighton, basically testified to similar  
13      things. It's Ycedra that tells us that that target  
14      practice that Al Young had was in a different spot  
15      than when they found the casings. How do you --  
16      we're going to let the State come up here and  
17      explain how in the world that happened.

18             But one thing that we have to keep our eye on  
19      is what they say. You see, at first, they would  
20      have us believe that they told one lie when law  
21      enforcement showed up, Did you know that Al Young  
22      was on probation? No, I didn't. Ycedra said it.  
23      Joseph Wrighton said it. And you would think that  
24      all of their deception would be left back on April  
25      13th of 2012.

1           But then when we -- why didn't they say yes  
2           when we asked, did you know he was on probation?  
3           No, I didn't. Followed it up with, Well, why did  
4           you have to lie? Well, he saved us, or something  
5           like that. Well, no. I mean, if you ask Ycedra  
6           that or what have you, she says, Well, he saved us.  
7           But you didn't lie about Joseph Wrighton, did you?  
8           He was there. Why is it all right to say that about  
9           that Joseph Wrighton's there and Al Young's not?  
10          They knew that he was on probation. And they're  
11          lying then and they're still going to lie now. They  
12          cannot be believed and their testimony falls short  
13          for what is required to convict Gerald. Do you have  
14          a doubt and do you have a reason for that doubt?

15          The State's argument has to look like this: It  
16          has to be this piecemeal of going down the aisle at  
17          a store and picking these items on this aisle and  
18          then moving on, I don't want this, I don't want  
19          that, I don't -- but this, this is a good deal, I'm  
20          going take this and piece it together. But once you  
21          have that slow, that deception, doesn't it seep into  
22          everything? It gets confused by people's motives or  
23          their pressure points, their breaking point, and  
24          what do they do? In this case, they lie.

25          And shifting gears somewhat, a little bit of an

1 illustration, in the Middle East, there is a town  
2 that's built over top of a river. It's been like  
3 that for more than a thousand years. And if you  
4 show up midday, cars, sound, noise, traffic, hustle  
5 and bustle, horns from cars, you cannot hear the  
6 water below. But if you show up to that same exact  
7 town and you get there at dawn and you get there at  
8 6:00 a.m. and you walk the street and there's nobody  
9 out there, you can hear the sound beneath, you can  
10 hear that water beneath you.

11 Now, why did I tell that story? Well, in this  
12 case, that water is kind of like all of the physical  
13 evidence that's been paraded before you. And if  
14 that was allowed to speak, if we pause and we show  
15 up and we don't let the static of everything that we  
16 hear from other people, don't let their bias, their  
17 reasons to lie, anything like that interfere with  
18 that, if we look solely at that and allow it to  
19 speak, what does it tell us? What does it tell us?

20 Well, the first thing in this case involving a  
21 shooting, we look at the guns. And much has been  
22 made with prints and DNA and whatnot, but  
23 step-by-step, it's hard to pick out, but they look  
24 at the DNA lifted from each gun, and they got DNA  
25 from each gun. They got it from the grip on one of

1       those guns found outside. It doesn't come back as  
2       Gerald. Gerald is excluded from that. They got DNA  
3       from the trigger of the other gun and Gerald is  
4       excluded from that sample. The State would have you  
5       focus on these gloves, but when it hits head on with  
6       the actual weapons in a shooting incident, it  
7       doesn't make sense.

8               The other thing, the other thing I would  
9       consider is that there are all of these bullets  
10      flying around, and, you know, there's testimony that  
11      these holes, their -- each and every one of them's  
12      bullet holes and there are so many bullets flying  
13      around. Well, what did the bullet expert from SLED,  
14      what did he say? There's been no bullets, the  
15      actual bullets, not the casings, but bullets entered  
16      into evidence. They're found inside the residence,  
17      and they said that they are most consistent with  
18      ammunition from a Smith & Wesson ammunition.

19             Who did we find that ammunition, whose room do  
20      we find that in? Al Young's room. We also found  
21      casings from Al Young's gun inside that home. Hard  
22      to explain that, and it looks like something more  
23      happened. Do you have a doubt and do you have a  
24      reason for that doubt?

25             Finally, the gloves, much has been made about

1       these gloves. And, in fact, we had Hue Tang or  
2       "way" Tang come in and talk that he couldn't mix and  
3       match these gloves. And there was one subtle point  
4       in what he said and it's not -- and it's not, well,  
5       they couldn't be pieced together, so, oh, these  
6       gloves were ripped up. He couldn't even put --  
7       everybody, in some point in their life, has tried to  
8       put together a puzzle and they're missing pieces,  
9       they're missing vital pieces. But I don't know that  
10      anybody's ever been bad off enough that none of the  
11      pieces that come out of that box match up with any  
12      of the other pieces, and he can't match any of them  
13      up.

14               Well, what does that tell you? These gloves  
15      were shredded up and yet they get DNA off a gun that  
16      excludes Gerald. But the State would have you focus  
17      on the gloves. We want to go one step further than  
18      that, focus on the guns that are collected, focus on  
19      the guns.

20               Think about what evidence we're without. There  
21      are these pictures that law enforcement and a couple  
22      of their witnesses say enable -- alluded to that,  
23      yes, you know, there were a lot of pictures  
24      presented in the trial, but they were taken a couple  
25      weeks ago. But back when all this happened, well,

1 we took several pictures, several pictures of, you  
2 know, various items. Well, where are they? Well,  
3 we don't know. Did you take those pictures? No, it  
4 wasn't me, but, you know, that's our policy. Where  
5 are those? We're wholly without that.

6 But even bigger than that, and this is a case  
7 of a shooting, we are without gunshot residue  
8 evidence, we're without that. And the State would  
9 have you believe, we all go home and we walk out  
10 that door and DNA is sufficient and everything like  
11 that. Or is it? Remember, look at the guns, it  
12 excludes him.

13 The other thing is we could have had more.  
14 SLED does gunshot residue testing every day and  
15 obviously the officers are familiar with it. They  
16 all testified, both the folks from SLED and the  
17 local law enforcement officers, testified that they  
18 know what it is. That basically once a gun is  
19 fired, there are these microscopic gases, particles  
20 and they can go on the hands, they can go on the  
21 clothing.

22 But, also, guess what? There's this window of  
23 hours, six, seven hours, where we need to get that.  
24 Law enforcement was right there when this happened.  
25 In the case of a shooting, they were right there.

1       This isn't something that, you know, went on for  
2       weeks or days or whatever and they matched back up.  
3       They had them, their hands, these gloves laying  
4       there. They had the clothing that they were  
5       wearing, because we know that they were booked into  
6       the jail that night, they had to remove it. They  
7       have all of that.

8               Did you submit it for gunshot residue testing?  
9       No. Wouldn't you want to have it? And there was  
10      some explanation as to, well, why isn't that? Well,  
11      you know, they're damp, it might wash off.

12             Isn't this one of the things, in a case where  
13      there's a shooting, and let's say they did that,  
14      they had the clothing, let's say those are damp, but  
15      they also had the gloves and they also had their  
16      hands and they didn't do it. And let's go as far as  
17      to say, let's say they did it and didn't come back  
18      with anything, at least we know that they tested it.  
19      But did they do it in the case of a shooting? No,  
20      they did not. They didn't do it. And we're without  
21      vital evidence. Do you have a doubt and do you have  
22      a reason for that doubt?

23             Now, with all of these tests and especially  
24      with gunshot residue testing, you know, we wouldn't  
25      really need these tests if the witnesses always came

1 to court and always told the truth 100 percent of  
2 the time, we wouldn't even need these tests. But we  
3 know that's not the case. And we know that's  
4 certainly not the case when we consider the  
5 testimony of O.J., of Al Young, of Ycedra Williams  
6 and Joseph Wrighton. Do you have a doubt and do you  
7 have a reason for that doubt?

8 Reasonable doubt in this case, again, as it's  
9 been defined, it's the type of doubt that would  
10 cause an ordinary person to pause or hesitate before  
11 they act. And so do you have a doubt and do you  
12 have a reason for that doubt?

13 And reasonable doubt is, in fact, alive and  
14 well in this case. Doubt exists. And it says that  
15 these witnesses' testimony falls far short to  
16 convict Gerald.

17 You see, back in Lexington, there's a  
18 courthouse and it has four stories. Now, in each  
19 floor basically, kind of on some level, has its own  
20 type of case that's handled there. First floor,  
21 generally probate court.

22 But once you get up to the second floor, they  
23 have a certain standard of proof that has to be met  
24 and it's much lower than in criminal court. But in  
25 family court, perhaps many of you or somebody you've

1       heard of have been in that involvement, there's not  
2       -- the standard of proof in that case is much less,  
3       but it comes with a tremendous price. They do  
4       important things on that floor. They can take  
5       folk's kids away, order alimony payments, child  
6       support, custody issues. It's not as high as the  
7       standard here in this world of a criminal trial.

8               In civil court, the burden of proof's a little  
9       bit higher, but not much, and it's certainly not as  
10      high as this court. In civil court, the stakes are  
11      very high as well. They can take your money away.  
12      They can take hundreds and millions and millions of  
13      dollars away.

14             But in criminal court, the standard is even  
15      higher, and that's our standard that we have in this  
16      case. Is it based on a hunch, a whim? No, it is  
17      not. Reasonable doubt is the highest standard out  
18      there. And do you have a doubt and do you have a  
19      reason for that doubt? Reasons for that doubt exist  
20      and they are alive and well in this case, in light  
21      of the fact that this is the highest burden to bear  
22      in any type of court in our state and our country is  
23      reasonable doubt.

24             Finally, and I'll close with this thought, you  
25      know, we hear stories back of King Arthur and his

1       Knights of the Round Table. For centuries, they  
2       believed that King Arthur was largely made up, that  
3       he was a fictional character, that he didn't exist.  
4       But only within the last hundred years, there's been  
5       some evidence he may have actually lived.

6               Doesn't mean all the stories are true, but the  
7       main story that comes out of that time, amongst the  
8       other adventures with knights and dragons and  
9       damsels in distress, is the idea of the Round Table.  
10      And the idea is this, it's incredibly forward  
11      thinking for hundreds and hundreds of years ago, but  
12      the idea is this, that the folks in leadership they  
13      sit at this table and each person to their left and  
14      to their right, well, their power or their vote is  
15      just as big as their neighbors. Even the king sat  
16      at that table and his vote was no greater than  
17      anyone else's, everyone had the same. That's what's  
18      going on here.

19             You're allowed to take into account your life  
20      experiences, what you heard and you saw and factor  
21      that into this case. Your vote is just as important  
22      as your neighbor's when you wade through and you  
23      consider the evidence in this case. Do you have a  
24      doubt and do you have a reason for that doubt? And  
25      hold on to your gut feelings, don't let anyone take

1       it from you. And we'd ask, at the conclusion of  
2       this trial, that you find Gerald not guilty of these  
3       offenses alleged. Thank you very listening to me.

4               **THE COURT:** The Court recognizes the  
5       prosecution for closing statement.

6               **MR. MAYE:** May it please the Court, Your Honor.

7               **THE COURT:** Yes, sir, Mr. Maye.

8               **MR. MAYE:** It's now ten o'clock on Thursday.  
9       The State's certainly mindful and cognizant of the  
10      fact, as we talked about at the beginning of this  
11      week, that you've been taken away from what you  
12      would normally have been doing to come up here and  
13      sit as judges of the facts in this case. You've  
14      been up here a long time. You've been put back  
15      there in that room. You sat a long time waiting on  
16      us. You've sat in here waiting, I submit to you,  
17      through a lot of very tedious evidence, too.

18              Everyone is mindful that you've been taken away  
19      from what you would have normally been doing, but  
20      this is vitally important for everybody here in  
21      Saluda County because, as the State talked about at  
22      the beginning of this, this is as serious of a  
23      matter as has ever been up in this courthouse. This  
24      is serious business because when we boil this thing  
25      down, what we're talking about is the attempted

1 murder of three people.

2 And the Judge is going to charge you, when I  
3 get through speaking to you in closing argument,  
4 he's going to charge you with what the law is in  
5 this case and he's going to talk with you about  
6 attempted murder. Because as we clear away all the  
7 smoke and the dust that's attempting to be stomped  
8 up in front of you to conceal the simple facts in  
9 this case, the State submits to you that all of the  
10 evidence in this case points to the fact that Gerald  
11 Williams came up here from Williston, South  
12 Carolina, with an intent to kill. No question.

13 They may have just come up here initially with  
14 the intent to kill Al Young, but they fired  
15 indiscriminately into that mobile home with  
16 absolutely no idea who was in there, absolutely  
17 none. And you can forget anything O.J. Charley  
18 said, Oh, there weren't any other cars. They had no  
19 idea if there were children in there. They had no  
20 idea who was inside that house, and they absolutely  
21 and they completely did not care.

22 They riddled that trailer with bullets. You  
23 can look at these bullet holes in this door. You  
24 can look at those photos. They stitched and riddled  
25 that trailer from top to bottom with bullet holes

1 with no regard for who was inside.

2 Now, the Judge is going to -- in his charge,  
3 he's going to talk with you about transferred  
4 intent. There's no question that as these two men  
5 came up here from Williston to Saluda County, they  
6 had the intent to kill Al Jerome Young. There's  
7 absolutely no question about that. He was going to  
8 have to die because O.J. had been ripped off of his  
9 money.

10 And whatever the deal was, and as implausible  
11 and ridiculous it is, that he was a victim of an  
12 armed robbery, whatever the reason was, he was  
13 unable to get back however much money it was that  
14 was in play, whether it was \$32,000 or minus six or  
15 whatever it was, couldn't get his money back, he  
16 came up with this cast of thugs. He tried to  
17 intimidate him. Basically that trip was just to let  
18 him know, when they couldn't find him, I know where  
19 your family is. Something bad's going to happen to  
20 them. I know where they are. Where is my money?  
21 And when that didn't happen, they were going to kill  
22 him.

23 And you can bet when they loaded up in  
24 Williston, Mr. Williams, with his motive, which is  
25 probably even worse because when it all boils down,

1       when all of the dust settles in this case, Gerald  
2       Williams, the defendant in this case, his motive is  
3       money. He's going to come up here and kill Al Young  
4       just because he's going to get to share in some of  
5       the money. He's not slighted in any regard by Al  
6       Jerome Young. He's going to come up here just  
7       purely out of greed and murder somebody absolute --  
8       just to get some money, going to stick himself in  
9       this -- insert himself in just as an assassin for  
10      hire.

11             Probably even worse than O.J., at least he had  
12      something to be mad about. Now, whatever honor that  
13      there's supposed to be in between people that are  
14      dealing with nearly 30 grand to buy drugs with,  
15      whatever honor there is among thieves, outlaws, he's  
16      at least got some sense of indignity.

17             Tell you that he was the victim of an armed  
18      robbery, which is absolutely ridiculous. Anybody's  
19      a victim of an armed robbery go to the police, but  
20      you can't go to the police when, at the core of the  
21      deal you get ripped off on, you're talking about a  
22      drug deal. Who do you go to then? There's nothing  
23      left but self-help.

24             And I submit to you it's just like all the  
25      movies that you see with the bandits, when the

1 people are doing these big huge drug deals, you know  
2 when you're talking about that, the only thing is  
3 threat, intimidation, death because you sure can't  
4 go to the police. Not like 'ol O.J. could go  
5 cruising down here to Investigator Shorter or  
6 Quattlebaum and say, you know, I gave this 'ol Al  
7 Jerome Young 30 grand to buy a key from some people  
8 up here and he ripped me off. Where do I sign a  
9 warrant on him? It just doesn't happen that way.  
10 There's nothing left but self-help. He tried  
11 intimidation, that didn't work. Nothing left.

12 I submit to you you see a big undercurrent in  
13 here and you see a lot of things around the  
14 periphery, but one thing that's clear in this case,  
15 a lot of savvy police officers around down in  
16 Williston, up here. Might be in kind of a folksy,  
17 country kind of manner, but there's some savvy  
18 people that have been around and know what's going  
19 on. You got to appreciate the fact that officers  
20 from Williston knew enough to tip off the  
21 authorities in Saluda that somebody was getting  
22 ready to get killed. Word was out on the street.  
23 He knew it. Investigator Shorter got the word.

24 And you've got to commend the sheriff's office  
25 because even though this is the attempted murder of

1       one dope dealer and another over a failed dope  
2       dealer {sic}, you know, the bottom line is  
3       everybody's entitled to protection of the law. And  
4       the sheriff's office didn't sit around and do  
5       nothing. And they didn't say, oh, this is just one  
6       less dope dealer. If he gets whacked and he gets  
7       killed, who cares. They did something about it,  
8       because everybody's entitled to protection of the  
9       law. Because ultimately crimes are against the  
10      state, they're not against the individual.

11             Crime -- this is the State of South Carolina  
12      versus Gerald Williams. That's what he's charged  
13      with, an indictment by the people, the State. It's  
14      not against Al Jerome Young, who's probably the  
15      least of us in this situation, but it's a crime  
16      against everyone, because it is a slippery, slippery  
17      slope when you decide that you're going to start  
18      weighing who is entitled to protection of law, that  
19      is a slippery, slippery slope, and law enforcement  
20      didn't do that.

21             Even though it was Al Young that was going to  
22      get killed and he, himself, was wanted, law  
23      enforcement still helped take those steps that were  
24      necessary to try to keep somebody from getting  
25      murdered. Because, as I said, when we talked about

1       that slippery slope, if you're going to say somebody  
2       like Al Jerome Young, who we told you from the  
3       outset in this case and have never tried to hide,  
4       he's a thug, a man who came here in an orange  
5       jumpsuit from prison, if you're going to say that he  
6       is not entitled to protection of law, what a  
7       slippery slope because then you allow the likes of  
8       Gerald Williams and O.J. Charley to become judge,  
9       jury and executioner and decide who lives and dies,  
10      and we just don't do that. We don't operate that  
11      way, the least of us, because the crime is against  
12      the State.

13             So law enforcement, you've already heard, they  
14      went out there and they helped the family that lived  
15      in the trailer get out of there and they fled. They  
16      abandoned this. Now, this is brewing. It is  
17      stewing. It is brewing. Law enforcement knows it  
18      is coming like a storm. They get that family out of  
19      there. But they have no idea of that, they didn't  
20      know.

21             When Gerald Williams and O.J. loaded up and  
22      made their plans to come up here to murder somebody  
23      in Saluda County, when they got their rubber gloves  
24      together, when they got these nasty weapons  
25      together, when they got these big semiautomatic

1 pistols, that's a nice looking piece there, that's a  
2 really classy weapon there, that is nothing but a  
3 tool to kill people with with a big 'ol stick  
4 magazine, 20 rounds, so you've got more bullets than  
5 the next person you come up against. And O.J.  
6 Charley tried to convince you with all the planning  
7 that went into this, they're going to come up here  
8 under the cover of darkness, they're going to park  
9 their car way off down the road here and walk up  
10 through the woods to assault and try to kill Al  
11 Jerome Young. They're going to bring these big 'ol  
12 guns with them. They're going to put rubber gloves  
13 on.

14 What are the rubber gloves for? It's to hide  
15 their tracks for a day just like today, covering  
16 those tracks. We're smarter than everybody else.  
17 We've got this figured out. We're going to cover  
18 up. We're going to hide everything in this case  
19 because we're going to put rubber gloves on and  
20 we're not going to leave any fingerprints behind, so  
21 even if things go wrong in a day like today when  
22 they sit in a courtroom occurs, we will have covered  
23 our tracks, we will have concealed it, hid it  
24 because we're going to put gloves on in this case so  
25 we won't leave any fingerprints behind, so we won't

1       leave any DNA.

2               And all they can tell you in this case, oh, but  
3       they didn't get any DNA off the trigger and they  
4       didn't get any fingerprints of 'ol Gerald Williams  
5       over here off this. Well, of course not, of course  
6       not. They wore gloves. Do you think they would  
7       have been boneheaded enough to go to all of the  
8       trouble to put hospital-style latex gloves on and  
9       have already put their grubby fingers all over these  
10      weapons and left fingerprints behind and DNA on the  
11      trigger?

12              We submit to you, in all likelihood, there is  
13      DNA, whoever pulled the trigger on this thing  
14      before, whoever from law enforcement touched it,  
15      whoever at any stage of this process touched this  
16      weapon, anybody's DNA, anybody's fingerprint could  
17      be on it, but Gerald Williams and O.J. Charley  
18      because they had gone to great lengths to ensure  
19      that they were not going to leave that behind. They  
20      were thinking, being smart. We're going to outsmart  
21      everybody.

22              And that's the problem. That's the arrogance  
23      that comes with trying to commit a crime and  
24      thinking, you know, I am smart enough to outthink  
25      everybody. I'm slick enough that I'm going to get

1 by with this, going to cover this up, going to get  
2 away, just slide up here to Saluda County, kill  
3 somebody, slide off home. I've got gloves on, I'm  
4 not going to leave any prints behind, I'm planning,  
5 I'm scheming.

6 Well, no one or two people, their collective  
7 wisdom does not outstrip the collective wisdom of 12  
8 reasonable people who bring into this courtroom the  
9 sum total of all of their life experiences as to  
10 who's got motive to lie and what's truth, what's  
11 fact, what's fiction. Because Gerald Williams, he's  
12 had his trial. They put the State -- we said we've  
13 got the burden of proof and we welcome it. And one  
14 witness at a time, one piece of evidence at the  
15 time, that cloak of innocence that he came in here  
16 shrouded in has been stripped away and he sits naked  
17 over there with his guilt displayed for the 12 of  
18 you that are going to go back in that jury room and  
19 deliberate.

20 Because they weren't able to use those rubber  
21 gloves to hide and conceal and not leave any  
22 fingerprints and not leave anything else behind in  
23 this case because they weren't thinking. They were  
24 a little behind the times. They got panicked in  
25 this case and they left behind their DNA inside

1       those gloves right as they abandoned those weapons  
2       right along the path where the bloodhounds led the  
3       officers back. One in 14 quadrillion, seven billion  
4       people on the planet and there's absolutely no  
5       question that his DNA was on the inside of those  
6       purple gloves. And the purple gloves were laying  
7       right there where they abandoned those weapons.

8               And there was no other -- there were no other  
9       people involved. We'll get into the absolute  
10      ridiculous fallacy about this Rico Riverrez or  
11      whoever this is and all of that, just fiction and  
12      pure fantasy up there with the tooth fairy. Left  
13      his DNA behind.

14             And I submit, just like the defense was talking  
15      about in this case, forget this because you are  
16      smart people and you can tell one great thing about  
17      the way this whole trial unfolded is you have a  
18      clear picture of everything that happened. You know  
19      that O.J. and Al had a beef over this money, over  
20      him getting ripped off. He couldn't intimidate it  
21      out of him. There was nothing left to do but come  
22      to murder him. So they came up here under the cover  
23      of darkness after midnight on over into dark and  
24      slipped up on this house. They drove that van up  
25      here and got out and they left it pointed in a way

1       where they can get away, walked back down through  
2       the woods so that van won't be seen at the house and  
3       slip up on this trailer.

4               And, oh, they'd tell you, oh, he came outside  
5       and started shooting. Do you think these assassins  
6       armed with these weapons with gloves on, skulking  
7       through the woods in the cover of darkness are going  
8       to give Al Young a chance to come out and defend  
9       himself, a man that O.J. already knew was armed? Do  
10      you think they're going to give him that kind of  
11      chance, the kind of cowards that'd stand and spray a  
12      trailer from top to bottom with nobody in there?  
13      Absolutely not. When Wrighton came to the door when  
14      the window was on {sic} and they saw anybody, you  
15      look at this door, it's peppered from top to bottom,  
16      they blasted that door.

17             Even if he had come outside, it didn't make a  
18      nickle's worth of difference. Even O.J. is trying  
19      to say, oh, what did he do? Well, he came outside  
20      and he shot in the air. Do you believe that? This  
21      guy that's gotten a gun, who's ripped off 30 grand  
22      from a drug dealer, do you think he's going to come  
23      out and shoot up in the air, expose himself under  
24      the cover of light? That did not happen. They saw  
25      somebody at the door and they opened fire.

1           And I started talking with you a little bit  
2           about the intent, and the Judge is going to charge  
3           you with it, but they certainly intended to kill Al  
4           Young. Gerald Williams' own cousin is up there  
5           inside this trailer. Did he know? Probably not.  
6           Did he care? Absolutely not.

7           Joseph Wrighton was up in there, a very, kind  
8           of odd, apparently very thirsty young man who  
9           testified up here. Do you think he's a mastermind  
10          drug dealer going to work every day at Amicks? Does  
11          he seem like the kind of hardened thug that Al  
12          Jerome Young is? And you can tell, when O.J.  
13          Charley got up here and Al Jerome Young got up here,  
14          you're talking about a different breed there.  
15          They're hardened thugs. I mean, you can just tell.  
16          You can tell by their demeanor. These are mean  
17          spirited, mean people.

18          We told you from the outset Al Young is not a  
19          good guy, certainly not. He's the kind of guy with  
20          the nerve and moxie to rip off a dope dealer, but he  
21          just didn't think O.J. had the nerve. He described  
22          it in a different term as to what he didn't think he  
23          had in this case. He just really didn't believe  
24          he'd come up there and do it, but he was bad, bad  
25          wrong. He underestimated how mean O.J. was, and he

1        underestimated how greedy a man like Gerald Williams  
2        would be that just for money, that he would come up  
3        to help kill him. They certainly intended to kill  
4        Al when they came up here.

5                The crime of murder is described as the killing  
6        of another with malice aforethought. What's malice?  
7        The old cases used to say malice is a depraved heart  
8        bent on wickedness. Malice is meanness, malice.  
9        There's another old saying that malice follows the  
10       bullet when you start shooting. Malice follows the  
11       bullet.

12               Didn't make any difference who they were  
13       shooting at in that trailer. They were intending to  
14       kill Al Young and they certainly were. They sprayed  
15       that trailer from top to bottom, even anybody laying  
16       in the floor. You can look all down the skirting in  
17       that trailer, they were firing up and down on it,  
18       tried to get anybody, whether they were standing up  
19       or laying down, in that trailer.

20               They certainly intended to kill him, but malice  
21       follows the bullet. Anybody else that had been in  
22       there, a child in a crib, somebody asleep in a back  
23       bedroom, somebody in another trailer in the trailer  
24       park asleep in their house completely in another  
25       trailer, transferred intent. Malice follows the

1 bullet.

2           If you're mean enough to come and murder  
3 somebody because they've ripped you off of your dope  
4 money and you take up a gun and skulk through the  
5 night and put gloves on and sneak up here to Saluda  
6 County and start firing into a building, that kind  
7 of malice that is generated when you start pulling  
8 the trigger and set that bullet in flight, it  
9 follows the bullet. If you hit Al Young, you've  
10 attempted to murder him. If you hit someone like  
11 Ycedra Williams who just happens to be in the  
12 trailer, it's murder. If you hit someone like  
13 Joseph Wrighton that happened to be in that trailer  
14 that happened to go to the door, it's murder.

15           Attempted murder is exactly the same thing with  
16 the only exception that they weren't able to carry  
17 it out, they didn't hit anybody. Miraculously, with  
18 all of these shots fired, they did not hit anybody.  
19 That's attempted murder. And when you boil it down,  
20 that's exactly what we have in this case.

21           The Judge is going to also talk with you about  
22 the hand of one is the hand of all. You're going to  
23 hear some language about that. Spoke with you just  
24 a little bit about that, but it's the same thing.

25           If you've got a group of people that decide

1       they're going to get together and they're going to  
2       come up here to Saluda and they're going to rob the  
3       bank, two guys, and they decide, you know, I'm going  
4       to go in there and I'm going to get the money out of  
5       the bank, and if one guy didn't do anything, but he  
6       knows they're going to come down here and rob and he  
7       just gives his buddy a ride and he parks out here on  
8       the street and he let's his buddy out and his buddy  
9       goes inside and things go horribly awry when he gets  
10      in there and he shoots and he kills and he murders  
11      the poor teller in the bank and he comes out, well,  
12      in South Carolina, the hand of one is the hand of  
13      all. And with knowledge that this was going to go  
14      on, just the driver drove somebody up here and he  
15      went in, he's just as guilty of that felony murder  
16      as the person that went in and pulled the trigger  
17      because the hand of one is the hand of all.

18           Let's talk about the only possible scenario in  
19      which Gerald Williams can be not guilty in this  
20      case. Had to be that tooth fairy fantasy story that  
21      he just came up here, you know, to give somebody a  
22      ride, suddenly O.J. Charley needed a ride up here to  
23      Saluda in the middle of the night to come see some  
24      girl and he got Gerald Williams loaded up to drive  
25      him all the way up here. He suddenly -- now, never

1 mind he drove up here a couple days before and, as  
2 he said, was the victim of an armed robbery or he  
3 drove up here and came up here to intimidate O.J.  
4 {sic} who was in a van load of people. Now, he  
5 didn't have any problems driving then.

6 But this particular time on over after  
7 midnight, he needs a ride from Gerald Williams. So  
8 he gets 'ol Gerald and he says, Gerald, you know,  
9 just come on with me, I want to go see a girl up in  
10 Saluda, so load me up in the van and you drive and  
11 take us on up here to Saluda. And, you know, we'll  
12 just park the car down here on the side of the road  
13 and you sit here and mind your own business in the  
14 car. And I'm not going to tell you anything about  
15 what's going on, but you just sit tight right here  
16 and I'll be back. And 'ol Gerald didn't know a  
17 thing about what's going on, has no idea why O.J.'s  
18 coming up here.

19 There's your innocent man. There's your  
20 scenario in this case where Gerald Williams is an  
21 innocent man, doesn't know anything about anything.  
22 Is that reasonable? Use your common sense on that.  
23 And like I said, the collective wisdom of the 12 of  
24 you outstrip that of any one person.

25 And that's the fantasy and the fairytale story

1       that was the defense in this case before it imploded  
2       and it fell apart. That's what they're going to  
3       come up here, that's the bill of goods that is going  
4       to try to be sold to you as the defense in this  
5       case. What arrogance to think that they could weave  
6       together that tale of fiction and put it up here as  
7       a valid defense in this case. That's what the  
8       intent was in this case till it absolutely imploded  
9       and it fell apart. Never been a better example in  
10      any courtroom of it just getting derailed and coming  
11      off the tracks.

12             Because even O.J. couldn't look y'all in the  
13      face and tell you that pack of lies that he got  
14      Gerald to come up here who didn't know anything  
15      about it, and then somehow, some way some dude that  
16      nobody's ever heard of, Rico Riverez, who must be  
17      the cousin of, who was it, what did Al Young say,  
18      Maurice and Q, like I said, he's a hardened thug.  
19      When Mr. Madsen tried to pin him down, Who did you  
20      buy the gun from, well, he's not going to rat out  
21      any of his friends, Maurice, some dude named  
22      Maurice, some dude named Q. I guess Rico Riverez  
23      and Maurice and Q are all related. Just pure  
24      fiction and fantasy, absolute nonsense.

25             This dude named Rico Riverez somehow is going

1 to come up here to Saluda in the dark of night and  
2 meet up with him and provide the guns and this poor  
3 'ol Rico manages to sneak off. Bloodhounds didn't  
4 track a single soul out of there. Law enforcement  
5 told you they swept. Two shooters, two people in  
6 custody, O.J. Charley and Gerald Williams.

7 Rico Riverez is a fantasy, a fiction, a lie  
8 woven and pulled out of thin air to try to be sold  
9 with the hopes that it's going to be bought by 12  
10 intelligent people that he's going to meet 'ol Rico  
11 Riverez out there who's going to provide the guns.  
12 He didn't bring any guns because 'ol Gerald, I can't  
13 have him knowing or see anything about guns or  
14 rubber gloves or anything of that. What nonsense  
15 and utter fiction. And even he could not sit up  
16 here on the stand and complete telling that pack of  
17 absolute fiction, lies. Just absolutely imploded  
18 and fell apart because it just doesn't make any  
19 sense. He had absolutely no answers.

20 Well, you know, how does the DNA of Gerald  
21 Williams in those torn up purple gloves get laying  
22 right there on top of the guns where y'all abandon  
23 them right where the bloodhounds track back, right  
24 where the officers went and put that trail back to  
25 that van? How does his DNA get there piled up right

1       there on top of those guns? You've got all the --  
2       you've got a wealth of evidence in this case. How  
3       does it get there? There's just no explanation.  
4       One in, what, 14 quadrillion.

5               Because his DNA's on those pieces of purple  
6       gloves there, his DNA is back in the van and this  
7       genius didn't even take the pieces of the gloves off  
8       of his fingers when he gets booked into the jail.  
9       When they book him in the jail, boom, thumb and  
10      forefinger still got pieces of purple gloves on  
11      them.

12             Now, he tries to hide them and stick them in  
13      his pockets, but as it comes out, as the officers  
14      start unravelling this twisted tale, start doing  
15      their work, they find the gloves. Investigator  
16      Shorter is savvy. He knows what's going on. He  
17      immediately calls up to the jail and starts asking  
18      about gloves. And low and behold, an astute jailer  
19      says, yeah, this guy had gloves on his fingers when  
20      he came in.

21             That was what broke O.J. Charley when  
22      Investigator Shorter was leaning on him to begin  
23      with, that's why he broke to begin with. He  
24      realized 'ol Gerald's not smart enough to even get  
25      the glove fragments off his fingers and the game is

1 up and he cooperates.

2 Like I said, now, the great thing about it,  
3 you've got the whole tale. Nothing's being hidden  
4 from you behind closed doors. You've got the entire  
5 tale.

6 When O.J. Charley's confronted with the fact  
7 that Gerald's got the purple gloves on, he knows  
8 they found the guns, he knows it's up, he cooperates  
9 and he implicates Gerald Williams. And he went down  
10 to McCormick County and he pleaded guilty. And  
11 there's no hiding that in this case. Going to  
12 testify against Gerald in this case. Goes down  
13 pleads guilty to one out of three counts, sentence  
14 is deferred. He had to be reminded in this case, he  
15 knew it from the outset, didn't have any plea deal,  
16 sentence is deferred, he's going to testify and then  
17 he's going to get sentenced later and it's going to  
18 be up to the judge to decide his fate.

19 But he no more than got home good from that  
20 than he's already scheming, thinking about how to  
21 pull Gerald Williams' fat out of the fire, to start  
22 telling lies, to start weaving this fiction tale,  
23 Rico Riverrez, some dude coming up and how Gerald  
24 Williams didn't know a thing about it. Never mind  
25 what he's told the law enforcement officers, never

1 mind what he's agreed to at that plea that he's  
2 going to testify to, he's going to try to figure out  
3 some way to weave this -- he's so smart, he's going  
4 to think his way out of this. He's going to help  
5 'ol Gerald out.

6 Now, I guess you can say it was an honor among  
7 criminals. Gerald came up here with him and it  
8 wasn't his beef, so he's going to figure out some  
9 way that he can help 'ol Gerald out of this jam. So  
10 he's going to start writing letters, getting up  
11 here, telling this twisted tale. They're so smart  
12 that they're going to weave this twisted story about  
13 how 'ol Gerald could have just not been involved and  
14 not known anything at all about this thing between  
15 the two of them. That's the bill of goods they're  
16 going to sell or try to sell, and it just came off  
17 the rails. It doesn't take a genius to figure out.

18 Law enforcement's got a backup at that point in  
19 time. And like I said -- let's go back through it a  
20 little bit. I told you -- I just touched on it a  
21 little bit to begin with about some good, savvy  
22 police work, the kind of police work, detective with  
23 his ear to the ground that knows that a murder is  
24 getting ready to take place; Investigator Shorter, a  
25 detective that's smart enough to put his officers to

1       being on the lookout for a green van, O.J. Charley,  
2       start checking the area, saturating it.

3               It was no accident that all of those cops were  
4       coordinated in and around that area. It's no  
5       accident that it was a Town police officer up there  
6       on backup right at the city limits, Brett Long.  
7       Those officers were steady patrolling the area,  
8       looking. And when they got the call, they were on  
9       it, and that's what messed them up because they  
10      thought that they were going to come up here under  
11      cover of darkness and kill him and be out of here  
12      and gone, but the cops were on them too quick.  
13      9-1-1 got called and they were on them.

14             And you got to give Grenier and Morelli credit  
15      because even in their headlong rush, and you know  
16      they were getting with it when they went down there  
17      to this call of shots fired, they see that green van  
18      on the side of the road and they're smart enough to  
19      know that that is the method of escape from the  
20      people that are carrying this out. So they stop.  
21      They go around it. Nobody's in it. Right there.  
22      It's all a lie. Gerald Williams was not sitting  
23      there twiddling his thumbs waiting on his good  
24      buddy, O.J. Charley, to come back from visiting this  
25      girl here in Saluda. There was not one soul in that

1 van. It was empty.

2 Grenier said they went all around it. They  
3 checked it. It was locked. It was sitting there.  
4 I guess they didn't want anybody to steal their  
5 getaway vehicle. They done locked it up on the side  
6 of the road there and not one soul in it. Not one  
7 word of truth to the fact or the fiction that Gerald  
8 Williams sat there in that vehicle because there was  
9 nobody in it. It was empty.

10 And in just a minute, they left, but Brett Long  
11 was up on it. And he told you he circled around,  
12 saw a guy stand up, O.J., from out of the ditch.  
13 You got more of the tale then because O.J. told you,  
14 when he finally broke down and at least told part of  
15 the truth, yeah, we saw the cops coming and going.  
16 And, you know, they went up there, they thought they  
17 were still -- when the first group of cops left,  
18 they thought they'd have a chance to go and jump in  
19 the van and still make their escape.

20 You know, they've worn gloves, and, you know,  
21 we're not going to leave behind anything on the  
22 guns. We're not going to leave behind any  
23 fingerprints or anything. We've taken all this  
24 trouble with it. You know, we ditched the guns. We  
25 took off the gloves. You know, we're covering our

1 tracks. We're going to make our escape. But they  
2 weren't counting on Brett Long coming up and jumping  
3 them at that point in time because Long testified  
4 that he circled right in behind them, turned on his  
5 lights, up pops O.J.

6 And O.J. tried to tell you, oh, we didn't stop  
7 and start. It didn't happen that way. Well, he's  
8 just going to lie when he thinks he can. He's  
9 trying, at this point in time, to minimize his own  
10 involvement. Oh, I didn't know whether or not those  
11 guns were loaded or not, fully loaded. Oh, my gun  
12 just jammed. What fiction. Do you think anybody  
13 would come down here with these assassin-grade  
14 weapons?

15 The Smith .40, whoever was firing it, emptied  
16 it. The Tec-9 with the big 'ol 20-round magazine  
17 jammed at some point in time, but you can bet law  
18 enforcement didn't find all the slugs there, and  
19 there was talk about that. You know good and well  
20 that thing had 21 or 20 or whatever was in it and he  
21 fired it until it jammed and that was what was left.  
22 You got all the unspent cartridges there because it  
23 did misfire. But you can bet he pulled the trigger  
24 till it misfired. He wants to sell it, oh, I just  
25 fired one time and I ran. What fiction. It's

1       ridiculous. He's minimizing it.

2               And the .40, we know what happened to it, it  
3       was stone empty. There was the malice and the  
4       meanness of whoever was wielding it that they shot  
5       every shot into that trailer. And the yard and all  
6       those spent shell casings bear that out. No  
7       question. That kind of malice and meanness and, as  
8       we said before, the kind of malice that follows the  
9       bullet.

10              They stop. They start. The doors are open  
11       because you know there's just some hope somehow  
12       we're going to get out from under this, maybe we can  
13       run, stop, start, stop, start. And they finally box  
14       them in and take them into custody and that's when  
15       it all unravels, and it has all unraveled.

16              But, you know, law enforcement had a  
17       cooperating co-defendant, O.J. Charley, they had  
18       Gerald Williams who still had the purple glove  
19       pieces on his hands, had two shooters, two people in  
20       custody. Yeah, that was it, until O.J. flipped.

21              And you know from the time, and you can look on  
22       all these documents, you can look at the swabs, the  
23       DNA testing, law enforcement backed up, they were  
24       smart, they were prudent. They had documented where  
25       they got all these items from, the fungible

1 evidence. And you heard talk about fungible and  
2 nonfungible and chain of custody. You heard a lot  
3 of talk about that. But fungible evidence, that's  
4 stuff that rots. It's like blood, it's like fluids,  
5 it's things that degrade and rot. Nonfungible  
6 evidence, hard things like a gun, something that you  
7 can pick up and get the serial number off of and  
8 write down, that's nonfungible because it doesn't  
9 rot or change or degrade.

10 Now, if you get blood evidence, something like  
11 that, it can rot and change and decay so you've got  
12 to have a chain of custody. And what you saw in  
13 this case, I submit to you, is just an attempt to  
14 stomp and do anything they could to keep that DNA  
15 evidence out, keep anything out.

16 And the defense was doing their job in this  
17 case, doing anything they could to exclude that  
18 because so y'all sat up here through, what, nearly a  
19 full day of just one witness after another, oh,  
20 yeah, I got this item and I didn't change it, I  
21 didn't alter it, I had it and on this day, I handled  
22 it, I handed it to this person and I didn't alter it  
23 and I didn't change it, because that's when you put  
24 the State to the burden of proof. We've got to  
25 prove it, that they got it, that they got it from

1       where they said they got it from, and the same thing  
2       they picked up there is the same thing that gets  
3       tested when it gets to the lab.

4               And we told you from the outset that the State  
5       has the burden of proof in this case and we welcomed  
6       it and you can bet it's been tested. Because the  
7       attempt to cloud this case and to kick up a cloud of  
8       dust and conceal the simple fact that you're sitting  
9       about 40 feet away from someone that would come to  
10      Saluda County and attempt to murder three people,  
11      it's nothing but an attempt to kick up a cloud of  
12      dust. And, oh, the police, you know, they didn't  
13      take those photographs that they should have took.  
14      They didn't do this chain of custody right. Oh, it  
15      was a sloppy investigation. Even though they  
16      started out in this case with having a cooperating  
17      co-defendant.

18             When he flip-flopped, they were immediately  
19      able to change gears and go into a forensic mode.  
20      Because a forensic -- a pure forensic investigation  
21      is when you pull up on a scene and you don't have  
22      anybody in custody and you didn't have any  
23      eyewitnesses, so you bring the crime scene people in  
24      and you put up flags and you pull the tape measures  
25      and you try to get any minutia of evidence that you

1 can and you work that case differently.

2 But this case changed gears. It went from one  
3 where you had a cooperating co-defendant to one that  
4 flip-flopped, but law enforcement was undeterred.  
5 They swabbed his mouth. They got the DNA evidence.  
6 They had preserved it to the point, from the start  
7 of this case, that they were able to do that and  
8 change gears. Absolute police work, the kind of  
9 savvy police work two guys responding to a call on a  
10 high-speed chase still takes time to respond and sit  
11 on a suspicious vehicle and crack this case and  
12 catch these guys in the act, the same kind of savvy  
13 police work.

14 They knew where they got these items from.  
15 They got an order. They swabbed his mouth. They  
16 took those purple glove pieces that are absolutely  
17 inexorably wound up in this crime.

18 You know good and well that the person that did  
19 this shooting and laid those gloves down there is  
20 the person that was wielding it and got DNA testing  
21 and brought that in here before you. One in 14  
22 quadrillion. You can bet that Gerald Williams was  
23 not sitting in that car, that he was wielding one of  
24 those two guns and spraying this trailer, and the  
25 DNA does not lie.

1           Because you can bet O.J. Charley would have  
2       been a State's witness to start with, but you saw  
3       him come up here as a defense witness trying to  
4       weave his web of lies to pull his good buddy Gerald  
5       Williams' fat out of the fire. And you saw that  
6       fall apart through good police work and forensic  
7       science and absolutely insurmountable evidence of  
8       guilt that even O.J. Charley couldn't sit up here  
9       and look you in the eye and try to sell it to you,  
10      even he couldn't do it.

11           If there's anything good to be said about him  
12      is when, finally, lies just don't work. And he did  
13      apologize. And as it fell apart and as it  
14      unravelled, he did tell you, yes, I lied and this is  
15      it.

16           And the truth's not completely in him. He's  
17      still going to minimize, Oh, the guns weren't fully  
18      loaded; you know, I don't think that thing was right  
19      about how Brett Long said it; and, you know,  
20      ultimately, I'm just not going to come off the fact  
21      that I got robbed; it wasn't over a dope deal. He  
22      gave me a -- he just can't bring himself to tell it  
23      all, worried about how that's going to blow back on  
24      him if he admits to some drug conspiracy, that's all  
25      that's about, covering tracks, scheming,

1       manipulative.

2               The State's got the burden of proof in this  
3       case and we've met it the State submits to you. The  
4       12 of you that go back in that jury room, I told you  
5       now for the third, fourth time, the collective  
6       wisdom of the 12 of you outstrip that of any one  
7       person. And the likes of O.J. Charley and Gerald  
8       Williams, their feeble efforts to conceal their  
9       tracks and to hide from the light of day have been  
10      exposed up here through this trial.

11             I submit to you Gerald Williams came up here to  
12      kill someone. He fired on that trailer and he  
13      didn't care if he killed anyone else. And under the  
14      law, the State submits to you he's certainly guilty  
15      of three counts of attempted murder, that kind of  
16      malice that was following those bullets, the kind of  
17      malice that was set into motion by somebody who was  
18      so greedy that they would come up here to commit  
19      murder for money, arrived here in Saluda County  
20      already scheming, already planning for that day when  
21      I might get caught, how am I going to cover my  
22      tracks, how am I going to fool the people, but it  
23      just doesn't work. You're sure you'll be found out,  
24      and he has been and he's had his day in court.

25             The State's been put to the burden of proof.

1 We submit to you there are only three appropriate  
2 verdicts. You'll get the verdict form in this case.  
3 He's got three counts of attempted murder for  
4 Wrighton, for Ycedra Williams and for, one of the  
5 least of all, Al Jerome Young. We submit to you  
6 that it's certainly not appropriate to slide down  
7 that slippery slope of judging who's entitled to the  
8 protection of the law, and that certainly Gerald  
9 Williams shouldn't be judge, jury and executioner.

10 **THE COURT:** All right. Ladies and gentlemen,  
11 we're going take our morning break now, and we'll  
12 give you an opportunity to step outside if you wish  
13 to take a break. And we'll reconvene in 15 to 20  
14 minutes for the charge on the law. Please don't  
15 discuss the case. Enjoy your break. And we'll  
16 remain where we are as you depart the courtroom.

17 (The jury retires to the jury room.)

18 **THE COURT:** All right. Ladies and gentlemen,  
19 we'll be in recess now approximately 15 minutes.

20 (Brief recess.)

21 **THE COURT:** All right. Ladies and gentlemen,  
22 we are back from our break. And let me ask before  
23 we bring the jury out, have you had an opportunity  
24 to review the verdict form and is there an objection  
25 to the form from the State?

1           **MR. MAYE:** Not from the State. Thank you.

2           **THE COURT:** And from the defense?

3           **MR. CASTO:** Yes, sir, Your Honor. Our  
4 objection is as follows, just to -- I'll place this  
5 on the record: There are three counts on there,  
6 it's, As to the charge of attempted murder of Al  
7 Jerome Young, we, the jury, unanimously find the  
8 defendant, Gerald R. Williams, beyond a reasonable  
9 doubt, and in their two choices listed, Not guilty  
10 or guilty. You know, they only need to find him  
11 beyond a reasonable doubt guilty with regard to that  
12 language. I don't think they need to find him not  
13 guilty beyond a reasonable doubt.

14           **THE COURT:** All right. Counsel, how would you  
15 propose to change the form?

16           **MR. CASTO:** If we could just remove the beyond  
17 a reasonable doubt phrase.

18           **THE COURT:** Very good.

19           What says the State?

20           **MR. MAYE:** Your Honor, I'll leave it to the  
21 Court's discretion with no argument.

22           **THE COURT:** Very good. The first time I've had  
23 that raised in probably several hundred trials, but  
24 we'll concede to your request and remove the term  
25 beyond a reasonable doubt. So the questions one

1 through three just simply will not have the term at  
2 the end, the phrase, beyond a reasonable doubt. It  
3 still has for guilt or innocence, all right.

4 **MR. CASTO:** Yes, sir.

5 **THE COURT:** Very good.

6 Then let's bring in the jury.

7 (The jury returns to the courtroom.)

8 CHARGE OF THE COURT

9 **THE COURT:** All right. Ladies and gentlemen,  
10 welcome back to the courtroom. As you are aware,  
11 this is the time at the point at which I give you  
12 the charge on the law. And let me first ask are you  
13 able to hear me, ladies and gentlemen, on the back,  
14 can you hear me?

15 All right. Very good. And let me begin these  
16 comments by saying to you, you may recall Monday  
17 when we first talked and we were qualifying you even  
18 before you were chosen for this jury, I mentioned to  
19 the entire panel that we knew you had a busy life  
20 before you were summoned for jury duty and that jury  
21 duty was imposed on what is already a busy life with  
22 many demands. But I want to thank you for the level  
23 of commitment that you've given to this case.

24 Because throughout the last three days, now  
25 working on the fourth day, I have continued to

1       observe you throughout the trial. I do that to make  
2       sure you're comfortable that -- gauge you for level  
3       of focus as well. And every time I've done that,  
4       just as you're doing now, I've looked up and you'll  
5       be sitting there with, what I call, wrapped  
6       attention, close focus.

7               I'm grateful that you would put aside your busy  
8       lives, give this case, which is these parties, both  
9       parties, their one day in court, their one trial in  
10      court, to give them of your best, of your close  
11      focus. Because I know now that when you retire to  
12      deliberate, you're going to be in a position to  
13      decide what the facts are simply because you've set  
14      aside your busy life and you've engaged with us  
15      closely here in the justice system. Ladies and  
16      gentlemen, thank you for that.

17             Now, as you know, Mr. Foreman, ladies and  
18      gentlemen of the jury, the State has charged the  
19      defendant, Gerald R. Williams, with three counts of  
20      attempted murder. The State is sitting at the table  
21      closest to you. The defendant is sitting at the  
22      table furthest from you. Please remember that the  
23      defendant has denied these charges by entering a  
24      plea of not guilty.

25             The indictments in this case, which were

1 explained to you at the very beginning, are merely a  
2 set of accusations against the defendant. They're  
3 not evidence. The evidence which you should  
4 consider is the evidence you've already heard, which  
5 is the testimony of various witnesses who've  
6 testified right here from this seat along with such  
7 exhibits as may have been introduced into the record  
8 of this case during the course of the trial.

9 The defendant comes into this courtroom clothed  
10 with a presumption of innocence. And I will tell  
11 you that that presumption of innocence continues  
12 with the defendant throughout this case and entitles  
13 him to a verdict of not guilty unless and until that  
14 presumption of innocence is dispelled by evidence  
15 that satisfies you, the jury, beyond a reasonable  
16 doubt that the defendant is guilty of the offense or  
17 the offenses charged and the State has proved each  
18 and every element of those alleged crimes beyond a  
19 reasonable doubt.

20 Now, as I mentioned to you at the beginning of  
21 the trial, that under the Constitution of South  
22 Carolina, you are the judges of the facts. And you  
23 may remember we talked about the fact that in the  
24 event there should be testimony in this case from  
25 witnesses that seem either inconsistent or mutually

1 exclusive, that you would have to gauge the  
2 credibility and the believability of the witnesses  
3 to determine and pass upon their credibility, and I  
4 suggest some -- suggested some criteria for you  
5 which you may want to look to. But please remember  
6 that my primary comment was to you that this was  
7 something we do every day all the time and you  
8 should use those common sense factors you employ  
9 every day in deciding credibility and believability.

10 I will tell you that when you decide the facts  
11 of this case, you, the jury, can believe as much or  
12 as little of any one witness' testimony you think  
13 proper. You can believe one witness against a whole  
14 group of witnesses or you can do just the opposite,  
15 you can believe part of what a witness says and  
16 completely disbelieve the rest.

17 The fact that certain testimony is not directly  
18 controverted doesn't mean you have to accept it as  
19 true because you must first still gauge the  
20 credibility of the witness to determine the  
21 believability of the truth or the facts asserted by  
22 that witness.

23 Keep in mind throughout this process you have  
24 one objective and that is to seek the truth  
25 regardless of the source from which the truth --

1 from which that truth may come, which side of the  
2 case that truth may come.

3 Now, there are two types of evidence which are  
4 generally presented during a trial and those are  
5 direct evidence and then circumstantial evidence. I  
6 want to comment on those for a moment.

7 Direct evidence is the testimony of a person  
8 who asserts or claims to have actual knowledge of a  
9 fact such as an eyewitness who will come in and  
10 testify about what they say or heard or did. That  
11 is direct evidence. Circumstantial evidence, on the  
12 other hand, is proof of a set of chain of facts that  
13 then indicate the existence of yet another fact.

14 I tell you that the law makes absolutely no  
15 distinction between the weight or value to be given  
16 to either direct or circumstantial evidence, nor is  
17 there a greater degree of one required over the  
18 other.

19 I will tell you that you should weigh all the  
20 evidence in this case, both direct and  
21 circumstantial. And after you weigh all the  
22 evidence, if you're not convinced of the guilt of  
23 the defendant beyond a reasonable doubt as to the  
24 particular charge you're considering, you must find  
25 the defendant not guilty of that charge.

1           Now, I just talked to you about weighing the  
2 evidence. And I've been back in your jury room  
3 before, not while you've been back there, but you  
4 probably noticed there's not a set of scales to go  
5 back there and weigh the evidence on. Well, that's  
6 obvious because it is entirely a mental process.  
7 But on that point, I would say that evidence that  
8 weighs with you is evidence that convinces you of  
9 its truth, again, regardless of which source or  
10 which side the case that evidence may come.

11           Now, just to comment about expert witnesses,  
12 you will remember we had certain witnesses who come  
13 in and were qualified as experts in a particular  
14 area. The rules of evidence ordinarily don't permit  
15 witnesses to give opinions or conclusions. An  
16 exception to this rule is what we call the expert  
17 witness rule: A witness who, by education or  
18 experience, training perhaps, has become an expert  
19 in some art or science or profession may come in and  
20 state an opinion as relevant and material to some  
21 issue that is before you in which the witness claims  
22 to be an expert and can give you the reasons or the  
23 basis for that opinion.

24           You should consider an expert opinion that you  
25 receive in evidence in this case like any other

1 evidence, give it the weight that you deem that it  
2 deserves. If you decide the opinion of the expert  
3 is not based on sufficient education or experience  
4 or if you conclude the reasons given to support that  
5 expert's opinion are not valid or not sound, then  
6 you should disregard the opinion. You can disregard  
7 it in its entirety.

8 An expert witness' testimony is not to be given  
9 any greater weight than that of any other witness  
10 simply because a witness is deemed to be an expert.  
11 Furthermore, you're not required to accept or follow  
12 the expert's opinion even though it is not  
13 contradicted. This is for you to determine what  
14 weight to give any evidence.

15 Again, the expert's opinion is not given for  
16 the purpose of controlling your judgment, but for  
17 assisting you in finding matters of fact that may be  
18 before you if you find that it does assist you.

19 Now, the same constitution that makes you the  
20 judge of the facts makes me, as the presiding  
21 officer, the judge of the law. And I will tell you  
22 from living in a small county like all of us do,  
23 that there's a lot of bad information out on the  
24 street about the law no matter what particular area  
25 of the law you may be talking about. And so I'm

1 going to ask you to please accept the law as I give  
2 it to you, because I've reviewed it with counsel and  
3 I've reviewed it as well with staff and reviewed it  
4 with the statutes under analysis, and accept the law  
5 as I give it to you, apply it to the facts as you  
6 find it and if you do that, then you're going to  
7 reach a verdict.

8 I'm going to ask you to disregard any  
9 preconceived notions you may have about the law or  
10 what you or I think might be a better idea under the  
11 circumstances to disregard those things and just  
12 simply accept the law as I give it to you here.

13 Now, in a criminal prosecution of this type, as  
14 we've already discussed, the State has the burden of  
15 proof, seated at the table closest to you. The  
16 defendant has no burden of proof. The defendant is  
17 presumed innocent.

18 And in this state, according to the  
19 constitution, the prosecution must prove its case to  
20 the standard of proof we call beyond a reasonable  
21 doubt before a finding of guilt may occur. If the  
22 State fails to meet this high burden, then the  
23 defendant is entitled to an acquittal.

24 So then you say, okay, well, then what is a  
25 reasonable doubt? All right. Well, I'm going to

1 start by telling you what it's not. It's not an  
2 imaginary or a fanciful or a weak doubt. It's a  
3 substantial doubt. It's a doubt that the words  
4 imply, a doubt for which you can give or assign a  
5 reason based on the testimony and evidence in the  
6 case.

7 A reasonable doubt is not any sort of a doubt.  
8 You and I know from everyday life experiences that  
9 we may have a doubt about any matter no matter what  
10 -- how trivial it may be, such as what pair of shoes  
11 to wear to an event or what tie to wear to some  
12 event, that's not a reasonable doubt.

13 A reasonable doubt is a doubt that makes an  
14 honest, sincere, conscientious juror in search of  
15 the truth hesitate to act. Proof beyond a  
16 reasonable doubt is proof that leaves you firmly  
17 convinced of the defendant's guilt. If you have a  
18 doubt for which you can give or assign a reason as  
19 to the guilt of the defendant based on the evidence  
20 in this case, then the defendant is entitled to a  
21 verdict of not guilty on that particular charge.

22 Reasonable doubt may arise from evidence that's  
23 in the case or it may arise from the lack or absence  
24 of evidence in the case. You, the jury, must make  
25 the determination of whether or not reasonable doubt

1 exists as to the guilt of the defendant in these  
2 cases.

3 I will tell you the very fact that the jury  
4 goes back, though, in the jury room and engages in a  
5 full and free discussion of the issue of guilt or  
6 nonguilt in this case with a conversational ebb and  
7 flow on those issues, doesn't automatically mean  
8 that reasonable doubt exists in this case or in any  
9 other case for that matter.

10 Now, under South Carolina law, criminal intent  
11 is a necessary element of each crime that must be  
12 proved by the State beyond a reasonable doubt.

13 Criminal intent is always a matter that must be  
14 determined by the jury from the circumstances that  
15 surround the situation. There's -- you and I know  
16 there's no way we can prove intent to some  
17 mathematical certainty. Medical science won't let  
18 us open someone's brain and look in and determine  
19 what they had in mind at a particular time. And so  
20 the law states that criminal intent may be inferred  
21 from the circumstances shown to have existed both  
22 before and after the fact.

23 Now, this is how you, the jury, make a  
24 determination of whether or not the element  
25 requiring intent, criminal intent, was present and

1       has been proved by the State.

2               Criminal intent is a state of mind that  
3       operates jointly with an act or an omission in the  
4       commission of a crime. Criminal intent is a mental  
5       state of conscious wrongdoing. So it's up to you,  
6       the jury, to determine whether the State has proved  
7       the element of criminal intent based on the  
8       circumstances shown to have existed against this  
9       defendant. I tell you that the State must prove  
10      criminal intent beyond a reasonable doubt just as  
11      the State must prove every element beyond a  
12      reasonable doubt as I previously explained.

13             Now, on the issue of intent, I further charge  
14      you that under South Carolina law, intent may be  
15      transferred in the commission of a crime. Stated  
16      differently and using the charge of robbery as an  
17      example, if an individual intends to rob a  
18      particular person, but somehow by mistake actually  
19      robs a different person, the defendant still has the  
20      intent to commit robbery. The criminal intent is  
21      merely transferred from the original person the  
22      defendant desired to rob to the individual the  
23      defendant actually robbed. In other words, it is  
24      not a defense to the crime that the wrong person was  
25      robbed.

1           Now, I further instruct you and emphasize that  
2           the fact the defendant did not testify in this case  
3           is not a factor to be considered by you in any way  
4           in your deliberation and in your consideration of  
5           the question of the guilt or the innocence of the  
6           defendant. It should not be and must not be  
7           considered by you in any manner whatsoever. The  
8           defendant has the constitutional right to remain  
9           silent and the assertion of this right should not be  
10          considered by you in your deliberations.

11          And I repeat, under the oath you took when we  
12          began this case, you were to draw no conclusion  
13          whatsoever from the fact that the defendant in this  
14          case did not testify, that the fact that the  
15          defendant did not testify shouldn't even be  
16          discussed in the jury room. That's because the  
17          burden of proof, as I've stated to you, is always on  
18          the State. It never shifts to the defendant. The  
19          defendant is not required to prove his innocence.  
20          The burden of proof remains on the State to prove  
21          guilt beyond a reasonable doubt.

22          Now, let's talk about the specific criminal  
23          charges in this case. The defendant's charged with  
24          three counts of attempted murder. In order to prove  
25          these charges, the State must first prove the

1       defendant attempted to kill another person with  
2       malice aforethought, either expressed or implied.

3               Malice is hatred or ill will or hostility  
4       towards another person. It is the intentional doing  
5       of a wrongful act without just cause or excuse and  
6       with an intent to inflict an injury or under  
7       circumstances that the law will infer an evil  
8       intent.

9               Malice aforethought does not require that the  
10       malice exist for any particular time before the act  
11       is committed, but malice must exist in the mind of  
12       the defendant just before and at the time that the  
13       act is committed. Therefore, there must be a  
14       combination of the previous evil intent and the act  
15       itself.

16              Malice aforethought may be expressed or it may  
17       be inferred. The terms expressed and inferred do  
18       not mean different kinds of malice but merely the  
19       manner in which malice may be shown to exist, that's  
20       either by direct evidence or by inference from the  
21       facts and circumstances which are proved.

22              Expressed malice is shown when a person speaks  
23       words that express hatred or ill will for another or  
24       when the person prepares beforehand to do the act  
25       which was later accomplished. For example, lying in

1       wait for a person or any other act of preparation  
2       going to show that the deed was within the  
3       defendant's mind, well that would be expressed  
4       malice.

5               Malice may be inferred, however, from conduct  
6       that shows a total disregard for human life.  
7       Inferred malice may also arise when the deed is done  
8       with a deadly weapon. A deadly weapon is any  
9       article, instrument or substance which is likely to  
10      cause death or great bodily harm. Whether an  
11      instrument has been used as a deadly weapon depends  
12      on the facts and circumstances of each case. Under  
13      South Carolina law, I charge you that a firearm may  
14      be considered a deadly weapon even if it is not  
15      operating.

16             If facts are proved beyond a reasonable doubt  
17      sufficient to raise an inference of malice to your  
18      satisfaction, this inference would be simply an  
19      evidentiary fact to be considered by you, the jury,  
20      along with the other evidence in the case and you  
21      may give it the weight you decide it should receive.

22             A specific intent to kill is not an element of  
23      attempted murder, but there must be a general intent  
24      to commit serious bodily injury. Intent means  
25      intending the result that actually occurs, not

1 accidentally or involuntarily. Intent may be shown  
2 by acts and conducts of the defendant and other  
3 circumstances from which you may naturally and  
4 reasonably infer intent.

5 Evidence of the character of the act, the  
6 character of the instrument used, the manner in  
7 which it was used, the purpose to be accomplished  
8 and the resulting damage or injuries may be  
9 considered in determining the intent with which an  
10 act was committed. Intent may also be inferred when  
11 it is demonstrated that the defendant voluntarily  
12 and willfully commits an act, the natural tendency  
13 of which is to destroy another's life.

14 All right. Now, let's talk about what we call  
15 the hand of one is the hand of all. If a crime is  
16 committed by two or more people who are acting  
17 together in committing a crime, the act of one is  
18 the act of all. A person who joins with another to  
19 commit an unlawful act is criminally responsible for  
20 everything done by the other person which happens as  
21 a probable or natural consequence of the acts done  
22 in carrying out the common plan and purpose.

23 For example, two people can be guilty of  
24 killing another person when only one of the two had  
25 a gun, there was only one bullet and only one of the

1 two fired the shot that caused the death. If two or  
2 more people are acting together in concert assisting  
3 each other in committing an offense, the act of one  
4 is the act of all or, as is sometimes said, the hand  
5 of one is the hand of all.

6 Prior knowledge that a crime is going to be  
7 committed, without more, is not sufficient to make a  
8 person guilty of that crime as a principal. Mere  
9 knowledge that another person is going to commit a  
10 crime, even if the defendant is present when the  
11 crime is committed, is not sufficient to convict the  
12 defendant as a principal.

13 Guilt as a principal is shown by actual or  
14 constructive presence at the scene as a result of a  
15 prior arrangement. Therefore, a finding of a prior  
16 arranged plan or common scheme is necessary for a  
17 finding of guilt as a principal. The State must  
18 prove beyond a reasonable doubt by competent  
19 evidence the theory of the hand of one is the hand  
20 of all.

21 Now, you've also heard the defendant has three  
22 charges against him for attempted murder. I charge  
23 you that these indictments are actually separate and  
24 distinct and must be considered individually, and  
25 your verdict on one does not necessarily control

1        your verdict on the other.

2                And then further I charge you that mere  
3        presence at some scene of a crime is not sufficient  
4        to prove a person guilty of that crime. A  
5        defendant's presence where a crime is being  
6        committed or mere association with a person who  
7        commits a crime does not make, automatically, a  
8        defendant an accomplice or an aider and abettor of  
9        the person who commits the crime.

10              The burden's on the State to prove every  
11        element of the crime charged. If you find, after  
12        reviewing all of the evidence, the State has proved  
13        that the defendant was only present at the scene of  
14        a crime and that the State has not proved beyond a  
15        reasonable doubt any other participation in that  
16        crime, then you must find the defendant not guilty.  
17        The law is that proof of mere presence at the scene  
18        is not sufficient to find someone guilty.

19              All right. Now, Mr. Foreman and ladies and  
20        gentlemen of the jury, in just a moment you're going  
21        to retire to begin your deliberations and as you do  
22        that, I want to express to you the hope that you are  
23        mindful of the importance of your responsibility,  
24        and I know that you are.

25              You may recall that we discussed on Monday when

1 we first came in that you cannot be required to  
2 serve as a juror in the same court more than one  
3 time in three calendar years, and there's a reason  
4 for that, it's because it's a difficult task. It's  
5 a job that requires you and I to reach the height of  
6 freeing our minds of all outside and improper  
7 influences because we are acting for the community  
8 in seeing to it that every trial here is fair and  
9 every verdict is just.

10 You've probably observed that the presiding  
11 officer of the court, which in this case is me, is  
12 referred to as Your Honor, and I know you know  
13 that's not some title given to me individually.  
14 It's a title that's assigned to the position that  
15 I'm privileged of and that's because this Court is  
16 entrusted with the honor of this community, this  
17 county, this state and indeed this nation in seeing  
18 to it that every trial here is fair and every  
19 verdict is just.

20 Now, in a few moments, you're going to take  
21 into your care the honor of this community, county,  
22 state and nation as you decide this case.

23 Now, please understand when I tell you that,  
24 I'm not trying to tell you how to decide the case,  
25 that is not my point at all, that would be

1       inappropriate. What I am trying to say to you is  
2       that, as the presiding officer, it is of vital  
3       importance to me that whatever verdict you reach  
4       will be the result of your going into the jury room,  
5       confining your consideration to the evidence put  
6       forth in this courtroom, weighing that evidence  
7       fairly and impartially, applying to it the law that  
8       I have given you in this charge and reaching a  
9       verdict which is fair and impartial and just. I  
10      have every confidence that's what you'll do.

11           Everyone in this case is entitled to justice,  
12      ladies and gentlemen, nothing more and nothing less.  
13      We owe no support to any side. We owe no sympathy  
14      to any side. And I am of the confirmed opinion that  
15      whatever verdict you reach will represent truth and  
16      justice for all the parties.

17           Now, Mr. Foreman and ladies and gentlemen,  
18      please remember your verdict in this case must be  
19      unanimous, that is, it cannot be a split decision.  
20      Some of the jurors may be standing over by the wall,  
21      some seated at the table, some elsewhere in the  
22      room, if someone wants to be heard on a particular  
23      issue, please give them that opportunity, Mr.  
24      Foreman, so that not only will your verdict be a  
25      consensus verdict, but it will indeed be a unanimous

1       verdict.

2               Now, I have in my hand the verdict form and the  
3       verdict form has three questions on it because there  
4       are three charges here. And you can't read it from  
5       here, but you'll have it with you in the jury room.  
6       And what it says with regard to each charge is as  
7       follows:

8               The first question: As to the charge of  
9       attempted murder of Al Jerome Young, we, the jury,  
10      unanimously find the defendant, Gerald R. Williams  
11      -- and then I've got two choices, ladies and  
12      gentlemen. And when I've got two choices on a piece  
13      of paper, I can't give them to you at the same  
14      place, one's got to be in front of the other, but  
15      there's no priority, there's just simply one listed  
16      in front of the other. The first choice is not  
17      guilty. The second choice is guilty. Whichever is  
18      the unanimous decision of the jury, please mark that  
19      and proceed to the next question.

20              And then after you've gone through all three,  
21      at the bottom, there's a signature block for you,  
22      Mr. Foreman. And under that -- that signature block  
23      is under these words, I certify that this verdict is  
24      the unanimous decision of the jury. So when you  
25      sign the form, you're certifying to the Court that

1           this indeed is a unanimous verdict.

2                   Now, here's what we're going to do: We're  
3           going to let you go back in the jury room for just a  
4           moment while we make sure the evidence is in order  
5           and then we're going to send it in to you and you  
6           can begin your deliberations. But before we do  
7           that, I want to speak to our two alternates, and  
8           that's Ms. McKinney and Ms. Miles.

9                   Ladies, I want to say this to you: First of  
10          all, I'm going to let you go back and say your  
11          goodbyes to your colleagues and then we'll bring you  
12          out at the time deliberations begin. But I want to  
13          say this in the presence of your colleagues: A lot  
14          of times alternate jurors get to this point and say,  
15          you know, I have wasted my time. I am not even  
16          going to deliberate in this case.

17                  But I want to say to you, you have not,  
18          because, and I've had this happen before, if we got  
19          to some point of the case or even now as the case is  
20          getting ready to be decided by the jury and one of  
21          the jurors got sick, had an emergency and had to  
22          leave, we'd be down to 11. If I did not have an  
23          alternate, we would have to declare a mistrial and  
24          this case would be tried again. Your presence here  
25          has prevented that and I'm grateful for your

1       presence here. Thank you for your service. Again,  
2       I'll let you say goodbye to your colleagues. Please  
3       don't discuss the case among yourselves, just speak  
4       to your colleagues.

5               And then when we send in the verdict form along  
6       with the evidence, then you may begin the  
7       deliberations. If you need us during the course of  
8       those deliberations, if you have a question, then  
9       you may write that question down, send it out, knock  
10      on the door, someone will be there to receive that  
11      written piece of paper and we will respond to it  
12      accordingly.

13              Now, just like you've been sitting here the  
14      last three days waiting on us, now we wait on you.  
15      We're in no rush. We're in no hurry. You take the  
16      time you believe necessary.

17              Thank you again for your service. We will  
18      remain where we are as all of our jurors depart to  
19      the jury room.

20                      (The jury retires to the jury room.)

21              **THE COURT:** Counsel, while our jury departs,  
22      please come up to the bench and look at the evidence  
23      with our Clerk and with our court reporter and make  
24      sure it's in order so we can send it in to the jury.  
25      And then, Gentlemen, look at the newly amended

1 verdict form, please.

2 (Pause.)

3 **THE COURT:** All right. Now, do you wish for  
4 our two male bailiffs to take the door into the  
5 room? They probably should just take it and stand  
6 it up in there for whatever purpose it may be.

7 **MR. MAYE:** I can have law enforcement take it  
8 as well.

9 **THE COURT:** Well, we'll just let our bailiffs  
10 do that, if they will.

11 **MR. MAYE:** That'll be fine. I didn't know if  
12 they needed any assistance.

13 **THE COURT:** All right. Ladies and gentlemen,  
14 let's remain in session because we're going to bring  
15 our alternates back out, take in the evidence,  
16 including the door, and we'll be ready for the jury  
17 to proceed.

18 (The alternates enter the courtroom.)

19 **THE COURT:** Ms. Miles and Ms. McKinney, I want  
20 to thank you for your service.

21 **JUROR:** Thank you.

22 **THE COURT:** And I want to tell you that we, of  
23 course, do not know how long the jury will be  
24 deliberating. You're welcome to remain with us and  
25 just be seated or you're welcome to go.

1           In a few days, you're going to receive a check  
2           from our Clerk for the per diem and for your  
3           service, that's the county's expression of  
4           gratitude. But I'm going to come down and shake  
5           your hand for a job well done and I'm grateful for  
6           your service.

7           Have a good day. And as you probably already  
8           know, you're done with jury duty for the week.  
9           We're not going to summon anymore jurors. Thank  
10          you.

11                   (The alternates were excused.)

12                   (The jury commences its deliberations at  
13          11:29 a.m.)

14           **THE COURT:** All right. Now, we're outside the  
15           presence of the jury. Are there exceptions or  
16           objections to the charge as given by the Court?  
17           Let's go first to the defense.

18           **MR. CASTO:** Yes, sir, Your Honor. If we can  
19           place on the record our objections to the charge  
20           that we mentioned during our pretrial con -- or at  
21           side bar this morning, Your Honor, with regard to  
22           the charges.

23                   The first objection is this: We object to the  
24           transfer intent charge. Generally speaking,  
25           transferred intent is, is -- I understand it is

1 shooting at a specific person and missing and  
2 hitting another. I don't believe that the facts of  
3 this case support that charge. You know, here I  
4 think it's stated that the theory of malice just  
5 because there is a shooting. And we would  
6 respectfully object to the transfer intent charge,  
7 Your Honor.

8 **THE COURT:** Very good. And let me respond to  
9 your objection with the following: This is a  
10 situation where the defendant is accused of shooting  
11 into a house where individuals may have been, that  
12 he did not know were there, that is giving him the  
13 benefit of the facts of the case. And the Court was  
14 concerned that the jury may believe, after charging  
15 that intent is necessary, that the defendant had no  
16 intent to harm those individuals.

17 The State requested and -- a transferred intent  
18 charge and the Court thought it was appropriate to  
19 give it to avoid confusion. And for that reason,  
20 I'm going to decline to alter or amend the charge  
21 that I've already given the jury on that point.

22 **MR. CASTO:** Our second objection, Your Honor,  
23 is we had requested a spoilage charge.  
24 Specifically, two officers testified that there were  
25 photos at the residence that were taken and they

1       were on a hard drive. This was never turned over  
2       during discovery. Our position is that those are  
3       either destroyed and/or lost. And they would have  
4       documented the scene that night. And so we had  
5       requested a spoilage charge, Your Honor. We object  
6       that the charge didn't have a spoilage charge.

7               **THE COURT:** All right. I'm as well going to  
8       respectfully deny that request for the following  
9       reason: Spoliation generally occurs when a party  
10      either damages or destroys, intentionally or  
11      negligently loses evidence, and particularly  
12      evidence that might be assistive to the adverse  
13      party. In this case, what was claimed by officers  
14      in their testimony was that there were certain  
15      photographs taken that night; however, those  
16      photographs were never produced.

17             The charge on reasonable doubt tells the jury  
18      that they may base their decision on the existence  
19      of evidence or the lack of evidence in the case.  
20      And, thus, the Court believes that in that  
21      particular part of the charge, it covered the issue  
22      of whether or not there may be evidence which is  
23      lacking in the case or missing.

24             But the Court has no evidence here that the  
25      State has intentionally taken steps to conceal or to

1       subvert or otherwise alter evidence to the detriment  
2       of the defendant. And I simply would, at this  
3       junction, decline to bring the jury back out and  
4       give the spoliation charge for those reasons.

5               **MR. CASTO:** Our third objection, Your Honor, on  
6       the issue that we raised is we had requested lesser  
7       included charges to include assault and battery of a  
8       high and aggravated nature, assault and battery  
9       first degree and assault and battery second degree.

10              Specifically, there's been no testimony of any  
11      injuries with any of the people inside this home.  
12      There is no physical evidence of any of these  
13      bullets or slugs that has been entered into  
14      evidence. In fact, the testimony was that these  
15      slugs are not even matched to these guns outside.

16              **THE COURT:** All right. And what says the State  
17      with regard to the lesser included offenses?

18              **MR. MAYE:** Your Honor, I think in a review of  
19      the record, there's absolutely no evidence of  
20      anything other than up or down or guilty or not  
21      guilty on the three indicted offenses. The two  
22      theories that were posited were either that he was  
23      totally not present and unaware of this and had  
24      absolutely no involvement, criminal involvement at  
25      all or he was completely involved in it. And I

1 think there's no way that the evidence can reflect  
2 anything other than either guilty or not guilty on  
3 these charges. There is just no middle ground.

4 There's never been posited that there was any  
5 other acts on the part of the defendant other than  
6 the ones for which he is charged. And we just do  
7 not think there's any evidence in the record to  
8 submit lesser included offenses.

9 This charge is based on shooting into an  
10 occupied dwelling with a firearm, and we would  
11 submit that that would not be either assault and  
12 battery of a high and aggravated nature or any of  
13 the other degrees of assault. It would only be the  
14 attempted murder or not guilty.

15 **THE COURT:** All right. Mr. Casto, as you are  
16 aware, the Court can only charge a lesser included  
17 offense if there's some evidentiary basis for it.  
18 All the evidence in this case, both direct and  
19 circumstantial, goes to the alleged crime where the  
20 defendant, I'll use the State's term, shot up a  
21 mobile home with the intent to kill an individual  
22 who was within the home and there happened to be two  
23 other individuals in there as well.

24 Your client chose not to take the stand, that  
25 is absolutely his right. He's not required to

1       testify. Perhaps he could have given testimony had  
2       he chosen to do so that would have provided an  
3       evidentiary basis for some lesser included offense,  
4       but that was not the case.

5               The evidence is devoid of any lesser included  
6       offense indicia. And for that reason, the Court  
7       would decline to charge a lesser included offense  
8       and decline to bring the jury back out to alter the  
9       charge in any way in that regard.

10              Anything further now from the defense?

11              **MR. CASTO:** Yes, sir, Your Honor. We would  
12       object to the Court's hand of one charge. We submit  
13       that it's prejudicial because it uses a shooting  
14       example. We submit to the Court that that is a  
15       comment on the facts.

16              **THE COURT:** Very good. And that charge  
17       actually is -- while it is a shooting, it is a  
18       killing. The reference is to the murder of an  
19       individual and not actually to attempted murder,  
20       which is the specific charge here.

21              This is a charge that is provided in our  
22       standard charge book. It is one that I've used  
23       hundreds -- well, dozens of times in the charging of  
24       various juries around the State. I don't find it to  
25       be a comment on the facts, although there are some

1 similarities, and I will decline to alter that  
2 charge at this point that I've given to the jury.

3 **MR. CASTO:** Yes, sir, Your Honor. And our  
4 fifth objection is the Court's charge, the inference  
5 of malice from the use of a deadly weapon. We'd  
6 object to this under State versus Belcher.

7 There was testimony presented that Al Jerome  
8 Young shot first. Specifically, O.J. also testified  
9 Al Jerome had threatened to shoot him beforehand and  
10 anyone that even tried to return this money,  
11 including shooting up not only him, his possessions,  
12 his car and the like. And we would hold that just  
13 because there's a deadly weapon present, doesn't  
14 automatically mean malice is involved, and we'd  
15 object to that under State versus Belcher.

16 **THE COURT:** All right. Thank you. And in  
17 reply without hearing from the State, I would tell  
18 you that it is the Court's understanding of the  
19 Belcher decision that when the use of a deadly  
20 weapon is the only indicia, the only fact from which  
21 malice can be inferred, then that is inappropriate.

22 But in this case, the Court finds there are  
23 multiple other evidentiary inferences of malice,  
24 including the State's allegations that the defendant  
25 -- a co-defendant of the defendant went and posed

1        what may be a threat to the family the day before  
2        this shooting incident occurred, that certain family  
3        members left as a result of that, that there was a  
4        common scheme and plan with the intent to go out and  
5        kill the individual, that the defendant's co --  
6        defendant along with the co-defendant put in  
7        operation that plan and used a deadly weapon in  
8        doing so.

9            The Court finds that's just one of multiple  
10        indicators here that would infer malice. And for  
11        that reason, I would respectfully decline to alter  
12        the charge in light of the Belcher decision.

13            Anything further now from the defense?.

14            **MR. CASTO:** Respectfully, Your Honor, our  
15        initial objection is references to seek the truth or  
16        to specifically take into the care or the  
17        preservation the honor of the community, the state  
18        and of the country. And we object to this because  
19        it's -- under the burden of proof, the jury is to  
20        hold the State to the burden of proof to find  
21        whether there's guilt that exists beyond a  
22        reasonable doubt under the facts and solely the  
23        facts in the world of this trial under these facts  
24        and to not include or consider anything outside of  
25        that, Your Honor.

1           **THE COURT:** All right. And the Court  
2 understands the argument that you make, but I would  
3 respectfully respond to you by saying that the  
4 operation of this court continues within the greater  
5 operation of society, that what happens in this  
6 court should not only be fair and just, but also  
7 comport with the protection and preservation of the  
8 honor of the community, county, state and nation.

9           I have used this language in, I'm certain, well  
10 over a hundred cases. It is the standard language  
11 that I use to impress upon the jurors the importance  
12 of their responsibility. In no way does the Court  
13 believe that it adds a component of either  
14 retribution or some other directive to the jury  
15 because I clearly explain to the jury, in other  
16 parts of the charge, that the State bears the burden  
17 of proof and what the State must do to meet that  
18 proof. And for that reason, respectfully, I would  
19 decline to alter the charge as given to them.

20           Anything further?

21           **MR. CASTO:** Nothing further, Your Honor.

22           **THE COURT:** All right. Then, Gentlemen, we  
23 will stand down this matter and await the call of  
24 the jury, the response of the jury. This court, for  
25 this case, is now in recess. We're going to stand

1 down probably about ten minutes while other matters  
2 are prepared. And we'll begin administrative  
3 business while we await the jury decision. This  
4 case is in recess.

5 **MR. YOUNG:** Thank you, Your Honor.

6 (A recess transpired.)

7 **THE COURT:** Please bring in the jury.

8 (The jury returns to open court to report  
9 its verdict at 12:19 p.m.)

10 **THE COURT:** All right. Ladies and gentlemen,  
11 welcome back to the courtroom.

12 Mr. Foreman, I'm advised that you have reached  
13 a verdict; is that correct?

14 **MR. FOREMAN:** Yes, sir.

15 **THE COURT:** All right. Would you please give  
16 your verdict form to our bailiff? Thank you.

17 (The Clerk hands the verdict to the Judge.)

18 **THE COURT:** Let's let the record reflect that  
19 the verdict form is appropriately filled out and it  
20 is signed by the Foreperson. The defendant will  
21 please rise.

22 And, Madame Clerk, please, publish the verdict.

23 **THE CLERK:** State of South Carolina versus  
24 Gerald R. Williams, indictment number  
25 2013-GS-41-257, 2013-GS-41-258 and 2013-GS-41-259.

1 As to the charge of attempted murder of Al Jerome  
2 Young, we, the jury, unanimously find the defendant,  
3 Gerald R. Williams, guilty.

4 As to the charge of attempted murder of Ycedra  
5 Nicole Williams, we, the jury, unanimously find the  
6 defendant, Gerald R. Williams, guilty.

7 As to the charge of attempted murder of Joseph  
8 Christopher Wrighton, we, the jury, unanimously find  
9 the defendant, Gerald R. Williams, guilty. Signed  
10 by the Foreman with today's date.

11 **THE COURT:** All right. Ladies and gentlemen of  
12 the jury, if this is your verdict, please raise your  
13 hand. Please raise your right hand if the verdict  
14 is as was published by the Clerk.

15 And let's let the record reflect that all of  
16 the jurors have raised their hands. You may place  
17 your hands down.

18 Now, while we're still in the presence of the  
19 jury, are there further motions or issues for which  
20 a jury response may be necessary from the defense?

21 **MR. CASTO:** No, sir, Your Honor.

22 **THE COURT:** And from the State?

23 **MR. MAYE:** Not from the State, Your Honor.

24 Thank you.

25 **THE COURT:** Then just one moment, ladies and

1 gentlemen.

2 (Whereupon, a bench conference was held with  
3 the Clerk off the record, in the presence of the  
4 jury, but out of the hearing of the jury.)

5 **THE COURT:** All right. Then, ladies and  
6 gentlemen -- you may be seated, Mr. Casto and  
7 Mr. Williams -- what's going to happen now is we're  
8 going to have a sentencing proceeding, but I don't  
9 require you to stay for that, but you're welcome to  
10 stay for it if you wish. The decision will be  
11 yours.

12 But what I'd like to do is rather than you  
13 remain in the box as you are now so that you'll have  
14 the ability to leave at any point during the  
15 proceeding, which may take 15 minutes I suppose,  
16 then you can get up and go. So what I'm going to do  
17 is I'm going to come down and speak to you, let you,  
18 if you wish, exit the door and be gone or if you  
19 wish to be seated in the audience and we will  
20 proceed from there.

21 I'm pleased to tell you that we don't have any  
22 further jury draws this week and thus you are  
23 finished with jury duty for the week. And I want to  
24 thank you for a job well done. Your verdict was  
25 true and just based on the facts put forth in the

1 case.

2 And in a few days, the county is going to send  
3 you a check, which is the county's expression of  
4 gratitude for your service. That check's not going  
5 to be enough to retire on, but it will be the  
6 county's expression of gratitude. But I'm going to  
7 come down as you leave the jury box and shake your  
8 hand as my expression of thank you and gratitude for  
9 a job well done. All right, just one moment,  
10 please.

11 If you have some things in the jury room and  
12 you want to go first in the jury room and pick those  
13 up and then come back in that door and be seated,  
14 you can. If you want to go in the jury room and  
15 exit the building, you can. It's your choice.  
16 Thank you for your service. Y'all are free to  
17 leave.

18 (The jury was excused.)

19 **THE COURT:** All right. It appears that some of  
20 our jurors have remained with us. Thank you for  
21 your interest in the case.

22 At this point, what I'd like to do is hear from  
23 the State, as well as hear from the defense on the  
24 issue of sentencing.

25 **MR. MAYE:** May it please the Court, Your Honor.

1 I'm going to pass up the sentence sheets that are  
2 stapled to the duplicate indictments to which he's  
3 been convicted.

4 **THE COURT:** Thank you.

5 **MR. MAYE:** Your Honor, there's little else I  
6 could say after the completion of all of these days  
7 of trial. You've got a clear factual scenario here.  
8 The State certainly is aware of the facts.

9 His prior criminal history consists of a 1988  
10 burglary second and grand larceny, which he got a  
11 YOA, an indeterminant YOA; a '90 resisting arrest  
12 and disorderly conduct; a threatening the life of a  
13 public official and resisting arrest, Your Honor, it  
14 looks like '92, '93. It looks like he got  
15 probation, a lengthy period of probation on that.  
16 The probation actually got revoked on the  
17 threatening the life of a public official about  
18 three years later. He got five years probation.  
19 Three years later they revoked him and he went in on  
20 those charges and was revoked.

21 He's got a possession of cocaine charge out of  
22 2000 where he got two years of probation. His  
23 probation was subsequently revoked on that in 2001.  
24 He's got a breaking into a motor vehicle charge, got  
25 two years on in conjunction with a number of other

1 charges, possession of tools or implements used in a  
2 crime, petit larceny, petit larceny, another count  
3 of breaking into vehicles. They consolidated  
4 multiple charges. He got two years on that in 2005.  
5 A possession of Schedule I to IV, second offense or  
6 more, he got a year in 2006 on that. And I believe  
7 that takes us to his current convictions, Your  
8 Honor.

9 The way it was described, I guess, to  
10 Investigator Shorter, I guess kind of aptly sums it  
11 up. O.J. Charley certainly needed somebody to come  
12 here that was willing to assist him with carrying  
13 out this -- what the detective asserted firmly to  
14 Investigator Shorter was they were coming here not  
15 to intimidate him, but the time that they were  
16 returning, they were coming here to murder him. And  
17 he brought with him Gerald Williams, who he  
18 described as a person with a pretty serious drug  
19 problem and someone that was going to do it for  
20 money and/or drugs. And that's the best description  
21 I think that has been given that would provide  
22 information as to why Gerald Williams came along  
23 with O.J. Charley for the purposes of carrying out  
24 the murder of Al Young.

25 I just leave it to the wise discretion of the

1 Court. The jury's spoken and certainly the Court  
2 has an adequate sentencing range to deal with the  
3 severity of this offense.

4 **THE COURT:** And, Mr. Maye, so our record will  
5 be clear, tell us what does this charge carry, each  
6 one carry in South Carolina?

7 And while you're looking at that information,  
8 tell us also, there was testimony in this record  
9 that there had been an eight-year deal offered to a  
10 co-defendant. What is the State's position on  
11 whether that testimony was accurate?

12 **MR. MAYE:** Your Honor, I never offered eight  
13 years to him. I know that Mr. Screen had asked me  
14 about that sentence. We clearly had no plea  
15 agreements at the time that the co-defendant  
16 pleaded. The only offer I've ever extended in this  
17 case in my involvement in it was to plead to -- I  
18 offered each of the two co-defendants to feed them  
19 out of the same spoon and let them to just plead to  
20 the attempted murder of Al Young, consolidated it.  
21 That's the only thing that I've ever offered. I  
22 don't know anything about an eight-year deal.

23 Certainly, at the time that we pleaded O.J.  
24 Charley, we had no plea agreement with him or  
25 anything else at that time, Your Honor. He did turn

1 over and forfeit the money that was seized to law  
2 enforcement in this case, but beyond that and the  
3 reduction with him from pleading to three charges to  
4 one, I don't have any plea deals with anybody else  
5 and did not have any plea deals or offers to the  
6 defendant in this case with the exception, my  
7 understanding, my only involvement was, told him he  
8 could plead to one count if he wanted to plea.

9 **THE COURT:** And do you have any evidence or  
10 have you been able to determine whether this  
11 defendant was involved in the flip of the witness  
12 who was to testify against him as part of that plea  
13 arrangement, but then recanted while at the jail?

14 **MR. MAYE:** Your Honor, I honestly think if I  
15 had to make an assessment of that, I think that O.J.  
16 just thought he would double-cross us and help out  
17 Williams because he got Williams into this. I don't  
18 know that he engineered it. I don't think he's a  
19 mastermind that would have engineered it. I think  
20 that he certainly hoped to benefit from it.

21 He was a prolific -- this defendant was  
22 certainly a prolific writer to Judge Keesley. He  
23 wrote to him repeatedly. All of these things were  
24 generated and sent out of the jail.

25 I think it was O.J. Charley's misguided attempt

1 to try to pull his fat out of the fire given the  
2 fact that he brought him here or he came to help him  
3 commit this murder. That's my assessment.

4 **THE COURT:** While you look up sentencing  
5 information, let me speak to the jury a moment about  
6 what you just heard in this courtroom.

7 You heard that the defendant has what is really  
8 a lengthy criminal history. And the first thing a  
9 juror thinks is, why didn't I know that when I was  
10 asked to make the decision in this case? And the  
11 reason for that is this: If the defendant takes the  
12 stand and testifies, some of those charges may come  
13 in on the issue of credibility and believability  
14 whether or not the defendant is a truthful or honest  
15 person, but the defendant did not take the stand and  
16 thus those are not admissible on that issue.

17 To simply put that criminal history into the  
18 record of a trial would prejudice the defendant and  
19 make the jury perceive that, well, surely the  
20 defendant committed this crime if he committed all  
21 those others. When the real question for this trial  
22 was, did the defendant commit the crime he was  
23 charged with and did the State prove it beyond a  
24 reasonable doubt? That is why you are unaware of  
25 the prior record of the defendant when you

1       deliberated on this case.

2               The other thing I would mention to you that may  
3       cause a question in your mind, you heard that the  
4       \$32,000 was forfeited, and what that meant was that  
5       the arrestee relinquished his right to those funds.  
6       And those funds were divided up between the  
7       Solicitor's office, between the law enforcement  
8       agency that made the arrest and certain other law  
9       enforcement entities, so that all of that money is  
10      returned to be used in law enforcement in some  
11      capacity either in this county or in this state.  
12      That's what happens when money is forfeited in a  
13      criminal enterprise.

14             Now, what say you about the length of sentence  
15      for each of these charges?

16             **MR. MAYE:** For each count, not more than 30  
17      years, no suspended sentence, no probation. My  
18      understanding, it's violent and most serious.  
19      That's the State's information is the current status  
20      of that attempted murder charge, which I think  
21      supplanted the old assault and battery with intent  
22      to kill.

23             **THE COURT:** Very good.

24             Now, Mr. Casto, what do you have to say for  
25      your client? And if your client wishes to speak,

1 we'll give him that opportunity.

2 **MR. CASTO:** Yes, sir, Your Honor. If we may  
3 come --

4 **THE COURT:** Yes, sir. You may come to the  
5 bench. Just please speak up so that everyone in the  
6 courtroom can hear you.

7 **MR. CASTO:** Yes, sir.

8 Thank you, Your Honor. May it please the  
9 Court. Gerald is 42 years of age. He has  
10 predominantly lived in Williston for much of his  
11 life. And his life basically looks like this:

12 He resides, well, at this point, with his  
13 mother. Due to, you know, lengthy incarceration  
14 here, he has lost basically everything or the things  
15 that he had. You know, he is indigent. He does  
16 qualify for our services here at the public  
17 defender's office. So, very respectfully, the  
18 little that he had had been stripped of him. He  
19 resides with his mother who is both -- she's sick  
20 and she's elderly and he does take care of her. At  
21 the present time, he is separated from his wife.

22 I asked Gerald when we spoke about the type of  
23 work that he does and he's basically done carpentry  
24 type work for much of his adult life. And, you  
25 know, he is hoping, you know, maybe potentially one

1 day to go back to residential renovation and go back  
2 to doing that.

3 You know, Judge, just a word to -- that's, you  
4 know, a little background, but speaking to, you  
5 know, myself kind of in his paths crossing so to  
6 speak. Well, that happened back in February of last  
7 year. You know, I first met Gerald and took over  
8 the case and we met and we spoke out in -- out west  
9 in McCormick County and I listened to his story.  
10 And I think that, you know, we got our discovery and  
11 he wanted his day in court.

12 And I just wanted to place on the record just  
13 as a matter of just respect and decorum for  
14 everyone's role in the walls of the courthouse, that  
15 I know that Gerald is disappointed in the verdict.  
16 But in the same breath, let me say this, that the  
17 jury's spoken and we certainly -- there's a certain  
18 amount of respect and understanding that accompanies  
19 that.

20 **THE COURT:** Well, Counsel, tell me this, how  
21 could he be disappointed? The evidence was  
22 absolutely overwhelming against your defendant.

23 **MR. CASTO:** And we, you know, it's our  
24 position, Your Honor, that we wanted to hold the  
25 State to their burden of proof very respectfully.

1 And, you know, and we talked about, in analysis of  
2 the case, the way that Gerald wanted to proceed and,  
3 you know, we fulfilled that, Your Honor.

4 Your Honor, I will say with regard, and if I  
5 could place this on the record, the only thing that  
6 suggests to me with regard to the co-defendant, O.J.  
7 Charley, is several months ago, maybe even last --  
8 well, probably earlier at the turn of this year,  
9 Your Honor, I did obtain a sentencing sheet from the  
10 clerk's office, and I'm pleased to pass it up to the  
11 Court for its review. It's signed by the Solicitor,  
12 Orienthal Charley, Mr. Screen and Judge Keesley  
13 where he pled but sentencing was deferred. It  
14 appears that --

15 **THE COURT:** But, respectfully, Counsel, even if  
16 there is -- and I believe you're getting ready to  
17 tell me you believe there is an eight in the  
18 sentence block and it is whited out because  
19 Mr. Charley's sentence was deferred until after he  
20 testified, which I must say Mr. Charley was probably  
21 the most noncredible witness I think I've ever seen  
22 in 14 years of this job. But this Court is in no  
23 way bound by any alleged agreement which may have  
24 existed with Mr. Charley, and I'm sure that  
25 Mr. Williams understands that. This is not a matter

1       that's even been discussed in any way with this  
2       Court about any sentence range agreement, reduction  
3       or whatever that may be.

4               **MR. CASTO:** Yes, sir, Your Honor. And we just  
5       wanted to pass it up to give the Court a full  
6       presentation about what we'd found. And, Your  
7       Honor, in crafting a sentence, very respectfully, we  
8       would ask the Court for a concurrent time or as much  
9       mercy as the Court can see fit to give in this case.

10              **THE COURT:** Very good.

11              Mr. Williams, do you have something you want to  
12       say, sir? Please remember you remain under oath  
13       from yesterday when I discussed with you your right  
14       to remain silent, as well as your right to testify.  
15       Do you have anything you wish to say?

16              **DEFENDANT:** Not at this moment, Your Honor.

17              **THE COURT:** That was a no?

18              **DEFENDANT:** Yes, sir.

19              **THE COURT:** Just one moment, please.

20                      (Pause.)

21              **THE COURT:** How much time do you believe your  
22       client is entitled to based on the amount of time  
23       he's spent in jail awaiting these proceedings?

24              **MR. CASTO:** Your Honor, he's been incarcerated  
25       since April 13th of 2012, that is 553 days up

1 through today.

2           **THE COURT:** All right. And, Mr. Williams, you  
3 realize that under South Carolina law, these charges  
4 are most serious charges. And we have what's called  
5 a two strikes and you are out law, meaning that if  
6 you have another most serious charge, because these  
7 all arose in one event so they're only counted as  
8 one strike, but if you should get out of prison and  
9 have another most serious, then the penalty for that  
10 second most serious, no matter what the statutory  
11 penalty is, will be life without parole. You  
12 understand that?

13           **DEFENDANT:** Yes, sir, I do.

14           **THE COURT:** Furthermore, this is classified as  
15 a violent crime, that may affect where you are  
16 housed in the department of corrections. It also,  
17 the fact that this is a most serious, is going to  
18 affect your parole eligibility and you may indeed  
19 serve every day that the Court sentences you to, but  
20 certainly you will serve at least 85 percent of that  
21 time. And do you understand that, sir?

22           **DEFENDANT:** Yes, I do, Your Honor.

23           **THE COURT:** All right, sir. Just one moment.

24                   (Pause.)

25           **THE COURT:** This is the sentence of the Court,

1       Mr. Williams -- and I would say to you, first of  
2       all, that after a full and fair trial where you've  
3       been given every opportunity to contest these  
4       charges and put the State to the burden of proof,  
5       which is every right that you have and you have  
6       exercised those rights, this jury has, and the Court  
7       believes very appropriately, found that you are  
8       guilty beyond a reasonable doubt of these three  
9       charges.

10           What concerns this Court is, is that you were  
11       aware, because you were most likely present the day  
12       before, that if not present, certainly aware, that  
13       there were children that lived in this home. You,  
14       in sort of gangland, gang banger fashion, shot up a  
15       home with complete disregard for any human life that  
16       may have been in that home, and it is a miracle that  
17       no one was killed. And if someone had been killed  
18       and you had a murder conviction, you'd be looking at  
19       30 years day-for-day service at a minimum. And so  
20       in a way, you're fortunate even though you find  
21       yourself where you do not wish to be.

22           But based upon the depravity of this crime, the  
23       way in which it occurred, the fact that you were  
24       willing to potentially take the lives of multiple  
25       people for whatever reason, apparently the reason

1           was for payment in money or drugs, the Court cannot  
2           permit this type of activity in Saluda County and in  
3           society in general. It endangers all of us.

4           I sentence you to 20 years in the department of  
5           corrections on each of these charges to be served  
6           concurrently. So you have one 20-year sentence.  
7           I'm going to credit you 553 days against that  
8           service. That is the sentence of the Court. I'm  
9           going to now remand you to the department of  
10          corrections to begin your service. Good luck to  
11          you, sir.

12          **MR. CASTO:** Thank you, Your Honor.

13          **THE COURT:** Thank you.

14          All right. Anything further now from the State  
15          with regard to this case?

16          **MR. MAYE:** No, sir, Your Honor. We will  
17          proceed to sentencing on the co-defendant.  
18          Mr. Screen is supposed to be here shortly. He said  
19          he would be here after lunchtime. I will want to  
20          proceed to sentencing on the co-defendant today.

21          **THE COURT:** Very good.

22          Then, ladies and gentlemen of the jury, that  
23          concludes this matter. There will be no further  
24          action in this matter. Thank you again for a  
25          service well done.

1           And, ladies and gentlemen, as you leave, let me  
2           tell you one more thing, just to follow up with the  
3           discussion we had the other day after there was  
4           testimony about the eight years. It's the Court's  
5           responsibility to sentence. The jury has no  
6           responsibility in whatever sentence is given.  
7           Whether you believe it to be appropriate, high or  
8           low, we have a division of authority. You made the  
9           correct decision with regard to the facts of the  
10          case. Again, I commend you for a job well done.  
11          You have a good day, ladies and gentlemen.

12                       (Pause.)

13               **THE COURT:** Mr. Maye, it's my understanding  
14           that you had agreed to have a picture of the door as  
15           opposed to having the Clerk keep up with the door in  
16           the evidence room.

17               **MR. MAYE:** I did want to look after our Clerk  
18           of Court in that regard. What I would propose that  
19           we do and would ask is that we be allowed to take a  
20           picture of the front and back of the door and  
21           substitute that into evidence. We will prepare a  
22           form order for the Court. Basically, the sheriff is  
23           going to keep and maintain that door until such time  
24           as the pendencies of appeals or anything else have  
25           been exhausted in this case so it could be returned

1 back up here and that it would not be changed or  
2 altered in any way. And we felt like that was the  
3 most prudent course. And if that pleases the Court,  
4 that's what we'll do.

5 **THE COURT:** Is there an objection to that from  
6 the defense?

7 **MR. CASTO:** No, sir, Your Honor.

8 **THE COURT:** All right. Then by agreement, the  
9 Court will permit that. And you may just proceed to  
10 do that at any time and the Clerk is instructed not  
11 to take that door into the evidence room, and the  
12 State may take it away after the photographs are  
13 procured.

14 **MR. MAYE:** We'll make sure that we do that  
15 before the close of business this week.

16 **THE COURT:** All right. Thank you. Then before  
17 we end our morning session, let's bring back Mr.  
18 Baker.

19 (Pause.)

20 **THE COURT:** All right. Go ahead, Mr. Casto.

21 Mr. Baker, just step to the side one moment.  
22 We're going to briefly hear from Mr. Casto on his  
23 post-trial motions.

24 **MR. CASTO:** Your Honor, we place on the record,  
25 at this time, and we'd ask the Court to -- we renew

1 all of our motions and objections raised at pretrial  
2 and during the trial, including our motion for a  
3 directed verdict. And in addition to that, we'd  
4 move for a new trial, specifically that with the  
5 evidence that's been presented, a jury could not  
6 have found the defendant guilty beyond a reasonable  
7 doubt. And we just, very respectfully, place that  
8 on the record at this time to preserve our appellate  
9 issue.

10 **THE COURT:** Very good. The Court is going to  
11 respectfully deny all post-trial motions and confirm  
12 the judgment of the jury and the sentence of the  
13 Court, and will now close the record in this file.  
14 Good luck to you, sir. Thank you.

15  
16 END OF PROCEEDINGS  
17  
18  
19  
20  
21  
22  
23  
24  
25

## C E R T I F I C A T E

STATE OF SOUTH CAROLINA

COUNTY OF SALUDA

I, the undersigned, Stacy L. Sheppard, Circuit Court Reporter for the Eleventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete transcript of record of all the proceedings had and the evidence introduced in the trial of the captioned cause, relative to appeal in the Criminal Court for Saluda County, South Carolina, on the 14th - 17th of October, 2013.

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

April 7, 2014



Stacy L. Sheppard, RPR  
Circuit Court Reporter

OKG

(6)

745

STATE OF SOUTH CAROLINA

COUNTY OF SALUDA

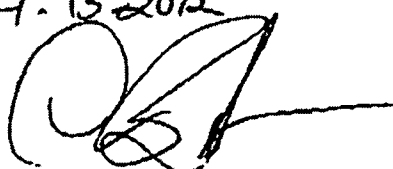
---

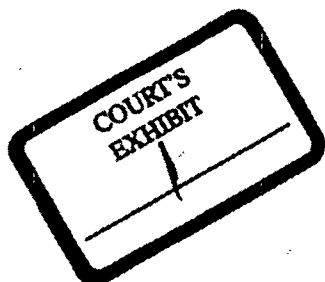
SEARCH WARRANT

---

DATE: April 13, 2012

THIS SEARCH WARRANT SUPPLEMENTED BY ORAL TESTIMONY OF  
JESSE QUATTLEBAUM

4.13.2012  




Van

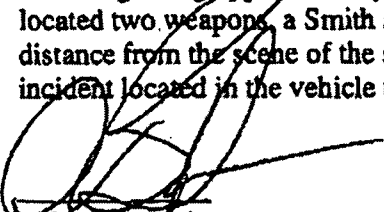
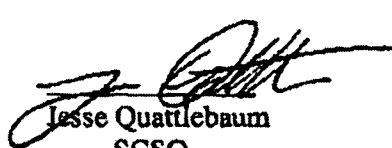
746

STATE OF SOUTH CAROLINA )

COUNTY OF SALUDA )

## SEARCH WARRANT AFFIDAVIT

Personally appeared before me one Jesse Quattlebaum who being duly sworn states and deposes that on April 13, 2012 at the residence of Shadow Ridge Court, two men were seen outside the residence by the occupants of that dwelling and almost immediately after spotting the men, witnesses stated the men began shooting into the residence numerous times. Deputies responded to the scene and observed several gunshots into the residence and found and recovered numerous shell casings. Deputies spotted a light green-in-color mini-van located approximately one half mile from the scene of the shooting, and the vehicle was stopped and two subjects were found to be occupying the vehicle. Deputies had prior information from Investigator Pruitt of the Williston Police Department regarding the two subjects in the vehicle being involved in a dispute with the victim at [REDACTED] Court regarding approximately \$30,000 of drug or narcotic money that was stolen. Deputies located two weapons, a Smith and Wesson .40 pistol and an A.A. Arms TEC-9mm a short distance from the scene of the shooting. It is believed there is evidence crucial to the shooting incident located in the vehicle the subjects were driving.

  
Magistrate Judge  
Jesse Quattlebaum  
SCSO

747

**STATE OF SOUTH CAROLINA)  
COUNTY OF SALUDA)**

**TO ANY BONDED LAW ENFORCEMENT OFFICER OF THE STATE OR COUNTY OF  
THE MUNICIPALITY OF SALUDA**

It, appearing from the attached affidavit that there are reasonable grounds to believe that certain property subject to seizure under provisions of section 17-13-140, 1976 Code of laws of South Carolina, as amended, is located on the following premises in this County:

**DESCRIPTION OF PREMISES, PERSON, PLACE OR THING  
TO BE SEARCHED**

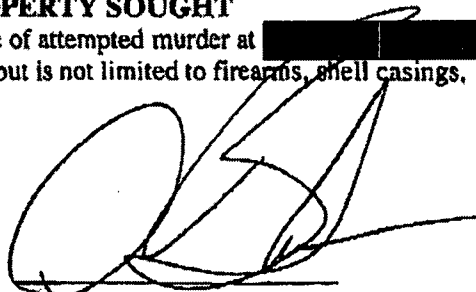
2000 light green-in-color, Dodge mini-van. The vehicle to be searched displays a South Carolina tag number [REDACTED]. The vehicle identification number on the vehicle is [REDACTED]. The vehicle will be located at Winn's Collision Center located at Batesburg Highway, Saluda, Saluda County.

Now, therefore, you are hereby authorized to search the subject person and/or premises including any vehicles and outbuildings on the premises for the property described below, and to seize such property if found:

**DESCRIPTION OF PROPERTY SOUGHT**

Any and all items and evidence related to the crime of attempted murder at [REDACTED] Court in Saluda County South Carolina. This includes but is not limited to firearms, shell casings, latex gloves or any other evidence related to the crime.

Sworn to and subscribed before me,  
13th day of April 2012



Magistrate Judge

748

**STATE OF SOUTH CAROLINA)  
COUNTY OF SALUDA****) AFFIDAVIT**

Personally appeared before me, Jesse Quattlebaum, who being duly sworn, deposes and says there is probable cause to believe that certain property subject to seizure under the provisions of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following person/premises in this County:

**DESCRIPTION OF PROPERTY SOUGHT**

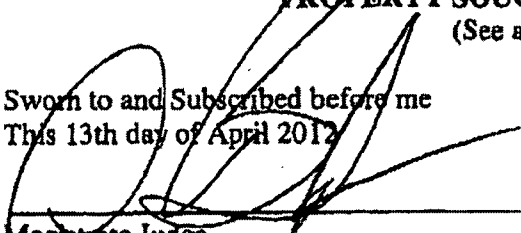
Any and all items and evidence related to the crime of attempted murder at Ridge Court in Saluda County South Carolina. This includes but is not limited to firearms, shell casings, latex gloves or any other evidence related to the crime.

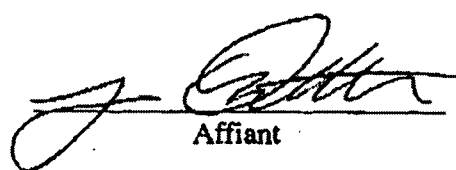
**DESCRIPTION OF PREMISES (PERSON, PLACE OR THING)  
TO BE SEARCHED**

2000 light green-in-color, Dodge mini-van. The vehicle to be searched displays a South Carolina tag number DSL. The vehicle identification number on the vehicle is . The vehicle will be located at Winn's Collision Center located at Batesburg Highway, Saluda, Saluda County.

**REASON FOR AFFIANTS BELIEF THAT THE  
PROPERTY SOUGHT IS ON THE PREMISES  
(See attached affidavit)**

Sworn to and Subscribed before me  
This 13th day of April 2012

  
Magistrate Judge

  
Affiant



750

This Search Warrant shall not be valid for more than ten days from the date of issuance. A written inventory of all property seized pursuant to this Search Warrant shall be made to Saluda County Summary Court Judge Bruce Horne within ten days from the date of this warrant, such inventory to be signed by the officer executing this warrant, and a copy of such inventory shall be furnished to the person whose person and/or premises are searched if demand for such copy is made.

A copy of this Search Warrant shall be delivered to the person to be searched and /or person in charge of the premises to be searched at the time of such search as practicable, and, if not, to search person as soon thereafter as is practicable; in the event the identity of the person in charge is not known or if such person cannot be found after reasonable diligence in attempting to locate the person, a copy shall be attached to a prominent place on such premises.

OKG

**COPY**

751

**STATE OF SOUTH CAROLINA**

**COUNTY OF SALUDA**

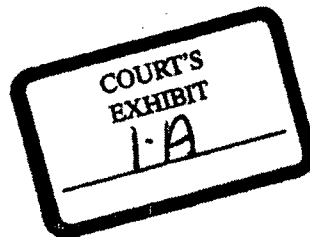
ATTEST: TRUE COPY  
Saluda County Summary Court  
Saluda, S.C.  
10-14-2013

**SEARCH WARRANT**

**DATE: April 13, 2012**

**THIS SEARCH WARRANT SUPPLEMENTED BY ORAL TESTIMONY OF  
JESSE QUATTLEBAUM**

4-13-2012  

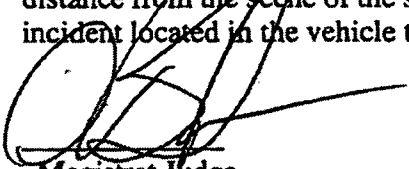
STATE OF SOUTH CAROLINA )

)

## SEARCH WARRANT AFFIDAVIT

COUNTY OF SALUDA )

Personally appeared before me one Jesse Quattlebaum who being duly sworn states and deposes that on April 13, 2012 at the residence of Shadow Ridge Court, two men were seen outside the residence by the occupants of that dwelling and almost immediately after spotting the men, witnesses stated the men began shooting into the residence numerous times. Deputies responded to the scene and observed several gunshots into the residence and found and recovered numerous shell casings. Deputies spotted a light green-in-color mini-van located approximately one half mile from the scene of the shooting, and the vehicle was stopped and two subjects were found to be occupying the vehicle. Deputies had prior information from Investigator Pruitt of the Williston Police Department regarding the two subjects in the vehicle being involved in a dispute with the victim at Shadow Ridge Court regarding approximately \$30,000 of drug or narcotic money that was stolen. Deputies located two weapons, a Smith and Wesson .40 pistol and an A.A. Arms TEC-9mm a short distance from the scene of the shooting. It is believed there is evidence crucial to the shooting incident located in the vehicle the subjects were driving.

  
Magistrate Judge  
Jesse Quattlebaum  
SCSO

**STATE OF SOUTH CAROLINA)  
COUNTY OF SALUDA)**

**TO ANY BONDED LAW ENFORCEMENT OFFICER OF THE STATE OR COUNTY OF  
THE MUNICIPALITY OF SALUDA**

It, appearing from the attached affidavit that there are reasonable grounds to believe that certain property subject to seizure under provisions of section 17-13-140, 1976 Code of laws of South Carolina, as amended, is located on the following premises in this County:

**DESCRIPTION OF PREMISES, PERSON, PLACE OR THING  
TO BE SEARCHED**

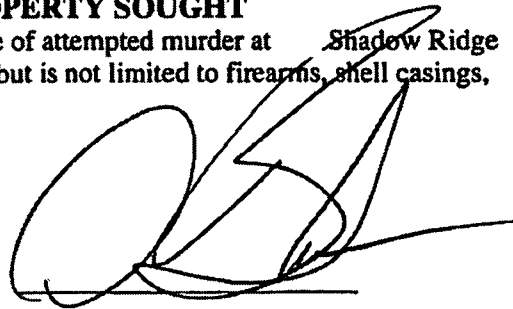
2000 light green-in-color, Dodge mini-van. T The vehicle to be searched displays a South Carolina tag number DSL. The vehicle identification number on the vehicle is . The vehicle will be located at Winn's Collision Center located at Batesburg Highway, Saluda, Saluda County.

Now, therefore, you are hereby authorized to search the subject person and/or premises including any vehicles and outbuildings on the premises for the property described below, and to seize such property if found:

**DESCRIPTION OF PROPERTY SOUGHT**

Any and all items and evidence related to the crime of attempted murder at Shadow Ridge Court in Saluda County South Carolina. This includes but is not limited to firearms, shell casings, latex gloves or any other evidence related to the crime.

Sworn to and subscribed before me,  
13th day of April 2012



Magistrate Judge

**STATE OF SOUTH CAROLINA)  
COUNTY OF SALUDA**

)

**AFFIDAVIT**

Personally appeared before me, Jesse Quattlebaum, who being duly sworn, deposes and says there is probable cause to believe that certain property subject to seizure under the provisions of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following person/premises in this County:

**DESCRIPTION OF PROPERTY SOUGHT**

Any and all items and evidence related to the crime of attempted murder at Shadow Ridge Court in Saluda County South Carolina. This includes but is not limited to firearms, shell casings, latex gloves or any other evidence related to the crime.

**DESCRIPTION OF PREMISES (PERSON, PLACE OR THING)  
TO BE SEARCHED**

2000 light green-in-color, Dodge mini-van. T The vehicle to be searched displays a South Carolina tag number DSL The vehicle identification number on the vehicle is The vehicle will be located at Winn's Collision Center located at Batesburg Highway, Saluda, Saluda County.

**REASON FOR AFFIANTS BELIEF THAT THE  
PROPERTY SOUGHT IS ON THE PREMISES**  
(See attached affidavit)

Sworn to and Subscribed before me  
This 13th day of April 2012

Magistrate Judge

Affiant

This Search Warrant shall not be valid for more than ten days from the date of issuance. A written inventory of all property seized pursuant to this Search Warrant shall be made to Saluda County Summary Court Judge Bruce Horne within ten days from the date of this warrant, such inventory to be signed by the officer executing this warrant, and a copy of such inventory shall be furnished to the person whose person and/or premises are searched if demand for such copy is made.

A copy of this Search Warrant shall be delivered to the person to be searched and /or person in charge of the premises to be searched at the time of such search as practicable, and, if not, to search person as soon thereafter as is practicable; in the event the identity of the person in charge is not known or if such person cannot be found after reasonable diligence in attempting to locate the person, a copy shall be attached to a prominent place on such premises.

## RETURN

I received the attached Search Warrant April 13, 2012 and have executed it as follows:

On April 13, 2012 at 10:45 am o'clock    M, I searched (the person) described in the warrant and (the premises)

I left a copy of the warrant with vehicle at the place of the search together with a receipt for the items seized.

The following is an inventory of property taken pursuant to the warrant: 2 Black stocking Hats, 1 multi colored bandana, Partial latex glove, Black Tommy Hilfiger coat.

AND This inventory was made in the presence of Jesse Quattlebaum

I swear that this Inventory is a true and detailed account of all the property taken by me on the warrant.

SWORN to before me this 11  
Day of October, 2012 2013

  
Magistrate Judge

  
Signature of officer executing Warrant

CRG

(5)

757

STATE OF SOUTH CAROLINA

COUNTY OF SALUDA

---

SEARCH WARRANT

---

DATE: APRIL 13, 2012

THIS SEARCH WARRANT SUPPLEMENTED BY ORAL TESTIMONY OF  
JESSE QUATTLEBAUM

*[Signature]*  
4-13-2012

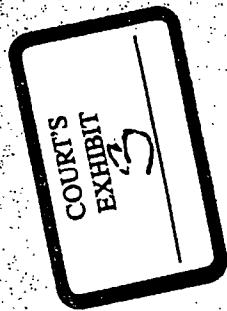


home

2013-GS-41-257; 2013-GS-41-258; 2013-GS-41-259

*John*

758



This Exhibit is Sealed by Order of the Court. See Reverse.

*John F. Long* 2021  
Circuit Judge

EXHIBIT

Pre-trial hearing exhibit. State v. Williams.

Only to be graded by Order of the Court.

*John F. Judge*  
C. Judge

10/14/13

*This Search Warrant shall not be valid for more than ten days from the date of issuance.*

*A written inventory of all property seized pursuant to this Search Warrant shall be made to Saluda County Summary Court Judge Bruce Horne within ten days from the date of this warrant, such inventory to be signed by the officer executing this warrant, and a copy of such inventory shall be furnished to the person whose person and/or premises are searched if demand for such copy is made.*

*A copy of this Search Warrant shall be delivered to the person to be searched and /or person in charge of the premises to be searched at the time of such search as practicable, and, if not, to search person as soon thereafter as is practicable; in the event the identity of the person in charge is not known or if such person cannot be found after reasonable diligence in attempting to locate the person, a copy shall be attached to a prominent place on such premises.*

## RETURN

I received the attached Search Warrant 4-13, 2012 and have executed it as follows:

On 4-13, 2012 at 500 o'clock A M, I searched (the person) described in the warrant and (the premises)

I left a copy of the warrant with Residence at the place of the search together with a receipt for the items seized.

The following is an inventory of property taken pursuant to the warrant: Digital Scales, Cigar Cutter, Small Plastic Baggy  
Containing numerous smaller baggies with white powder, shell casing

This inventory was made in the presence of KM Holmes  
 AND CB Padgett

I swear that this Inventory is a true and detailed account of all the property taken by me on the warrant.

SWORN to before me this 13th  
 Day of April, 2012

[Signature]  
 Magistrate Judge of Saluda County

[Signature]  
 Signature of officer executing Warrant

ATTACHED TRUE COPY

[Signature]  
 Saluda County Summary C.  
 Saluda, S.C.

WITNESSES

SCSO

PADGET

ARREST WARRANT NUMBER

DIRECT

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date: JUL 09 2013

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2013-GS-41- 257

The State of South Carolina

County of SALUDA

COURT OF GENERAL SESSIONS

JULY TERM 2013

THE STATE

vs.

GERALD RUDELL WILLIAMS

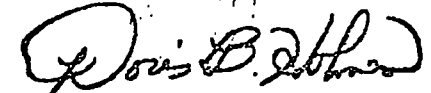
CDR#3410

Indictment for

ATTEMPTED MURDER

DONALD V. MYERS, SOLICITOR

ATTEST: TRUE COPY

  
Clerk of Court  
Saluda, S. C.

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF SALUDA )

INDICTMENT FOR  
ATTEMPTED MURDER

At a Court of General Sessions, convened on July 9, 2013 the Grand Jurors of Saluda County present upon their oath:

That GERALD RUDELL WILLIAMS along with Oriental Jermaine Charley, did in Saluda County on or about April 13, 2012, feloniously, willfully and with malice aforethought, attempt to murder the victim, Joseph Christopher Wrighton, in that the defendant, Gerald Rudell Williams along with Oriental Jermaine Charley, did shoot a firearm into the residence that the victim was then staying, with the intent to kill the victim, Joseph Christopher Wrighton, in violation of §16-3-29, South Carolina Code of Laws, 1976, as amended.

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

  
ASSISTANT SOLICITOR

764

WITNESSES

SCSO

PADGET

ARREST WARRANT NUMBER

DIRECT

ACTION OF GRAND JURY

TRUE BILL

Forperson of Grand Jury

Date: JUL 09 2013

VERDICT

Forperson of Petit Jury

Date:

DOCKET NO. 2013-GS-41- 258

**The State of South Carolina**

**County of SALUDA**

**COURT OF GENERAL SESSIONS**

**JULY TERM 2013**

**THE STATE**

**vs.**

**GERALD RUDELL WILLIAMS**

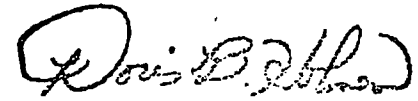
**CDR#3410**

**Indictment for**

**ATTEMPTED MURDER**

**DONALD V. MYERS, SOLICITOR**

**ATTEST: TRUE COPY**



Clerk of Court  
Saluda S.C.

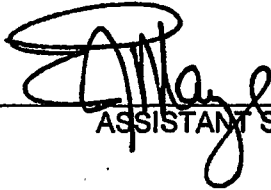
STATE OF SOUTH CAROLINA )  
COUNTY OF SALUDA )

INDICTMENT FOR  
ATTEMPTED MURDER

At a Court of General Sessions, convened on July 9, 2013 the Grand Jurors of Saluda County present upon their oath:

That GERALD RUDELL WILLIAMS along with Oriental Jermaine Charley, did in Saluda County on or about April 13, 2012, feloniously, willfully and with malice aforethought, attempt to murder the victim, Ycedra Nicole Williams, in that the defendant, Gerald Rudell Williams along with Oriental Jermaine Charley, did shoot a firearm into the residence that the victim was then staying, with the intent to kill the victim, Ycedra Nicole Williams, in violation of §16-3-29, South Carolina Code of Laws, 1976, as amended.

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

  
ASSISTANT SOLICITOR

WITNESSES

SCSO

PADGET

ARREST WARRANT NUMBER

DIRECT

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date: JUL 09 2012

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2013-GS-41- 259

The State of South Carolina

County of SALUDA

COURT OF GENERAL SESSIONS

JULY TERM 2013

THE STATE

vs.

GERALD RUDELL WILLIAMS

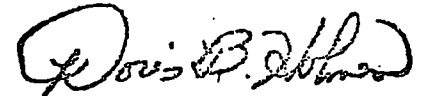
CDR#3410

Indictment for

ATTEMPTED MURDER

DONALD V. MYERS, SOLICITOR

ATTEST: TRUE COPY

  
Clerk of Court  
Saluda, S. C.

STATE OF SOUTH CAROLINA )  
COUNTY OF SALUDA )

INDICTMENT FOR  
ATTEMPTED MURDER

At a Court of General Sessions, convened on July 9, 2013 the Grand Jurors of Saluda County present upon their oath:

That GERALD RUDELL WILLIAMS along with Oriental Jermaine Charley, did in Saluda County on or about April 13, 2012, feloniously, willfully and with malice aforethought, attempt to murder the victim, Al Jerome Young, in that the defendant, Gerald Rudell Williams along with Oriental Jermaine Charley, did shoot a firearm into the residence that the victim was then staying, with the intent to kill the victim, Al Jerome Young, in violation of §16-3-29, South Carolina Code of Laws, 1976, as amended.

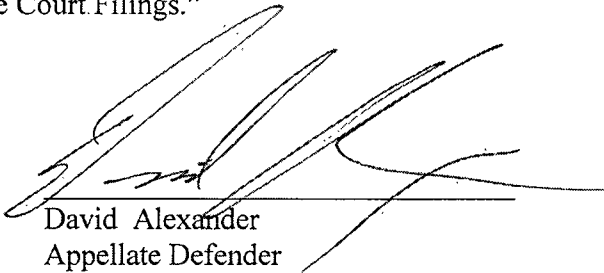
Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

  
\_\_\_\_\_  
ASSISTANT SOLICITOR

## CERTIFICATE OF COUNSEL FOR APPELLANT

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

This 27<sup>th</sup> day of February.



David Alexander  
Appellate Defender

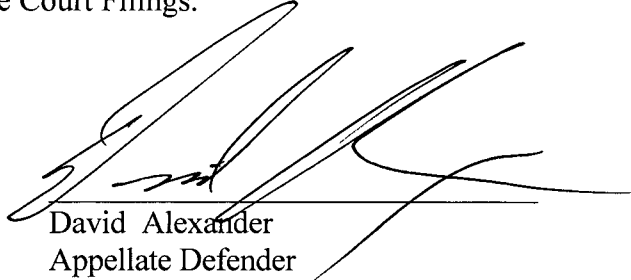
South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
PO Box 11589  
Columbia, S. C. 29211-1589  
(803) 734-1330

ATTORNEY FOR APPELLANT

## CERTIFICATE OF COUNSEL FOR APPELLANT

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

This 27<sup>th</sup> day of February.



David Alexander  
Appellate Defender

South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
PO Box 11589  
Columbia, S. C. 29211-1589  
(803) 734-1330

ATTORNEY FOR APPELLANT

STATE OF SOUTH CAROLINA

 ORIGINAL

IN THE COURT OF APPEALS

Appeal from Saluda County

J. Michael Baxley, Circuit Court Judge

**RECEIVED**

FEB 27 2015

THE STATE,

**SC Court of Appeals**

RESPONDENT,

V.

GERALD RUDELL WILLIAMS,

APPELLANT

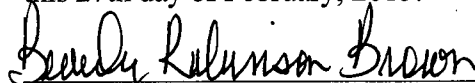
APPELLATE CASE # 2013-002304

CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Salley W. Elliott, Esquire, Assistant Deputy Attorney General Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201 and Gerald R. Williams, McCormick Correctional Institution, 386 Redemption Way, McCormick, SC 29899, this 27<sup>th</sup> day of February, 2015.

  
\_\_\_\_\_  
Brandon Hall  
Administrative Specialist

SUBSCRIBED AND SWORN TO before me  
this 27th day of February, 2015.

 (L.S.)  
Notary Public for South Carolina

My Commission Expires: December 9, 2024.