

 ORIGINAL

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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SC Court of Appeals

Appeal from Jasper County

Honorable Michael G. Nettles, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

NATHANIEL WRIGHT,

APPELLANT

APPELLATE CASE NO 2016-000272

RECORD ON APPEAL

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	)	
Plaintiff,	)	
	)	
-vs-	)	Transcript of Record
	)	
	)	
Nathaniel Wright,	)	
	)	
Defendant.	)	
	)	

February 8-10, 2016
Ridgeland, South Carolina

B E F O R E:

The Honorable Michael G. Nettles, Judge

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Attorney for the Plaintiff

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Jared Newman, Esquire
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Krystal J. Smith
Court Reporter

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1 FEBRUARY 8, 2016

2 (WHEREAS this matter was scheduled for a trial, the
3 defendant appeared along with his counsel of record. The
4 hearing began at 11:57 a.m.)

5 THE COURT: I'll tell you what. It might be in
6 everyone's best interest if we clear the courtroom for this
7 matter.

8 (WHEREUPON, there was a pause in the proceedings to clear
9 the courtroom.)

10 THE COURT: Defense counsel, if you could, identify
11 yourself for the court reporter and your full name and where
12 you're employed and we'll -- I'll be glad to hear you with
13 regard to your motion.

14 MS. SMART-GITTINGS: May it please the Court, Your Honor.
15 Stephanie Smart-Gittings for the defendant, Nathaniel Wright.
16 I work in the Public Defender's Office for Allendale, Hampton,
17 and Jasper counties.

18 THE COURT: How do you spell your last name?

19 MS. SMART-GITTINGS: G-i-t-t-i-n-g-s.

20 THE COURT: Gittings. I'll be glad to hear from you.
21 Yes?

22 MS. SMART-GITTINGS: May it please the Court, Your Honor.
23 We -- in Indictments 2014-GS-540, 2014-GS-541, 2014-542, the
24 defense at this time would move for a continuance based on
25 several issues.

1 The factual basis for our continuance -- on October the
2 1st, 2014, Maurice Wright was shot and killed in Ridgeland,
3 South Carolina. Later that day, Nathaniel Wright, the
4 defendant in this particular case, was charged and arrested
5 with that murder.

6 On October 14th [sic], he was taken to the Coastal
7 Carolina Hospital. He was treated by EMS at the scene. He
8 was awake, but not alert, eyes heavy as if he was going to
9 fall asleep while talking. He -- his eyes were five
10 millimeters in the right and the left pupil five millimeters
11 and he had a high pulse rate.

12 And I say that because there are medical records that has
13 not been provided to us by the State, Your Honor, and we were
14 not aware that he had been taken to the Coastal Carolina
15 Hospital until we received the chain of custody information.

16 This case was initially assigned to Robert Hughes in our
17 Allendale, Hampton, and Jasper office. It was transferred to
18 me on or about -- sometime in September of 2015. The
19 discovery was provided to me September 2015.

20 As a result of that, we were told that the case would be
21 the first up for trial this term, February the 8th. The State
22 did advise that they withheld the name of their confidential
23 witness. They withheld that information because they thought
24 that his safety was a concern.

25 We met with Your Honor in chambers in January on the 16th.

1 You advised the State to give us the statement written by the
2 confidential witness, but they did not have to give us the
3 name of the witness until seven days prior to trial. That
4 would have been Monday, February the 1st of 2016.

5 I notified Your Honor and the State that we were in
6 Hampton General Sessions the week of February the 1st. I had
7 submitted an order of protection to Judge Buckner because I
8 was up for trial in cases two, three, four, and five for the
9 Hampton term of General Sessions. Judge Buckner denied my
10 request for an order of protection; so I was -- I had to be
11 prepared for those cases.

12 When the solicitor gave Assistant Public Defender
13 Kimberly Jordan the discovery, it was in a sealed envelope.
14 She did not open that envelope until she gave it to me
15 Wednesday late afternoon; so I did not have a chance to see
16 the discovery -- the supplemental discovery until Wednesday of
17 last week.

18 Within that document, the unredacted statement of the
19 confidential witness, there were two names that we were made
20 aware of, Sadie Jackson and Derek Wright. Derek Wright's name
21 was not redacted in the previous statement, but we couldn't
22 determine the relevance of that name until we received the
23 unredacted version of the statement.

24 So Wednesday afternoon, we attempted to find Derek
25 Wright. We did find out the identity of Baby Doll, which was

1 the other name in that statement and we were able to speak
2 with her I believe Friday of last week.

3 The other issue -- I have not been able to find Derek
4 Wright nor discuss with them the contents of the statement in
5 which his name was listed. So I believe that I'd be at a
6 disadvantage because I have not been able to fully investigate
7 the contents of the confidential witness' statement.

8 The -- and I have included both the statements. I will
9 submit to the Court the redacted version and the unredacted
10 version. We've got a CD SLED -- a CD with SLED's photos. We
11 received that Monday of last week.

12 The jail phone records from October to November of 2014
13 -- we received that as well. Unfortunately, our computer
14 system is not equipped with the program that the jail calls
15 were recorded on; so I've not been able to listen to those
16 conversations and I don't know whether or not there's any
17 conversations that could possibly be exculpatory and help my
18 client out or whether or not he made some statements when he
19 was on the phone regarding the facts of the case. So I feel
20 like --

21 THE COURT: As far as -- as far as the limited issue with
22 regard to the telephone calls, they've produced those to you,
23 but you can't get it to work on your computer?

24 MS. SMART-GITTINGS: Right.

25 THE COURT: They indicated they are not going to use the

1 substance of those calls in their case in chief, but they have
2 -- I understand that they have made arrangements for you to
3 listen to those calls after hours today in order for you to
4 determine whether there's any exculpatory material.

5 MS. SMART-GITTINGS: That is correct, Your Honor.

6 THE COURT: Okay. Very good.

7 MS. SMART-GITTINGS: However, if I -- when I listen to
8 those calls, if there's the person on the other end of the
9 call that I need to subpoena, the jury will not be made aware
10 of those persons names and then we would be at a disadvantage
11 if someone on the jury knows the person that could be a
12 potential witness. At this point, I don't know whether or not
13 there will be a potential -- a potential witness from those
14 phone calls.

15 THE COURT: We'll deal with that at the time. You've got
16 to listen to them first.

17 MS. SMART-GITTINGS: We did not receive the full MUSC
18 report until, again, later on that Wednesday and the customary
19 design. So we were able to look at that and review that this
20 weekend.

21 The other issue that my client asked that I raise -- I
22 did not make him aware of the fact that in our office Mr.
23 Hughes had this particular file and there was a conflict
24 between another witness and Mr. Hughes. Mr. Hughes had
25 represented someone who could possibly be a potential witness

1 in this case and then Mr. Plexico -- we found out this week
2 that Mr. Plexico actually represented the confidential witness
3 in this case. Mr. Plexico brokered -- negotiated a deal with
4 the State regarding this particular confidential witness and
5 Mr. Plexico's witness will be testifying against Mr. Wright
6 during the course of this trial.

7 It's a unique situation in that there was a trial in the
8 absence of that witness and Mr. Plexico represented him.
9 There was a sentence that was delivered, but it was a sealed
10 sentence because the defendant was not present in court. That
11 sentence was -- we don't know the contents of the sealed
12 sentence, but Mr. Plexico will have to testify to what that
13 sentence was. He will also I believe have to testify as to
14 the deal that was made --

15 THE COURT: He doesn't -- he doesn't need --

16 MS. SMART-GITTINGS: -- with the Solicitor's Office.

17 THE COURT: Go ahead.

18 MS. SMART-GITTINGS: The deal that was made with the
19 Solicitor's office. And this, Your Honor, goes to the bias of
20 this -- of this particular witness because the deal that was
21 made is that this witness has to testify according to the
22 statement that was read into the evidence. If he does not
23 testify accordingly, it will be a violation of his probation.

24 Mr. Plexico will have to testify as to what his initial
25 sentence was so that the jury can see the bias that this

1 witness has because the witness is -- we don't know -- we've
2 not been -- they've not given us --

3 THE COURT: I think the State would be in a position to
4 stipulate as to what the deal was, wouldn't they? It's not
5 necessary to call Mr. Plexico in that regard, is it?

6 MS. JONES: No, Your Honor. I actually plan on asking
7 the witness himself about the deal.

8 THE COURT: Okay.

9 MS. SMART-GITTINGS: But if the witness' statement
10 varies, Mr. Plexico is the only person that I can particularly
11 call to either corroborate or --

12 THE COURT: Well, you know, we're just -- as far as that
13 particular issue, you anticipate that the witness is not going
14 to testify as to what the actual deal was, but if -- if they
15 -- if he says something that's inconsistent with your
16 understanding, then the Solicitor's office would certainly be
17 in a position to stipulate as to what the deal was.

18 MS. SMART-GITTINGS: That's correct.

19 THE COURT: And that's probably on as a matter of record
20 and I don't anticipate the necessity of Mr. Plexico testifying
21 in that regard.

22 MS. SMART-GITTINGS: If he says something inconsistent,
23 Your Honor, we'd have to --

24 THE COURT: I don't anticipate it because the solicitor
25 just indicated they'll stipulate as to what the deal was.

1 MS. SMART-GITTINGS: They can stipulate as to what the
2 deal was, but they can't stipulate as to the contents of the
3 statement that was proffered on the record or anything
4 inconsistent because the statement was written by the SLED
5 agent. Mr. Drake -- I'm sorry. The witness indicated that he
6 can't read or write; so he obviously didn't read the statement
7 that was written by the SLED agent. He didn't write the
8 statement.

9 THE COURT: Well, we'll address that issue if it comes up
10 at that time.

11 MS. SMART-GITTINGS: And if I have to call Mr. Plexico as
12 a witness, Mr. Plexico is my direct supervisor.

13 Mr. Wright has indicated to me that he believes it's a
14 conflict for me to have to address Mr. Plexico and this issue.
15 He's concerned that -- his concern has been that my office has
16 not fully investigated this case because of Mr. Plexico's
17 representation of Mr. Drake in that we share the same office
18 space and we share the same investigator. So he did tell me
19 and Mr. Newman that when we let him know of the potential of
20 Mr. Plexico and Mr. Drake's role in this particular case.

21 THE COURT: All right. With regard to this issue of a
22 potential conflict, I'm going to ask the chief public defender
23 if you could stand and tell me what your understanding is of
24 the rule that's passed by the South Carolina Supreme Court
25 with regards to conflict.

1 MR. PLEXICO: Your Honor, there is an accepted --

2 THE COURT: All right. Mr. Plexico, hang on. I want to
3 hear from the head public defender --

4 MR. PLEXICO: I'm sorry.

5 THE COURT: -- in that regard.

6 MR. HOOD: Your Honor, I understanding is that if we're
7 going to build --

8 THE COURT: And your full name for the record?

9 MR. HOOD: Oh, I'm sorry. My name is Gene Hood. I'm the
10 14th Circuit Public Defender.

11 My understanding of this particular situation of a
12 Chinese wall, which is basically what we're talking about here
13 today, is that if you have an office that has two cases and
14 one case is going to be perhaps testifying against the other
15 case, that the attorneys can successfully build a Chinese wall
16 to prevent any -- any problems as far as one knowing things
17 about the other one's case and things of that nature. As long
18 as you keep them separated, you can proceed like that.

19 The issue in this particular case comes down to a
20 supervisor who is going to -- his client is going to testify
21 against Ms. Smart's client and, not only that, they were in
22 the same office. And that to me is the main issue in this
23 case, the fact that Mr. Plexico occupies this position of a
24 supervisor over Ms. Smart and therefore her client obviously
25 needs to know that that relationship exists and that Mr. Mr.

1 Plexico is the supervisor of Ms. Smart. And that he would
2 then basically have the option in my opinion, even with the
3 Chinese wall, of saying, well, you know, you're just going to
4 do whatever he tells you to do because he's your supervisor.

5 That's the issue as far as I'm concerned and as far as
6 the Chinese wall is concerned. We have done this on several
7 different occasions and particularly here in Jasper and
8 Hampton and Allendale. We have three offices and Mr. Hughes
9 occupies space here in Jasper County. We have space again
10 only in Hampton County in which Ms. Smart and Mr. Plexico are
11 housed in the same -- same office with the same investigator.

12 Now, Mr. Hughes originally had this case and had another
13 case also and he did the right thing in just passing it on to
14 Ms. Smart and kept one of the other cases down here in this
15 office. So there is no -- no relationship between these two
16 as a supervisor over the other or having some -- you know,
17 that type of a relationship that would create a problem.

18 So we could have gone ahead and done the cases, but this
19 case is entirely unique. Had we know that Mr. Plexico was the
20 one who cut this deal for this person --

21 THE COURT: Mr. Plexico did know.

22 MR. HOOD: I'm sorry?

23 THE COURT: Mr. Plexico did know, didn't he?

24 MR. HOOD: Well, I assume he knew. He cut the deal, but
25 the problem was Ms. Smart did not know until Wednesday that

1 Mr. Plexico is the one who represented the guy who is the only
2 witness in my -- it's my understanding against her client.
3 That to me is the real problem.

4 THE COURT: All right. Mr. Hughes, I'm going to ask you
5 to stand and raise your right hand as the clerk administers
6 the oath.

7 THE CLERK: The testimony you are about to give the Court
8 will be the truth, the whole truth, and nothing but the truth,
9 so help you God?

10 MR. HUGHES: Yes, ma'am.

11 THE CLERK: Thank you.

12 THE COURT: Mr. Hughes, have you discussed the merits of
13 this case with Ms. Smart-Gittings?

14 MR. HUGHES: No, sir.

15 THE COURT: Do you go by Smart-Gittings or Smart or
16 Gittings?

17 MS. SMART-GITTINGS: Smart is fine, Judge.

18 THE COURT: Smart? Okay. Very good. There's been no
19 discussion about the case whatsoever?

20 MR. HUGHES: No, sir.

21 THE COURT: Can you say -- say anything with regard to
22 your representation that would give this defendant any
23 advantage in the case or any disadvantage?

24 MR. HUGHES: None.

25 THE COURT: All right. And there's been no discussion

1 about this case as far as what the facts are or the strategies
2 or anything such as that?

3 MR. HUGHES: No, sir.

4 THE COURT: With regard to you and Ms. Smart?

5 MR. HUGHES: No, sir.

6 THE COURT: All right. Mr. Plexico, I'm going to ask if
7 you could stand and raise your right hand as the clerk
8 administers the oath.

9 THE CLERK: The testimony you are about to give the Court
10 will be the truth, the whole truth, and nothing but the truth,
11 so help you God?

12 MR. PLEXICO: Yes, Your Honor.

13 THE COURT: All right. Mr. Plexico, have you had any
14 substantive discussions with Ms. Smart about this particular
15 case?

16 MR. PLEXICO: Not about the facts. I believe she did ask
17 me a couple of points of law which would be general for any
18 case.

19 THE COURT: Okay. Is there anything that has been
20 discussed between you and Ms. Smart that would give her any
21 disadvantage or advantage in this case?

22 MR. PLEXICO: No, Your Honor.

23 THE COURT: All right. And -- all right. Very good.
24 Thank you.

25 Mr. Hood, you had mentioned something about that there

1 was a different twist by virtue of the fact that Mr. Plexico
2 is Ms. Smart's supervisor, but the deal has already -- the
3 deal has already been struck apparently and Mr. Plexico is
4 very well not going to have to testify because the State has
5 indicated that they are -- is that they are in a position to
6 testify as to what the -- what deal was struck. And you say
7 that there could conceivably be some sort of problem with the
8 fact Mr. Plexico is Ms. Smart's supervisor, but how is that?
9 How is that going to come into play in this case?

10 MR. HOOD: Well, Your Honor, Mr. Plexico represents this
11 person who is going to testify in this courtroom against Ms.
12 Smart's client.

13 THE COURT: Right. And, of course, Mr. Plexico is really
14 not going to have -- I mean he's -- what is he going to have
15 to do with that? He's going -- the witness is going to be
16 sworn in and testify and what -- how is that -- how is Mr.
17 Plexico --

18 MR. HOOD: Mr. Plexico is that witness' attorney.

19 THE COURT: Right.

20 MR. HOOD: And so, therefore, when that witness takes the
21 stand, if he decides that he doesn't want to testify or he
22 changes his statements or anything of that nature or he is
23 being asked a question which he says I want to talk to my
24 attorney before I answer that question, you know, Mr. Plexico
25 is a part of the case.

1 THE COURT: Well, now, you don't think that the Chinese
2 wall addresses that?

3 MR. HOOD: I don't think so. I don't think that it
4 addresses the relationship when you have a supervisory
5 position over another attorney. And I think that's the chief
6 problem in this case is that Ms. Smart is basically telling
7 her client and her client is saying, well, you're just going
8 to do whatever he tells you to do or, you know, something of
9 that nature.

10 It's the -- it's the appearances of impropriety perhaps
11 that -- that really make this a bad -- a bad situation to be
12 in and one that I avoid under any circumstances. I have
13 contract attorneys that could have taken this case and
14 everything else had we known some time ago, but we just found
15 out about it and, you know, now we're stuck with going
16 forward.

17 THE COURT: You say we just found out about it. Mr.
18 Plexico has known about it forever.

19 MR. HOOD: Well, Mr. Plexico may have known about it
20 perhaps, but again he did not divulge the information. And I
21 think based upon some of the information that was in this
22 document, this transcript, was that he could not reveal the
23 fact who the witness was who, you know, was going to testify.

24 So it comes down to this confidentiality that the State
25 was alleging, you know. We can't tell you who it is, but if I

1 tell you who the attorney is, then you could go to the
2 attorney and say, look, my case is XYZ. You know, who's --
3 who's your client that's going to testify against our -- our
4 client? That's the problem.

5 THE COURT: What do you have to say about that, Ms.
6 Jones?

7 MS. JONES: Your Honor, I think I'm just a little
8 confused about it. When we were back in chambers, it appeared
9 to me that Ms. Smart-Gittings was aware that Mr. Plexico
10 represented this confidential informant. In fact, she said
11 that she had questioned him and kept asking him to give her
12 information and he wouldn't give her any information. It
13 seems that the relationship was known for some time.

14 I still don't feel that it's the sort of relationship
15 that would in any way impair Mr. Wright's fair trial. I mean
16 when this confidential informant takes the stand, I certainly
17 plan on asking him about any sort of deal that he has made
18 with the State in order for his testimony to be present.

19 The Chinese wall -- their argument is the Chinese wall.
20 I just don't feel like there's enough of a conflict to even
21 get into this case.

22 MS. SMART-GITTINGS: Your Honor, actually I asked Mr.
23 Hughes as well if he knew who the confidential person was
24 because the problem was they had so many witnesses, so many
25 different clients, that they didn't know. He didn't know who

1 the confidential witness was when I asked him. Mr. Plexico
2 didn't tell me who the confidential witness was when we asked
3 him about it earlier. He said he just doesn't remember and
4 that he didn't even remember the facts of the plea. He had to
5 look at it to refresh his memory.

6 So he wouldn't have been able to tell me. And because
7 he's a supervisor, he would have known that if this case were
8 to come to trial, these are the type of reasons -- these are
9 the reasons why we generally conflict these cases out of the
10 office when another client of ours is going to testify against
11 another client.

12 But we didn't know the magnitude of this particular case
13 because it was actually information on the record and there's
14 a transcript that we didn't have privy -- that we didn't know
15 about -- that I didn't know about. I don't know if Mr.
16 Plexico was aware of it, but I didn't know about it. And
17 those are definitely the cases that we conflict out of our
18 office the minute we know it is a conflict with the case.

19 MS. JONES: Your Honor, just on that note, when I was
20 attempting to request a duplicate copy of this transcript in
21 order to get to Ms. Smart-Gittings by the February 1st deadline
22 that you had indicated for disclosure of this particular
23 person, I was in contact with the court reporter who
24 transcribed this transcript and prepared it for the State, as
25 well as to book a copy. I have an email that she says that --

1 this is dated January 26th. So even before disclosure was
2 required, Ms. Smart-Gittings was already requesting it. So
3 she had some inclination that this transcript existed and was
4 pertinent to this case back on -- back on January 26th.

5 MS. SMART-GITTINGS: I knew that there was a plea. I
6 wanted the transcript because I wanted to know what he pled to
7 and what was said during the plea. But I had no idea that
8 there was a proffer until she told me that the State requested
9 it and I didn't ask her anymore because I didn't know what was
10 included in that transcript since the State requested it and
11 she told me that the State requested it for me; so I backed
12 off. I didn't go about it because I wasn't sure what was
13 going on. I never have been given a transcript as a part of
14 discovery before and the reason why is what's in the
15 transcript.

16 THE COURT: Ms. Smart, have you discussed this with your
17 client, Mr. Wright?

18 MS. SMART-GITTINGS: I did a few minutes ago, Your Honor.

19 THE COURT: Does he understand that there conceivably
20 could be a potential conflict, which I'm not so certain there
21 is a conflict, but to the extent that there could be, what is
22 your client's preference? Does he want you to represent him
23 or not?

24 MS. SMART-GITTINGS: He does not, Your Honor.

25 THE COURT: Okay. All right. We'll stand at ease until

1 1:30. Very good.

2 (WHEREUPON, there was a break in the proceedings from
3 12:27 p.m. until 1:29 p.m.)

4 THE COURT: We're going to resume the issue with regards
5 to the conflict motion. Ms. Smart, do you understand -- we
6 need to get the defendant in.

7 (WHEREUPON, there was a pause in the proceedings until
8 the defendant entered the courtroom.)

9 THE COURT: All right. The -- the rule that dictates
10 this particular issue concerning a conflict is governed by
11 1.10 and it used to be that anybody who operated in a firm
12 could not represent people that were involved in the same case
13 and the rules still apply for a firm, but there's been an
14 exception carved out for this very purpose.

15 It says a lawyer representing -- and this is 1.10(e). A
16 lawyer representing a client of a public defender office,
17 legal services association or similar program serving indigent
18 clients shall not be disqualified under this rule because of
19 the program's representation of another client in the same or
20 a substantially related matter if the lawyer is screened in a
21 timely manner from access to confidential information related
22 to or from any participation in the representation of the
23 other client.

24 And that's true, isn't it, Ms. Smart? You weren't
25 involved in the representation of this other client, were you?

1 MS. SMART-GITTINGS: Mr. Drake?

2 THE COURT: Right.

3 MS. SMART-GITTINGS: No, sir, I was not.

4 THE COURT: All right. And the second qualification --
5 and you have not received any confidential information? The
6 lawyers, Mr. Hughes and Mr. Plexico, have indicated there's
7 been -- you have been given -- you have been given no
8 information that is privileged or confidential with regard to
9 their client, have you?

10 MS. SMART-GITTINGS: Mr. Drake?

11 THE COURT: Right.

12 MS. SMART-GITTINGS: No, sir.

13 THE COURT: All right. And you understand that Rule
14 5.4(c) dictates that you abide by the directions of your
15 client with regard to the important fundamental questions such
16 as whether or not to testify, whether or not to plead guilty.
17 That's his decision and you take directions from him. You
18 don't take directions from the Public Defender's Office, do
19 you?

20 MS. SMART-GITTINGS: No, sir.

21 THE COURT: I mean the rules of ethics require that you
22 do that?

23 MS. SMART-GITTINGS: Right. That's correct.

24 THE COURT: And you're going to abide by that?

25 MS. SMART-GITTINGS: That's correct, Your Honor.

1 THE COURT: All right. You know, the rules -- you know,
2 there's some discussion about whether or not you're -- there
3 is some sort of supervisory capacity that Mr. Plexico had over
4 you and this rule doesn't say anything about supervisory
5 capacity. It simply says that if you don't get the privileged
6 information and that you will abide by rule 5.4(c), which says
7 that your client is the one who gives you direction on -- on
8 the fundamental questions posed in this case, then you can
9 proceed forward. It doesn't say anything about that.

10 As far as Mr. Plexico, there was some consternation
11 expressed about whether or not he were to testify. Well,
12 lawyers testify on occasion in cases and I don't think given
13 this rule and the parameters of this rule if called upon to
14 testify, Mr. Plexico could testify and you could cross-examine
15 him pursuant to the provisions of this rule. I didn't make
16 the rule, you didn't make the rule, but the Supreme Court made
17 this rule and it says that you're not -- there is no conflict.
18 So I'm going to abide by that until they tell me differently.

19 MS. SMART-GITTINGS: Your Honor, I will indicate that it
20 does indicate that there isn't a conflict if the lawyer is
21 screened in a timely manner from access to confidential
22 information relating to and from any participation in the
23 representation of the other client and also that the lawyer
24 maintains authority over the objectives of representation
25 pursuant to Rule 5.4. And as Mr. Plexico testified earlier, I

1 did ask him some legal issues in this case and I think just by
2 me asking him his advice on --

3 THE COURT: Well --

4 MS. SMART-GITTINGS: -- legal issues --

5 THE COURT: All right. Those are legal issues. It
6 doesn't -- the thing that would cause a problem is if you
7 received confidential information about the other client.
8 Legal issues are something we talk about in law school. It's
9 something we talk about here in court. It doesn't have
10 anything to do with posing a conflict with regard to this
11 case. And you --

12 MS. SMART-GITTINGS: The legal issues --

13 THE COURT: You do confirm that you received no
14 confidential information?

15 MS. SMART-GITTINGS: I did not, but I did seek his advice
16 in my representation of Mr. Wright.

17 THE COURT: And he gave --

18 MS. SMART-GITTINGS: I didn't know --

19 THE COURT: And he gave you no advice, did he?

20 MS. SMART-GITTINGS: He just -- he did with regard to the
21 legal questions that I asked him.

22 THE COURT: Okay.

23 MS. SMART-GITTINGS: There were issues of law that I did
24 ask him and he did give me --

25 THE COURT: And they were theoretical questions about

1 points of law; is that correct?

2 MS. SMART-GITTINGS: They were specific questions about
3 point of law.

4 THE COURT: Okay. Very good.

5 MS. SMART-GITTINGS: Particularly evidence issues that I
6 asked him about and he advised me on. And then, Your Honor,
7 along with the fact that because he is my supervisor, I did
8 solicit that from him. And he did give me that information
9 and I did not give that information --

10 THE COURT: All right.

11 MS. SMART-GITTINGS: -- to Mr. Wright.

12 THE COURT: The distinguishing factor is whether or not
13 you received confidential information, not whether or not
14 y'all had scholarly discussions about the law. And I will
15 indicate that I think the record should reflect that -- that
16 Mr. Wright has also retained private counsel in this case.
17 Mr. Newman, I'm going to ask if you can stand and identify
18 yourself and what your role in this case is.

19 MR. NEWMAN: If it pleases the Court, my name is Jared,
20 J-a-r-e-d, Newman. I have been contacted by Mr. Wright's
21 family. I still maintain that Mr. Wright is indigent, but I
22 had a family member who has contacted me mid last week. I
23 think the Court was aware of that because we had a conference
24 call with the solicitor and the Court and myself. I am
25 holding funds in trust. I am able to be retained by Mr.

1 Wright.

2 I told you my concern. I don't think that I could
3 represent anybody here that I can come into a fairly
4 complicated -- it's complicated due to the fact of the number
5 of witnesses and conflicting testimony and things like that --
6 case. I don't think I could do a proper investigation of the
7 case or get up to speed in a couple days. I have reviewed
8 materials. I have talked to the public defender, but I would
9 not feel that I would be able to --

10 THE COURT: All right.

11 MR. NEWMAN: -- take over a murder case immediately.

12 THE COURT: I question to you is what's your role in the
13 case here today? We're going forward. What's your role?

14 MR. NEWMAN: I would need to talk to Ms. Smart and Mr.
15 Wright about that. I know we had discussed this. It's
16 somewhat unusual. I would not be able to accept the role of
17 lead counsel, but some Courts do and some Courts don't. I
18 could serve after talking to Mr. Wright in the capacity as a
19 co-counsel.

20 THE COURT: Okay. Well, talk with him and ask if that's
21 what he wants to do.

22 (WHEREUPON, there was a pause in the proceedings.)

23 MR. NEWMAN: I think Mr. Wright is somewhat confused. He
24 -- he wants me to solely be counsel in this case and I don't
25 think --

1 THE COURT: Well, that's not going to happen because --

2 MR. NEWMAN: I think he --

3 THE COURT: Number one, you're not -- you're not willing
4 to do that and the public defender is indeed representing him
5 by order of this Court and I found that the rules don't
6 mandate that she be conflicted out. So once again, I ask you
7 what do you want to do?

8 MR. NEWMAN: Mr. Wright has requested and with the
9 Court's acceptance that I appear as co-counsel in this matter.

10 THE COURT: Very good. All right.

11 MS. SMART-GITTINGS: Your Honor, additionally, we need to
12 put on the record the victim in this case is Maurice Wright.
13 He had been charged with three warrants in Jasper County,
14 assault and battery first-degree, Warrant 2013A2710200340,
15 10200341, and 10200342. That case also Mr. Plexico had
16 represented Maurice Wright in that particular case and he give
17 -- he gave me that case as well because it was a conflict for
18 him to represent Maurice Wright. So at some point --

19 THE COURT: Well, that has to do with a completely
20 separate set of facts.

21 MS. SMART-GITTINGS: It is, Your Honor, but I had to put
22 it on the record because Nathaniel was concerned that I
23 represented his brother as well as was taking on the
24 representation of them. And so I told him that I would put it
25 on the record that I represented his brother. Those warrants

1 were pending.

2 THE COURT: Whose brother?

3 MS. SMART-GITTINGS: The victim in this case, which is
4 Maurice Wright, is Nathaniel Wright's brother. So I
5 represented Maurice on the pending charges. However, the
6 family did subsequently retain another attorney out of
7 Charleston. So there -- he had two attorneys on that case. A
8 Melissa Gay -- she did give notice of general appearance for
9 Maurice Wright, but we did not have a hearing as to whether or
10 I would be relieved. So that case was pending.

11 THE COURT: What's the State's position on that?

12 MS. JONES: Your Honor, I don't think there's a conflict
13 with that. Mr. Maurice Wright had or was in the process of
14 firing a private attorney. Ms. Smart-Gittings would have been
15 relieved at that time. These cases were pending at the time
16 of his death, but they were subsequently dismissed, nolle
17 prossed, right after his death. Factually, I don't think they
18 even come in. They have no relevance in this trial either.
19 So I don't see how there could be a conflict.

20 THE COURT: All right. Very good. Well, you're
21 protected on the record.

22 MS. SMART-GITTINGS: Well, I think we have a conflict
23 because of his reputation for violence. So there definitely
24 --

25 MS. JONES: And I would argue against that based on the

1 law. She can't get into specifics. These are very remote
2 instances and not against Mr. Nathaniel Wright himself.

3 MS. SMART-GITTINGS: Then --

4 MS. JONES: If she wanted to get it in, I feel that that
5 would be something that we would need to proffer and I would
6 object to it being admitted.

7 MR. NEWMAN: There is a witness that will testify as to
8 not only Mr. Wright's -- the deceased Mr. Wright's assaultive
9 behavior and specifically as assaultive behavior to his
10 brother and threatening him a number of times with a handgun.

11 THE COURT: All right. We'll address that at the
12 appropriate time.

13 MS. SMART-GITTINGS: And I believe those are the only
14 issues that we have, Your Honor.

15 THE COURT: All right. Very good. All right. I
16 understand the jury is coming in at two o'clock; is that
17 correct?

18 THE CLERK: Yes, sir.

19 THE COURT: I think probably what we're necessarily going
20 to have to do -- well, we'll proceed forward with this bond
21 hearing. Then we'll let the jury in and qualify them. Very
22 good.

23 (WHEREUPON, there was a break in the proceedings from
24 1:43 p.m. until 3:17 p.m., during which time general jury
25 qualification was conducted.)

1 THE COURT: Ms. Jones, you're recognized. You may call
2 your first case.

3 MS. JONES: Thank you, Your Honor. May it please the
4 Court. The State calls Nathaniel Wright, Indictments 2014-GS-
5 27-540, the failure to stop for a blue light, 2014-GS-27-541,
6 murder, and 2014-GS-27-542, possession of a weapon during the
7 commission of a violent crime.

8 THE COURT: Ladies and gentlemen of the jury panel, each
9 of you are qualified and I'm going to ask you a series of
10 questions to determine whether or not you could be fair and
11 impartial with regard to the trial of this case given the
12 subject matter of the case, the personalities involved in it,
13 and the witnesses who will testify. So pay very close
14 attention. The focus of these questions is essentially
15 whether or not you could be fair and impartial. So pay very
16 close attention.

17 I'm going to ask if defense counsel could have Mr.
18 Wright to stand up -- the defendant Mr. Nathaniel Wright to
19 stand and face the jury panel.

20 (WHEREUPON, the defendant complied.)

21 THE COURT: Very good. Thank you, Mr. Wright. You may
22 be seated.

23 (WHEREUPON, the defendant complied.)

24 THE COURT: I hold in my hand three separate and distinct
25 indictments, one of which is possession of a weapon during the

1 could exchange chairs with this gentleman with the orange
2 shirt. Ms. Bentley, I'm going to appoint you as the forelady
3 of this jury. You, like everyone else when it comes time for
4 deliberation, are going to have one vote, but you're going to
5 have some additional responsibilities.

6 If throughout the trial of this case there are questions
7 or concerns that come up amongst the jurors, I'm going to ask
8 that they communicate that concern to you, you reduce it to
9 writing, give it to the bailiff, and if it's something I can
10 help you with, I'll be happy to do so.

11 In addition to that, when it comes time to deliberate,
12 you're going to be -- you'll preside over the deliberation
13 process. And essentially what that means is that you are to
14 ensure that everybody's voice is heard.

15 I'm going to ask each of you to stand up and raise your
16 right hand as the clerk administers the oath.

17 (WHEREUPON, the jury complied.)

18 THE CLERK: Do you swear or affirm that you shall well
19 and truly try the cases 2014-GS-27-540, 2014-GS-27-541, 2014-
20 GS-27-542, the State of South Carolina versus the defendant,
21 Nathaniel Wright, and render a true verdict according to the
22 evidence and law, so help you God?

23 THE JURY: I do.

24 THE CLERK: Thank you.

25 THE COURT: Madam Forelady and ladies and gentlemen of

1 the jury, I'm going to release you to return home and be back
2 at 9:30 in the morning, but I want to give you some
3 instructions before you leave.

4 Do not do any independent investigation. All the
5 evidence that you need, you'll hear straight from the horse's
6 mouth from this witness stand. Do not do any independent
7 investigation. You know, nowadays there's not anything that
8 you can't look up on the Google. You can look up the law.
9 You can look up personalities. You can do all of that. Don't
10 do that. You have taken a solemn oath that you'll listen to
11 the evidence and just the evidence presented in this case and
12 not anything else. Do not -- do not do any independent
13 investigation.

14 You know, nowadays I hear tell that there's such a thing
15 as social media. My children talk about Facebook and Tweeter
16 or Twitter or whatever it is, Snapchat, LinkedIn, all kind of
17 things like that. That has no place in the judicial system.
18 Don't put what you're doing, what the case is about on any
19 kind of social media. Do not do that. I'm ordering and
20 demanding that you not do that.

21 At the conclusion of the case, I'll release you from that
22 order and you can put anything you want to on any social
23 media. You can do whatever you want to, but until that time
24 it would be completely inappropriate and illegal for you to do
25 that. Do not do that.

1 I'm going to ask Madam Forelady that throughout the trial
2 of this case there's going to be times where you're in the
3 jury room while we're taking care of legal matters outside of
4 your presence and I'm going to ask that you enforce the rule
5 there be no discussion about this case whatsoever.

6 There will come a time where y'all can talk about the
7 case, but until that time don't talk about what's been
8 testified about. Don't talk about the lawyers. Don't talk
9 about murder cases in general. Y'all can talk about the Super
10 Bowl. You can talk about the cold weather. You can talk
11 about fishing. You can talk about anything you want to talk
12 about, but you can't talk about this case and I'm going to ask
13 that you enforce that rule, Madam Forelady. Will you do that?

14 THE FORELADY: Yes.

15 THE COURT: All right. And it's against the law and
16 inappropriate for anybody to contact you while you're serving
17 on a jury. I don't anticipate they would, but if they do,
18 you've got one obligation and that's to try to identify them
19 as best you can, report it to me, and I'll deal with them
20 accordingly. I don't anticipate that would happen. It's
21 completely inappropriate for anybody to talk about this case
22 with you during your service as a juror.

23 I'm going to ask that you be back at 9:30, 9:30 sharp.
24 Do not discuss the case amongst yourselves or with anyone
25 else. I promise you when you get back your family members,

1 coworkers or friends are going to say what's going on on jury,
2 and I'm going to order and demand that you not discuss the
3 case because it might be that that person knows something
4 about the facts of this case. It might be they have a certain
5 opinion about this type of litigation. You don't need to
6 worry yourself with that. It's inappropriate for you to talk
7 to them about that. Do not do that.

8 Be back at 9:30, 9:30 sharp in the morning. No
9 discussion amongst yourselves or with anyone else. Everyone
10 remained seated as the jury exits the courtroom.

11 (WHEREUPON, the jury exited the courtroom at 4:18 p.m.)

12 THE COURT: All right. I understand that the first legal
13 matter we need to tend to has to do with the issue of
14 sequestration. I understand that both parties agree to the
15 order of sequestration. Is that correct, Ms. Jones?

16 MS. JONES: That's correct, Your Honor, with the
17 exception of our case agent, Jonathan Shealy. We would ask
18 that he be allowed to remain.

19 THE COURT: And he would be allowed to remain. The
20 sequestration order applies to the extent that they are not
21 going to be present during the testimony, and the
22 sequestration order prevents any witnesses from talking about
23 their testimony with other witnesses. I'm going to ask that
24 you enforce that rule and discuss that with each one of the
25 witnesses and make sure that there's no discussion about

1 testimony. And where do the witnesses sit that are going to
2 testify? Are they in some room out there?

3 MS. JONES: We have a couple different rooms in the
4 hallway. Benches. Some of them aren't here yet.

5 THE COURT: All right. Well, let's make sure they're
6 pretty close so we can keep the -- keep the sequence going
7 fairly quickly. Make sure we can put our hands on the
8 witnesses.

9 The issue of sequestration has been addressed. What's
10 the next issue?

11 MR. NEWMAN: Your Honor, I think the next issue -- we
12 made a motion that we have not put on the record and that was
13 to sever the blue light case from this case.

14 THE COURT: All right.

15 MR. NEWMAN: I understand the Court has already made a
16 ruling on that. The Court believes it is part and parcel of
17 the same case and that they may be tried together.

18 With that, however, at this time Mr. Wright would like to
19 tender his guilty plea to the blue light charge.

20 THE COURT: What's the State's position?

21 MS. JONES: I mean, Your Honor, I can't take away Mr.
22 Wright's right to plead guilty. He can certainly plead guilty
23 to that charge. It has been noticed for trial. Though if the
24 defense is doing this in an attempt to avoid testimony
25 regarding his actions surrounding that blue light, that

1 failure to stop for a blue light, I feel that that testimony
2 is still admissible regarding consciousness of guilt and
3 flight.

4 THE COURT: What's the defendant's position in that
5 regard?

6 MR. NEWMAN: The position on that is that it would be no
7 longer material for the jury to hear about that. They can
8 certainly hear that he fled the scene, that there was a chase,
9 limited to that and that he returned to the scene and was
10 arrested without incident at the scene. They can argue flight
11 on its way or flight whatever they want to the jury when it
12 comes that time, but we think if he pleads guilty that makes
13 those matters irrelevant to this proceeding.

14 THE COURT: All right.

15 MR. NEWMAN: And I think he has a right to plead guilty.

16 THE COURT: Well, not all --

17 MR. NEWMAN: It would be a tactical advantage for them
18 too.

19 THE COURT: He can plead guilty if he wants to and I
20 certainly cannot prevent him from doing that, but given the
21 facts -- and I'm going to ask the State to put on the record
22 how the sequence of events arose.

23 MS. JONES: Certainly, Your Honor. At about 5:30 in the
24 afternoon on October 1st, 2014, Deputy Leonard Brown with the
25 -- he was a former deputy with Beaufort County -- with the

1 Jasper County Sheriff's Office. He was in the area of Captain
2 Bill Road and Henry Lawton Road. He hears a couple of
3 gunshots. He goes over to Captain Bill Road. He's right
4 around the corner. He sees a woman screaming in the yard. He
5 also sees -- as he approaches this woman screaming in the
6 yard, he sees the green Honda that the defendant is driving
7 speed out of [REDACTED] Captain Bill Road.

8 While this is all going on at [REDACTED] Captain Bill Road,
9 people are hysterical in the front yard. It is clear that
10 something has happened in that front yard from how the people
11 are reacting when Deputy Brown was in the roadway. He sees
12 this chaos is all I can describe it as. He's still in the
13 roadway. He sees the green Honda flee out of the driveway.
14 He gets behind the Honda.

15 Ultimately, I believe he heard around eight or nine shots
16 in the process of the first shots -- between hearing the first
17 shots and getting behind the Honda. They then go on a about
18 15-minute or so chase through town.

19 THE COURT: You said 15- or seven-minute chase?

20 MS. JONES: 15- or so minute chase through town.

21 THE COURT: Okay.

22 MS. JONES: He gets on I-95. The defendant gets on I-95.
23 He is followed by multiple sheriff's deputies. This chase is
24 on video, which I believe is another -- there's another motion
25 regarding this video after this one, Your Honor.

1 Eventually, he makes his way back through town and back
2 to the exact location where he fled from. The whole time,
3 he's throwing crack cocaine, suspected crack cocaine,
4 suspected cocaine, suspected pills out the window. A black
5 bag is thrown out the window.

6 Ultimately, when he gets back to [REDACTED] Captain Bill, he is
7 ordered out of the car at gunpoint. He obliges and there's no
8 struggle or anything else. He returns back to the scene.
9 He's arrested.

10 THE COURT: Okay. All right. Well, I can't stop him
11 from pleading guilty, but I -- given the fact that it's one
12 continuous set of circumstances, I'm going to allow them to
13 testify in that regard. However, if he pleads guilty to it,
14 then they are going to be allowed to introduce that in their
15 case in chief, which is through the clerk's office the fact
16 that he has indeed pled guilty to it.

17 I don't know how you want to -- you know, if that's what
18 he wants to do, I'll accept it, but I'm going to allow him --
19 allow him to plead guilty if he wants to, but it's not going
20 to prevent the State from getting into those issues because it
21 was one sequence of events.

22 MR. NEWMAN: I understand that, Your Honor. As for -- as
23 to -- as for the indictment or guilty plea being introduced
24 before the jury, we think that would go to the character. In
25 other words, that that issue has been removed from the jury.

1 We have no objection to them testifying about it as to
2 the issue of flight, but we also think that it would make --
3 under 403, it would make the video of the chase unnecessary
4 because they can explain that he fled the scene and they can
5 argue that for flight. We can't do anything about that, but
6 the fact that the issue of guilt or innocence on the blue
7 light is out, then the evidence should be limited to only what
8 the State could use it for, which would be evidence of flight.
9 And I don't think they need to show that through the video.
10 It's not being contested in this court by the defendant.

11 THE COURT: What's -- what's the State's case -- or
12 position on that?

13 MS. JONES: The video is the best evidence of the flight
14 itself. Had there not been flight or had there not been
15 video, I believe Mr. Newman would want to argue there is no
16 video of this flight; so how do we even know what happened?
17 He can't have it both ways.

18 The video is the best evidence of this flight. It's
19 what's happening while he is in the mindset of fleeing. You
20 see his actions. You see what he's doing. You see he's
21 physically throwing stuff out of the window. And you see him
22 fleeing. He's going all over town. He abruptly cuts in the
23 middle of 95 through a pass-through, a little cut-through, to
24 go back in the same direction he came. I think the video is
25 the best evidence as to what is going on in Mr. Wright's mind

1 at the time he is fleeing from the murder scene.

2 THE COURT: All right. I'm going to allow -- my ruling
3 is it's all one sequence of events and I'm going to allow them
4 to -- I think it is indeed relevant and admissible. You're
5 protected on the record in that regard. And I'll entertain
6 his guilty plea if that's what he wants me to do.

7 MR. NEWMAN: Based on your ruling, can we reserve that
8 for in the morning?

9 THE COURT: Yes.

10 MR. NEWMAN: Because we're going to obviously need to
11 discuss that with our client.

12 THE COURT: Very good.

13 MR. NEWMAN: I'm going to need to discuss it with
14 counsel.

15 THE COURT: Very good.

16 MS. JONES: Your Honor, while we are talking about the
17 video, in chambers Mr. Newman -- I believe it was Mr. Newman
18 or Ms. Smart-Gittings indicated that they were going to
19 request any reference to drug usage, drugs being in the
20 custody of Mr. Wright, be inadmissible. There is depictions
21 on the video of what the law enforcement behind Mr. Wright say
22 is crack cocaine. He says it's cocaine being thrown out of
23 the window. Of course, at this time it is just suspected
24 crack cocaine, suspected cocaine, suspected drugs. It's in
25 the video.

1 MR. NEWMAN: We think that goes to his character and that
2 it's unnecessary to anything that we're doing here. In other
3 words, the State is just trying to make him look like a bad
4 guy. They don't know if that was crack or other drugs thrown
5 out the window. They have their suspicions. Nothing was ever
6 recovered. Nothing was ever tested. And what they're
7 basically saying is based on what we witnessed, not only did
8 he kill somebody, but he's either a drug dealer or holding
9 drugs.

10 THE COURT: Okay.

11 MR. NEWMAN: And that goes directly to his character and
12 we do not intend to introduce Mr. Wright's character in this
13 trial. We do not anticipate that he is going to testify.

14 MS. JONES: I think they can certainly cross-examine
15 these witnesses for, one, whether it was crack or whether it
16 was cocaine. They can't answer either of that. It was never
17 tested. It was never collected from the interstate, from the
18 roadways.

19 Additionally, I'm under the impression that the defense
20 intends to get into some sort of capacity, some sort of
21 diminished capacity regarding Mr. Wright's mental status at
22 the time. I believe that's why they have requested his
23 medical records, and I don't feel that it is appropriate for
24 them to have it both ways. They can't argue he was so high,
25 but not have the wherewithal to know to get rid of these

1 drugs.

2 MR. NEWMAN: And we haven't opened that door. If we open
3 that door, then I may agree with the solicitor. We may not
4 open that door. I've looked through those medical records.
5 That's something that Ms. Smart and I are going to have to
6 discuss and discuss with our client, but --

7 THE COURT: My ruling is that --

8 MR. NEWMAN: How can they say that he's throwing out
9 crack when they can't say it's crack?

10 THE COURT: All right. My ruling is that -- is that the
11 video is admissible regardless of whether he pleads or not.
12 And -- and I assume that you can see things coming out of the
13 window or you can't?

14 MS. JONES: You can see things. I couldn't make out what
15 they were. There are moments in the video where the officer
16 makes a statement as to what he believes are coming out the
17 window.

18 THE COURT: All right. Well, I'm not going to allow him
19 to classify it as drugs since they were not tested, but I am
20 going to allow there to be -- for you to comment on the fact
21 that things were being thrown out of the window, but you can't
22 call it drugs. Something was being thrown out of the window.

23 MS. JONES: Okay. When -- okay.

24 THE COURT: And you need to redact the portions of the
25 video that refer to it as drugs.

1 MS. JONES: I have the -- I have a portion redacted. I
2 have two copies, an original and then a redacted copy in the
3 event this was Your Honor's ruling. I will instruct these
4 witnesses -- they are actually in here -- not to reference
5 drugs. That just something was --

6 THE COURT: He can say things were being thrown out of
7 the window, but I think it would be appropriate either for you
8 or in cross-examination to say that none of it was recovered
9 or tested.

10 MS. JONES: Right. And that -- that will kind of solve
11 it.

12 THE COURT: All right.

13 MR. NEWMAN: Well, will they come out with their opinion
14 that they were drugs? Is the solicitor going to be able to
15 argue?

16 THE COURT: Once again, you didn't pay attention to me.
17 I said that they can say that objects were being thrown out of
18 the -- out of the car, but they can't refer to them as drugs.

19 MR. NEWMAN: I understand your ruling.

20 THE COURT: Very good.

21 MR. NEWMAN: And the solicitor said they would show us
22 the redacted version.

23 MS. JONES: I have it.

24 MR. NEWMAN: We've not seen that.

25 THE COURT: Okay. Your next motion?

1 MS. JONES: I believe we have some statements for the
2 State -- that the State plans on eliciting through testimony
3 from three different deputies.

4 THE COURT: All right. We'll have a *Denno* hearing at
5 this time.

6 MS. JONES: Okay. The State calls former Deputy Leonard
7 Brown.

8 THE COURT: Yes, sir. If you could, please come forward
9 and place your left hand on the Bible and raise your right
10 hand as the clerk administers the oath.

11 THE CLERK: The testimony you are about to give the Court
12 will be the truth, the whole truth, and nothing but the truth,
13 so help you God?

14 THE WITNESS: Yes, ma'am.

15 THE CLERK: Come right around.

16 THE COURT: Go ahead and have a seat in the witness
17 chair. I'm going to ask you to speak loudly, clearly, and
18 slowly in order that we can hear everything that you have to
19 say. Let's start with your full name.

20 THE WITNESS: Yes, Your Honor. My full name is Leonard
21 Maurice Brown.

22 THE COURT: Yes, ma'am.

23 MS. JONES: Thank you, Your Honor.

24 LEONARD BROWN, being first duly
25 sworn, testified as follows:

DIRECT EXAMINATION

1
2 BY MS. JONES:

3 Q: Mr. Brown, where were you working back on October 1st of
4 2014?

5 A: With the Jasper County Sheriff's Office.

6 Q: Okay.

7 A: Jasper County Sheriff's Office. I was a deputy school
8 resource officer.

9 Q: Okay. So you were working as an SRO?

10 A: Yes. That's correct.

11 Q: October 1st, 2014, did you have an opportunity to come
12 into contact with the defendant, Nathaniel Wright?

13 A: Yes.

14 Q: Okay. Can you explain the circumstances surrounding
15 that?

16 A: Well, on the evening of October 1st, I was doing patrol
17 over in the area of Fordsville Road. When I came to the
18 intersection of Henry Lawton Captain Bill Road, I made a left
19 at the stop sign. When I made that left, I noticed some
20 people to the left of me ducking down in the yard. As I
21 downed my window, I heard several gunshots at that time.

22 I proceeded down, which is the next road to your right
23 which is Fordsville Road. This is where I turned my patrol
24 unit around. When I started back towards Henry Lawton, as I
25 got to the intersection there, I noticed the green Honda

1 Accord pulling out of the driveway. At that time, there was
2 the -- I don't know the young lady in the yard, but she was
3 screaming he shot him, he shot him.

4 At that time, I radioed communications to tell them to
5 have EMS respond to the area of where the incident took place.
6 I continue to pursue the green Honda Accord driven by the
7 defendant.

8 Q: Why did you pursue this green Honda Accord?

9 A: When she said he shot him, I looked around and he was the
10 only one leaving the scene of the incident at this time. And
11 she said he shot him, he shot him, and she was looking towards
12 where the green Honda Accord had left out and made the left
13 onto Henry Lawton Road.

14 Q: Did you get an identity of this woman in the roadway?

15 A: She wasn't in the roadway. She was standing over in the
16 yard. All I know is she was a black female standing over in
17 the yard of the area of where the incident had taken place.

18 Q: Okay. You never got her name?

19 A: I never got her name. As soon as I heard that and she
20 told me that he shot him, he shot him -- I mean I saw what was
21 going on in the yard. I pursued the green Honda Accord.

22 Q: Okay. Once you started pursuing this green Honda, what
23 happens?

24 A: We continued down Henry Lawton. For a short time after I
25 stopped and listened to what she said, the young lady in the

1 yard saying that he shot him, he shot him, he got up a little
2 ways ahead of me. So I lost contact with the car for a minute
3 because there's a curve when you -- if you go around Henry
4 Lawton, there's a sharp curve to the right and then you come
5 back and the road straightens up. At that time, that's when I
6 caught back up with the green Honda Accord.

7 I radioed communications and advised them of our location
8 and where we were headed back towards the downtown area of
9 South Jacob Smart Boulevard. I believe all of the roadways
10 are listed in my report. I can't remember them all offhand.

11 And at that time, we made a right as to heading back. I
12 think that's South Jacob Smart Boulevard or -- when we got to
13 the end of Henry Lawton where McDonald's is, we made a right
14 to go back towards town. We made several turns going through
15 downtown as I pursued him. As we got back on -- like, going
16 towards North Jacob Smart Boulevard, I believe Deputy Ellis --
17 he has the video recording in his vehicle. He took over the
18 lead of the chase and, like you said, witnessed several items
19 being thrown from the vehicle.

20 We continued south on exit 18, southbound on 95, and as
21 you stated earlier, maybe about three to four miles down the
22 southbound on 95, the vehicle veered off into the median, came
23 back up on the southbound lane. A tractor-trailer almost hit
24 the vehicle.

25 It came back and continued, came back to exit 18, where I

1 believe our PD -- there was another vehicle blocking the
2 roadway to try to stop him at that time, but he came around
3 and I believe he turned off on -- I believe that's Bee's Creek
4 Road. The pursuit continued all the way down Bee's Creek Road
5 until we got all the way back down to Captain Bill Road, where
6 he made the left to come back to the initial incident of where
7 it had taken place.

8 At that time, the road was blocked because EMS and other
9 deputies already had arrived on the scene; so he couldn't go
10 any further past them. When he came to a stop, he was ordered
11 out of his vehicle at gunpoint. He was told to lay down on
12 the ground.

13 At that time, I approached Nathaniel. I placed handcuffs
14 on him, picked him up, and that's when the utterance -- he was
15 not questioned or anything. That's when he said I will not
16 have this nigger disrespect me. He uttered that again once he
17 was detained that I'm not going to have him disrespect me.

18 Q: Was anybody questioning --

19 A: No.

20 Q: -- Nathaniel at this time?

21 A: No.

22 Q: No? But he was in the process of being placed in
23 custody?

24 A: Yes. That's correct.

25 Q: But he was not subject to an interrogation?

1 A: No, he wasn't.

2 Q: How quickly from when he exited out of the vehicle until
3 you overhearing his statement?

4 A: It was a minute because there was a brief standstill
5 where, you know, all deputies had guns drawn on him. He
6 stepped out of the car and he just stood there and looked
7 around. At that time, we told him to kneel down and lay down
8 on the highway. Upon let's say a few seconds maybe to a
9 minute for us to get out of the vehicles and approach him and
10 place him in in handcuffs and detain him.

11 Q: How long after he was placed in cuffs did he make this
12 statement?

13 A: Seconds. Not -- not long thereafter.

14 Q: Okay. Was he still in the roadway when he made the
15 statement or had he been placed in a patrol car?

16 A: He was still in the roadway.

17 Q: Okay.

18 A: Once placed in cuffs, we placed him back up beside his
19 vehicle. He was still in the roadway.

20 Q: And it was by the green Honda; right?

21 A: By the green Honda, yes.

22 Q: Okay. And you keep looking over here referencing
23 Nathaniel. Is the man that you heard make the statement in
24 the courtroom?

25 A: Yes. That's correct.

1 Q: Can you point him out, please?

2 A: That's Nathaniel, the defendant, sitting right there
3 between his two attorneys.

4 Q: Okay.

5 MS. JONES: May the record reflect the witness identified
6 Nathaniel Wright as the man who made that statement.

7 BY MS. JONES:

8 Q: So when he made this statement, you weren't asking him
9 questions?

10 A: No, I wasn't.

11 Q: But he was in custody?

12 A: Yes.

13 Q: Okay. So he wasn't free to go?

14 A: No, he wasn't.

15 Q: But again, you didn't question him? Nobody questioned
16 him?

17 A: Nobody questioned him.

18 Q: So you didn't have an opportunity to read him his Miranda
19 rights prior to the statement?

20 A: No, I did not.

21 Q: Okay. And why didn't you read the Miranda prior to the
22 statement?

23 A: I was only detaining him as a suspect in a possible
24 homicide. Like I said, I didn't exactly stay at the yard to
25 see exactly what happened because I pursued the vehicle as it

1 left out of the yard after the young lady standing in the yard
2 said he shot him, he shot him.

3 Q: Okay. So it was as he was being placed in custody he
4 made this statement?

5 A: Excuse me? Say that again.

6 Q: As he was being -- as you were placing him into custody,
7 he made the statements?

8 A: Almost before. I mean it's like -- it's almost like
9 before he was actually placed in handcuffs, he made that
10 statement.

11 Q: Who was he talking to?

12 A: That's a good question. He just uttered it out.

13 Q: Okay. And it wasn't in response to any question that was
14 asked by anybody?

15 A: No questions. No.

16 Q: And not just yourself, but anybody else?

17 A: Correct.

18 MS. JONES: I have no further questions.

19 THE COURT: Cross-examination.

20 CROSS-EXAMINATION

21 BY MR. NEWMAN:

22 Q: Mr. Brown?

23 A: Yes.

24 Q: So the only statement -- and I want to make sure we lock
25 this in so we won't be confused later on -- is that -- and I'm

1 sorry to use that word, but you said you won't let that nigger
2 disrespect me?

3 A: Yes.

4 Q: Okay. And he said that twice?

5 A: The second time he said I'm not going to let him
6 disrespect me. The first time he said I'm not going to let
7 that -- disrespect me.

8 Q: Okay.

9 A: The second time he says I'm not going to let him
10 disrespect me.

11 Q: Okay. And since he was talking to no one in particular,
12 you had no clue or context what he was talking about. Would
13 that be correct?

14 A: That's correct.

15 Q: Okay. It could have meant whoever that person was that
16 pulled a gun on him or shot at him? You have no context or
17 clue what he was talking about?

18 A: Correct.

19 Q: Okay.

20 MR. NEWMAN: Thank you.

21 THE COURT: Any redirect?

22 MS. JONES: No, Your Honor, not from this witness.

23 THE COURT: You may step down.

24 THE WITNESS: Thank you, Your Honor.

25 MS. JONES: We do have two other witnesses. The

1 circumstances are almost identical to Mr. Brown's testimony.
2 We'd like to argue it after their testimony.

3 THE COURT: Well, if you've got any more witnesses, we
4 need to hear from them.

5 MS. JONES: The State calls Deputy Ellis.

6 MR. NEWMAN: Your Honor, I think at this point -- I mean
7 no disrespect, but I think Mr. Brown would need to exit the
8 courtroom pursuant to your sequestration order.

9 THE COURT: Yes. Place your left hand on the Bible and
10 raise your right hand as the clerk administers the oath.

11 THE CLERK: The testimony you are about to give the Court
12 will be the truth, the whole truth, and nothing but the truth,
13 so help you God?

14 THE WITNESS: So help me God.

15 THE COURT: Have a seat in the witness chair. I'm going
16 to ask you to pull up real close to that microphone and speak
17 loudly, clearly, and slowly in order that we can hear
18 everything that you have to say, and let's start with your
19 full name.

20 THE WITNESS: Yes, sir. Deputy Michael A. Ellis.

21 MS. JONES: Thank you, Your Honor.

22 MICHAEL ELLIS, being first duly
23 sworn, testified as follows:

24 DIRECT EXAMINATION

25 BY MS. JONES:

1 Q: Deputy Ellis, where are you currently employed?

2 A: Jasper County Sheriff's Department.

3 Q: And were you working with the Sheriff's Department on
4 October 1st of 2014?

5 A: I was.

6 Q: And were you -- did you at some point come into contact
7 with the defendant, Nathaniel Wright, on that date?

8 A: I did.

9 Q: Can you please tell the Court the circumstances
10 surrounding that?

11 A: Well, approximately 1700 or a little after 1700, I was at
12 the end of my shift at the time when a BOLO came out from
13 Deputy Brown and dispatch about shots fired in the Henry
14 Lawton area, Fordsville area. They gave a BOLO of a Honda
15 Accord speeding away.

16 At the time, I was traveling south on Highway 17. I
17 turned on Grahamville Road as Deputy Brown or former Deputy
18 Brown gave information that the suspect vehicle that fled away
19 was traveling down that area. So between Grahamville and
20 South Logan is where I observed the suspect vehicle, a green
21 Honda Accord, driving at a high rate of speed. And that's
22 when I followed suit or followed chase with Deputy Brown's
23 vehicle, who was the resource officer and the initial officer
24 in the chase at the time.

25 Q: Okay. And eventually after you come in contact with this

1 green Honda Accord, does it make its way back to Captain Bill
2 Road?

3 A: Eventually, after -- I can't remember how long, but
4 probably about a 15- to 20-minute pursuit, it made its way
5 back to Captain Bill.

6 Q: Okay. And once back at Captain Bill Road, did the driver
7 exit that vehicle?

8 A: He was ordered out of the vehicle.

9 Q: Who was driving that car?

10 A: The defendant.

11 Q: Okay. The man seated at this table?

12 A: Right.

13 Q: Okay. When he got out of the car, what happened? When
14 he was ordered out of the car, what happened?

15 A: Well, I was the lead vehicle in the chase with the video,
16 sirens running. When we got back to that area, there was
17 emergency workers, EMS vehicles, fire trucks, deputies
18 blocking the road. They were there because of the incident
19 that had occurred in the yard, but it was more or less like a
20 roadblock, good timing.

21 We made the stop on him. I detained him at gunpoint.
22 The other deputies went and handcuffed him at the time. He
23 stated, when we ordered him out of the vehicle, slow-assed
24 car. We ordered him to the ground. He was detained and
25 handcuffed at the time and I went on and maintained security

1 for crowd control.

2 Q: Did he physically do anything when he made the statement
3 about the car?

4 A: He kicked the tire.

5 Q: The tire of what car?

6 A: His Honda Accord.

7 Q: Okay. Was this statement, slow-assed car, in reference
8 to any of your questions? Were you questioning him?

9 A: No, ma'am. No one questioned him. At that time, we were
10 still making a felony stop.

11 Q: Okay. Who was he making the statement to?

12 A: No one. No one asked him anything. He just uttered that
13 out.

14 Q: Okay.

15 MS. JONES: I have no further questions.

16 THE COURT: Cross-examination.

17 CROSS-EXAMINATION

18 BY MR. NEWMAN:

19 Q: And that is the only thing that you heard Nathaniel say?

20 A: That's the only contact I had with him.

21 Q: Okay. And you were there when he was being arrested?

22 A: Yes, sir. I'm the one that actually stopped the vehicle.

23 Q: Okay. Perfect.

24 MR. NEWMAN: Thank you. No further questions.

25 THE COURT: Any redirect?

1 MS. JONES: No redirect.

2 THE COURT: You may step down.

3 THE WITNESS: Thank you.

4 MS. JONES: The State calls Deputy Moran.

5 THE COURT: Yes, sir. Please come forward and place your
6 left hand on the Bible and raise your right hand as the clerk
7 administers the oath.

8 THE CLERK: The testimony you are about to give the Court
9 will be the truth, the whole truth, and nothing but the truth,
10 so help you God?

11 THE WITNESS: So help me God.

12 THE COURT: I'd ask, if you could, to have a seat in the
13 witness chair. Pull the chair up to that microphone and speak
14 loudly, clearly, and slowly in order that we can hear
15 everything that you have to say, and let's start with your
16 full name.

17 THE WITNESS: Raymond Moran.

18 THE COURT: Very good.

19 MS. JONES: Thank you, Your Honor.

20 RAYMOND MORAN, being first duly
21 sworn, testified as follows:

22 DIRECT EXAMINATION

23 BY MS. JONES:

24 Q: Deputy Moran, you work with the Sheriff's Office? I see
25 your uniform.

1 A: That's correct.

2 Q: For Jasper County?

3 A: That's correct.

4 Q: Okay. Were you working in that same capacity back on
5 October 1st of 2014?

6 A: That is correct.

7 Q: And did you have an opportunity to come into contact with
8 the defendant, Nathaniel Wright, on that day?

9 A: Yes, I did.

10 Q: Can you please tell the Court the circumstances
11 surrounding your coming into contact with him back on Captain
12 Bill Road?

13 A: I believe I was the last officer to arrive on scene; so
14 my car was the furthest from the incident location. The
15 subject was brought to my vehicle. I can't remember who
16 brought him to my vehicle to secure him. He was secured in
17 the backseat. It was a hot day. I allowed the windows to
18 come down to cool him off.

19 Two -- well, three women approached the vehicle. He
20 identified one of them -- one of them as being his mother. So
21 I allowed her to speak with him through the window. In one
22 way or another in so many words she asked why did you do it
23 and he simply said fuck that nigger.

24 Q: His response to her question -- was that in response to
25 anybody else questioning him or just his mother?

1 A: No one else said anything but his mother.

2 Q: Okay. You weren't questioning him?

3 A: No.

4 Q: Were any other law enforcement officers questioning him?

5 A: No. Not when he was left in my care, not at all.

6 Q: But he was in custody? He was in the back of your car?

7 A: That's correct.

8 Q: All right. But not being interrogated by law
9 enforcement?

10 A: No.

11 Q: What is his mother's name?

12 A: I have no idea what his mother's name is.

13 Q: Okay. How were you able to determine that was his
14 mother?

15 A: He identified her as she came to the car.

16 Q: Okay.

17 MS. JONES: Okay. I have no further questions. Thank
18 you.

19 THE COURT: All right. Any cross-examination?

20 CROSS-EXAMINATION

21 BY MR. NEWMAN:

22 Q: Is your car equipped with an in-car recording device?

23 A: Excuse me?

24 Q: Is your car equipped with a camera? In-car recording
25 device?

1 A: I believe the car that I had at that time wasn't.
2 Q: Okay. What car did you have at that time?
3 A: It was an '08 I believe.
4 Q: It was what?
5 A: I believe it was in '08.
6 Q: What kind of car?
7 A: Charger, Dodge Charger.
8 Q: Do you know, where the car is now?
9 A: No, I don't.
10 Q: And why were you driving in '08 Charger?
11 A: Because that was the car assigned to me.
12 Q: Okay. To answer my question, your car does not have
13 audio/video equipment in the car that you were assigned?
14 A: At that present vehicle I had, no, I believe not.
15 Q: When you say you believe, is there any records that we'd
16 be able to find whether it did or didn't?
17 A: I'm sure they could find out, sir.
18 Q: And who would I ask?
19 A: I believe our patrol lieutenant.
20 Q: And that is?
21 A: Lieutenant Jenkins.
22 Q: Jenkins?
23 MS. JONES: Your Honor, I believe this questioning is
24 outside the scope of this hearing.
25 THE COURT: I don't think so. I think he can ask it.

1 MR. NEWMAN: All right.

2 BY MR. NEWMAN:

3 Q: And the only statement that you heard Mr. Wright say was

4 F that nigger?

5 A: Exactly.

6 Q: And you don't know the name of the lady that asked him

7 the question that elicited that response?

8 A: No, I didn't. He only identified her as being his

9 mother. She was escorted by two ladies and, after that

10 statement was made, she sort of buckled at the knees as they

11 escorted her away.

12 Q: Okay. And what did you do?

13 A: I didn't do anything.

14 Q: Did you ever take him to jail?

15 A: You asked me what did I do in reference to the statement

16 and the response or what did I do for the rest of the day?

17 Make it clear.

18 Q: What happened after he said fuck that nigger?

19 A: He stayed there until I was told to take him to the

20 detective's office to be interrogated by SLED.

21 Q: Okay. And did he make any other statements whatsoever to

22 you?

23 A: The other statement that was made was when we were at the

24 hospital and he was kind of coming in and out, but being that

25 he was on some type of substance, I didn't know what he was

1 saying was truth or talking off the top of his head.

2 Q: Did you write down anything that he said?

3 A: No, I did not.

4 Q: At the hospital?

5 A: No, I didn't.

6 Q: Do you have specific recollections of exactly what he
7 said while he was in the hospital?

8 A: Yes.

9 Q: And you did not note that down or write that down?

10 A: No. Because I remember what was said.

11 MR. NEWMAN: Do y'all plan to introduce any of that?

12 MS. JONES: No, Your Honor.

13 MR. NEWMAN: Since they don't plan to introduce that, I
14 don't have any further questions.

15 THE COURT: Very good. Any redirect?

16 MS. JONES: No, Your Honor, and that's our last witness.

17 THE COURT: You may step down. Ms. Jones, you're
18 recognized.

19 MS. JONES: Thank you, Your Honor. Your Honor, I believe
20 that all three of the statements that were testified to by
21 each of these deputies and former Deputy Brown are all
22 admissible under Rule 801(d)(2). It's not hearsay. It's an
23 admission by a party opponent. It's an admission by Mr.
24 Nathaniel Wright himself.

25 None of these statements were the result of any sort of

1 interrogation. They were spontaneous statements made by the
2 defendant for the most part to nobody. The final -- the final
3 statement that Deputy Moran testified to was made in response
4 to a question he received from his mother, why, and he again
5 uttered spontaneously the statement that Deputy Moran
6 testified to.

7 According to *United States v. Wright*, we don't -- Miranda
8 -- we concede he was in custody. He was absolutely a hundred
9 percent in custody when the statements were made. However,
10 Miranda is not required when he's not subject to a custodial
11 interrogation. You have to have both for Miranda, and I
12 believe that any rights that may have been infringed upon
13 would have potentially been his Fifth Amendment, but that
14 didn't even come into play because he wasn't entitled to the
15 protections of Miranda. And I have the *Wright* case for
16 everybody as well.

17 Here again, he was not being interrogated. They were
18 spontaneous statements, utterances made by the defendant.
19 They weren't in response to any questions by any sort of law
20 enforcement. They were spontaneous or in response to his
21 mother's question and, ironically, another case I was able to
22 find is *Clark v. South Carolina*. They even said that these
23 statements aren't even subjected to Rule 5.

24 Now, while they were always handed over to the defense,
25 they've always had these statements, that the *Clark* case says

1 that they're not even subject to Rule 5 because they're not
2 interrogation statements. They are not statements made to law
3 enforcement.

4 I think we did enough by handing them over. The law
5 enforcement officers testified to the circumstances
6 surrounding them and I believe all three of the testimony was
7 that they were all spontaneous, not made in response to any
8 sort of questioning and, therefore, Miranda is not required.
9 They are voluntary statements made by the defendant and they
10 come in under admission by a party opponent.

11 THE COURT: All right. I'll be glad to hear from the
12 defense.

13 MR. NEWMAN: If it pleases the Court, Your Honor, we are
14 not advancing any further argument as to -- we'll let you rule
15 on the issue as to admissibility of those statements.

16 However, coming up in this are two different -- two
17 different things from other witnesses that would certainly be
18 testimonial in nature. Again, I'll let you rule on the
19 voluntariness of his statements and I'd advance no further
20 argument on it.

21 It seemed like Deputy Brown testified that a witness he
22 can only identify as a black female said he shot him, he shot
23 him, and pointed out the car. I think --

24 THE COURT: That -- let me ask -- well, you know, that
25 was the first thing that came to my mind. Ms. Jones, do you

1 intend on tendering the statement of an unknown witness that's
2 not subject to cross-examination?

3 MS. JONES: I do now, Your Honor. I feel that that --

4 THE COURT: Well, let's talk about how -- how you're
5 allowed to do that.

6 MS. JONES: I think it falls under 803 -- 803(2), excited
7 utterance by this statement --

8 THE COURT: By who?

9 MS. JONES: By this witness.

10 THE COURT: Excited utterance of a witness?

11 MS. JONES: Right. 803 doesn't require that the witness
12 be available, Your Honor.

13 THE COURT: What do you have to say about that?

14 MR. NEWMAN: Well, the problem we have -- we don't know
15 whether the witness actually witnessed the event, whether the
16 witness was under the influence of the event. You say excited
17 utterance. The witness might have been covering up for their
18 -- their witness Drake by saying he shot him. It's clearly
19 testimonial. I think they can say --

20 THE COURT: Let me see -- let me see that 803 rule. I
21 don't have my rule book with me. Let me look at it.

22 (WHEREUPON, there was a pause in the proceedings.)

23 THE COURT: What do you think about that? You know, the
24 Rule 803 is an exception to hearsay and we all are aware of
25 these, like what's typically known as res gestae type

1 comments.

2 And what it says is that even though the declarant is
3 available, this is not hearsay when it's an excited utterance
4 or a present sense impression or excited utterance. But this
5 rule kind of contemplates the fact that you can say what
6 someone said even though it's admissible to elicit what a
7 witness said even though they are available because the rule
8 says the following are not excluded by the hearsay rule even
9 though the declarant is available as a witness, which means
10 that somebody else can say what the witness said even if they
11 are available. But what if they're not available?

12 MR. NEWMAN: And that's the problem the rule doesn't
13 address. We don't know if this person is acting under res
14 gestae. As you heard, nobody went to the scene of this
15 action. The deputy, rather than going there, is passing by
16 and someone is yelling at him. We don't know if that woman is
17 aligned with somebody else. We don't know if she witnessed
18 the event. We don't know if she came up on the scene.

19 And these go to your core problems with testimonial
20 evidence under *Crawford* and we can't cross-examine any of
21 that. That woman might have said, well, my friend Shirley
22 told me that. I just walked up. I have no idea. We have no
23 way to do that and she doesn't just say, you know, look at
24 that car, look at that car. She's saying he shot him, he shot
25 him.

1 THE COURT: And --

2 MR. NEWMAN: We don't even know who was in the car at the
3 time.

4 THE COURT: And the officer said he was looking at the
5 car. What do you have to say about that? I mean, you know,
6 when he said it, it caused me some hesitation to start with.

7 MS. JONES: That he was looking at the car when it sped
8 away?

9 THE COURT: Well, the fact that you -- in his testimony,
10 he said -- the first thing he said is he walked -- he drove up
11 to the house, he lowered the window, and he saw a lady, an
12 unknown lady, say he shot him, he shot him. And he -- and the
13 officer went on to say -- when he was saying that, he was
14 looking at the Honda Accord saying he shot him, he shot him.

15 And what do you think about the *Crawford* issues about the
16 fact that the defendant has the opportunity -- should have the
17 opportunity to cross-examine an accuser? What other evidence
18 do you have that he's the one that did the shooting?

19 MS. JONES: There are other witnesses that will testify
20 that he's the one that did the shooting.

21 THE COURT: Well, I don't believe you need the statement,
22 do you?

23 MS. JONES: I don't know how much evidence I need for the
24 jury, Your Honor.

25 THE COURT: Well, I -- well, the point is that I don't

1 believe that it's admissible because we don't -- you -- they
2 can't -- cannot be made available to cross-examine. We don't
3 even know who it is.

4 MS. JONES: And I don't who it is.

5 THE COURT: All right. Well, my ruling is that we can't
6 get into that. You need to give your law enforcement
7 instructions in that regard. He can say that he pulled up
8 into the yard and that he saw people outside screaming, but
9 they can't say what it was about. They can't say what she
10 said. He said that when I pulled up, I saw people. I saw a
11 female out there screaming and I saw the -- I heard the shots
12 and saw the Honda Accord, the only person fleeing the scene,
13 and I followed the car. He's not going to be able to say the
14 lady said he shot him, he shot them, and looked at the car.
15 We're not going to do that.

16 THE COURT: Okay. I'll instruct him --

17 THE COURT: All right. Very good.

18 MS. JONES: -- to not say that.

19 THE COURT: All right.

20 MR. NEWMAN: And the second thing as to that, Your Honor,
21 is the --

22 THE COURT: What about the statement of the mother -- the
23 question of the mother?

24 MR. NEWMAN: That was my next thing that I was going to
25 get to. We're not able to cross-examine her. I think her

1 question doesn't fit under any exception. It's clear hearsay.
2 I would agree if Your Honor rules that it's voluntary, his
3 response, if that. Since the deputy heard it, it would
4 probably be admissible, but not the mother's question because
5 I can't -- you know, we don't have her --

6 THE COURT: Well, if she testifies, she can certainly do
7 it, but otherwise I'm not going to allow that in. You can --
8 the question -- I mean if you don't -- if the mother is not
9 going to get up there and say why did you do it, she can do
10 that, but the officer can't say what she said. You have to
11 subpoena the mama to do that.

12 But she can -- the officer can say what he said because
13 it's not subject to interrogation. You can say you heard --
14 this officer can say I heard him say F that individual, but he
15 cannot say why did you do it unless -- unless the mother
16 testifies to that effect.

17 MS. JONES: Right. I can always ask her about that.

18 THE COURT: Yeah. You might need to ask her, but we
19 aren't going to allow the police officer to pose a question
20 offered by the mother.

21 MS. JONES: But he can say that -- he can testify that
22 the defendant was approached by somebody he identified as his
23 mother and then responded this way?

24 THE COURT: Yes.

25 MS. JONES: Okay. Just to clarify, because I believe it

1 needed some context before. Okay.

2 THE COURT: Well, I don't think -- I don't think there
3 needs to be any mention of the fact that there was a question.

4 MS. JONES: No.

5 THE COURT: Only the mother approached the vehicle and I
6 heard an utterance from the defendant that said F that person.

7 MS. JONES: Exactly. Okay. And I will instruct both --
8 both of those deputies to not say what they heard these women
9 say.

10 THE COURT: All right. Of course, if you want to ask the
11 mother prior to putting him on the stand what was the question
12 you asked him, you obviously can do that. That's not hearsay.

13 MS. JONES: Right. Okay. Thank you, Your Honor.

14 THE COURT: All right. My ruling with regard to the
15 statements is I specifically find that they are not custodial
16 interrogations. They are spontaneous utterances not subject
17 to Miranda and are indeed admissible. Anything else?

18 MS. JONES: The only other issue I can perceive coming
19 up, Your Honor, is again discussed in chambers when they were
20 -- the defense was referencing prior difficulties and the
21 victim's reputation, prior difficulties specifically with his
22 brother, Nathaniel.

23 I believe it's pretty clear that they can't get into
24 specifics, as Your Honor indicated in chambers. The State
25 would just request that if they do get into specifics, I

1 believe specifics are allowed in some very slight
2 circumstances. The State would just ask that that testimony
3 be proffered to avoid any sort of issues.

4 THE COURT: Yes. And as a general rule, we aren't going
5 to allow witnesses to come up to say -- talk about the fact
6 that -- say, for instance, this defendant beat another
7 individual up. They're not going to be able to do that.

8 However, if there's evidence that establishes bad blood
9 between this defendant and the victim, there might be a
10 connection and it might be relevant in that there's bad blood
11 between the two. And a lot of it is going to deal with what
12 it is and the proximity in time and all of those things.

13 MS. JONES: Right.

14 THE COURT: But before we get into any of that
15 reputation-type or 403-type material, we will need to take
16 that up outside of the presence of the jury.

17 MR. NEWMAN: We'll do it as a proffer, Your Honor, when
18 we get there because I think Your Honor is going to have to
19 hear what the testimony is to put it in context.

20 THE COURT: Right.

21 MR. NEWMAN: There are also some other exceptions and I
22 have to do some research on that tonight as for the
23 peacefulness or lack of peacefulness of a decedent and whether
24 or not we intend to introduce testimony that the decedent by
25 habit, routine, and practice carried a firearm on his person.

1 And I'll be frank with you. I'm going to have to go
2 under the 404(a), 404(b) rules to take a look at those and I
3 will do that this evening, but there is precedent for showing
4 --

5 THE COURT: We'll address that at the appropriate time,
6 but all of this needs to be taken up outside the presence of
7 the jury.

8 MS. JONES: That was my other concern that it was outside
9 the presence of the jury.

10 THE COURT: Anything else from the State?

11 MS. JONES: I don't believe so.

12 THE COURT: Anything from the defense?

13 MR. NEWMAN: I don't think so, Your Honor, but I think we
14 can work with that. We know what witnesses we want to ask
15 those particular questions, and at the proper time in cross-
16 examination we'll alert the Court that we need to approach,
17 Your Honor.

18 THE COURT: All right.

19 MR. NEWMAN: Thank you, Your Honor.

20 THE COURT: Very good. All right. Very good. All
21 right. We'll stand at ease until -- until 9:30 in the
22 morning. I want all counsel to be here by nine in case there
23 are any difficulties or I just want y'all to be here. I don't
24 want to chase lawyers down. All right.

25 So everybody be here at nine and we'll discuss -- and

1 everybody be in here in the courtroom sitting down at nine
2 o'clock and we'll address that. I don't want to have to chase
3 anybody down.

4 All right. We'll stand at ease until nine o'clock in the
5 morning, nine o'clock sharp.

6 MS. JONES: Thank you, Your Honor.

7 (WHEREUPON, the proceedings adjourned for the day at 5:10
8 p.m.)

9 FEBRUARY 9, 2016

10 THE COURT: Please be seated. Good morning, everybody.
11 Which juror is it?

12 THE CLERK: Kendra Smith, Juror Number 189.

13 THE COURT: Ms. Smith, could you please come forward?

14 (WHEREUPON, the juror approached carrying a baby.)

15 THE COURT: Good morning, Ms. Smith. How are you doing?

16 JUROR NUMBER 189: Okay.

17 THE COURT: I understand that you have a difficulty in
18 that your babysitter has not shown up and it looks like you've
19 got some company there. Now, do you work outside of the home?

20 JUROR NUMBER 189: Yes. /

21 THE COURT: You do? And what do you do outside of the
22 home?

23 JUROR NUMBER 189: I'm a store manager.

24 THE COURT: Okay. What would you do in a work situation
25 if your babysitter canceled on you?

1 JUROR NUMBER 189: Normally her father would keep her,
2 but he got a promotion so he's out of town right now getting
3 training.

4 THE COURT: Okay. Do you have a mother available?

5 JUROR NUMBER 189: No. My family is from Georgia.

6 THE COURT: Okay.

7 JUROR NUMBER 189: I'm not originally from here.

8 THE COURT: All right.

9 JUROR NUMBER 189: She usually keeps her, but she
10 canceled on me.

11 THE COURT: All right. Well, these deputies look like
12 they can babysit. No, I'm not going to require that they do
13 that. But I'm going to go ahead and excuse you given those
14 circumstances and it appears to be circumstances beyond your
15 control. So I'm going to require that you be back the next
16 term of court.

17 JUROR NUMBER 189: He'll be back and I would love to do
18 that. He'll be back from training by then and he can have her
19 at that time.

20 THE COURT: Very good. Thank you.

21 THE CLERK: It will be April the 11th. You'll get another
22 notice.

23 JUROR NUMBER 189: Okay. Thank you.

24 THE COURT: The -- what is the -- you know, there's a
25 division of authority with regard to the advancing or swearing

1 in of alternates. Some people maintain that you -- the first
2 alternate is the first one to be seated. Some maintain that
3 they are randomly drawn between the two. What is the State's
4 position?

5 MS. JONES: Your Honor, my position would be the first
6 alternate what be the one to take the first open position.

7 THE COURT: Okay. And what would the defense's position
8 be?

9 MS. SMART-GITTINGS: We don't have a preference, Your
10 Honor.

11 THE COURT: All right. And the first alternate, Madam
12 Clerk, is?

13 THE CLERK: Daniela Reyes.

14 THE COURT: Daniela?

15 THE CLERK: Reyes. R-e-y-e-s. Reyes.

16 THE COURT: Reyes?

17 THE CLERK: Yes, sir.

18 THE COURT: Daniela Reyes.

19 THE CLERK: Daniela, yes, sir. Juror Number 163.

20 THE COURT: All right. Anything from the State before we
21 proceed?

22 MS. JONES: No, Your Honor.

23 THE COURT: Anything from the defense?

24 MR. NEWMAN: Yes, Your Honor. We intend to enter a plea
25 as to the charge of failure to stop for a blue light.

1 THE COURT: Very good. You may bring your client
2 forward.

3 (WHEREUPON, the defendant and counsel approached.)

4 THE CLERK: Raise your right hand. The testimony you are
5 about to give the Court will be the truth, the whole truth,
6 and nothing but the truth, so help you God?

7 THE DEFENDANT: Yes, ma'am.

8 THE CLERK: Thank you.

9 THE COURT: Mr. Newman, do you represent Mr. Wright?

10 MR. NEWMAN: Along with Ms. Smart, yes, Your Honor.

11 THE COURT: Have you explained to -- to him the offense
12 of failure to stop for a blue light, the fact that he could be
13 incarcerated for a period of up to three years, the elements
14 of the offense, potential defenses, and his constitutional
15 rights?

16 MR. NEWMAN: I have.

17 THE COURT: And how does he wish to plead?

18 MR. NEWMAN: He tells me he wishes to tender a plea of
19 guilty to that charge.

20 THE COURT: Do you agree with his decision to do so?

21 MR. NEWMAN: I do.

22 THE COURT: Do you feel if called upon to do so the State
23 could prove him guilty beyond a reasonable doubt?

24 MR. NEWMAN: Yes, sir.

25 THE COURT: All right. Let's place Mr. Wright under oath

1 if we could.

2 MR. NEWMAN: He's been placed, Your Honor.

3 THE COURT: Mr. Wright, are you under the influence of
4 any drugs or alcohol here today?

5 THE DEFENDANT: No, sir.

6 THE COURT: Are you experiencing any kind of physical or
7 mental problem that could prevent you from understanding
8 what's going on here today?

9 THE DEFENDANT: No, sir.

10 THE COURT: All right. Pay very close attention as the
11 State summarizes the facts that bring us here today.

12 MS. JONES: Thank you, Your Honor. This incident
13 occurred on October 1st, 2014, on Henry Lawton Road and Captain
14 Bill Road, and it continued on to I-95 and back to Captain
15 Bill Road. Mr. Wright was being sought by law enforcement as
16 a suspect in a homicide case.

17 As he is seen pulling out of the driveway, Deputy Leonard
18 Brown initiates his blue lights, followed by multiple
19 Sheriff's Office deputies, as well as Ridgeland Police
20 Department officers. He failed to stop. The chase lasted
21 about 15 minutes. He did ultimately stop at the original
22 homicide location and was taken into custody.

23 He does have a prior record. Would you like to hear
24 that?

25 THE COURT: I don't think that's necessary at this time.

1 MS. JONES: Okay.

2 MR. NEWMAN: We were going to ask that you defer
3 sentencing until the outcome.

4 THE COURT: Mr. Wright, are those facts true and
5 accurate?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Are you indeed guilty of failure to stop for
8 a blue light?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: You stand before me pleading guilty, but you
11 don't have to plead guilty to anything. You can exercise your
12 right to a jury trial. As a matter of fact, in this case
13 we've already impaneled a jury and we could try this case
14 right along with the rest of them. Do you understand that?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Do you want to plead guilty to failure to
17 stop for a blue light?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: You don't have to plead guilty. You can
20 exercise your right to a jury trial, as I had indicated. No
21 one could require that you take the witness stand. However,
22 if you wanted to, you could. You could subpoena witnesses on
23 your own behalf. In addition to that, you and your lawyer
24 could cross-examine the State's witnesses. You'd have an
25 opportunity to eyeball them and confront them as they

1 testified against you.

2 Do you realize by pleading guilty you're giving up all
3 these rights?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Do you still wish to plead guilty?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Are you indeed guilty?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Is there any plea negotiations at this
10 juncture?

11 MS. JONES: No, Your Honor. This is straight up without
12 recommendation or negotiations.

13 THE COURT: Is that your understanding, Mr. Newman?

14 MR. NEWMAN: That is my understanding, Your Honor.

15 THE COURT: Mr. Wright, is that your understanding
16 there's been no plea negotiations?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: All right. Are you satisfied with your
19 lawyers?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Has anybody promised you anything, threatened
22 you, pressured you, mistreated you in any way, shape or form
23 in an effort to get you to enter this plea here today?

24 THE DEFENDANT: No, sir.

25 THE COURT: It's been your decision to plead guilty?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Are you indeed guilty?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Have you understood all my questions?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Have your answers been truthful?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Do you understand that you have ten days to
9 appeal any decision I might render here today?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Based on your testimony, I find there's a
12 substantial factual basis for your plea. That your decision
13 was freely and voluntarily entered into, knowingly and
14 intelligently, with the consent of competent counsel with whom
15 you say you are satisfied. I'll accept your plea and we'll
16 defer sentencing until later.

17 I'm going to ask, if you could -- now that we're talking
18 about sentencing and sentencing sheets, I'm going to ask that
19 you prepare those sentencing sheets in advance.

20 MS. JONES: Yes, sir.

21 THE COURT: Very good. Thank you.

22 MR. NEWMAN: Thank you. Do you want this left here?

23 THE COURT: With the clerk will be fine. Anything else
24 from the State?

25 MS. JONES: No, Your Honor.

1 THE COURT: Anything from defense?

2 MR. NEWMAN: Yes, sir. At this time, based on that, to
3 be clear -- I know you made the ruling yesterday, but I want
4 to make our objections clear on the record as to the video of
5 the blue light.

6 Certainly, I think the State could use his guilty plea
7 against him to show evidence of flight. The blue light -- the
8 15 minutes of the chase scene would only go to defendant's
9 character. It doesn't prove anything that's at issue in this
10 case and we believe under 403 it is more prejudicial than
11 probative. We believe its probative value is zero and its
12 prejudicial value is a hundred.

13 So therefore, we object or are stating our objection on
14 the record to the playing of the blue light as it adds nothing
15 to whether this case -- whether Mr. Wright shot in self-
16 defense or whether it was murder.

17 THE COURT: Very good. What is the State's position in
18 that regard?

19 MS. JONES: Your Honor, I believe that the video is the
20 best evidence of the flight itself and it does go to
21 consciousness of guilt and should be admissible.

22 THE COURT: Very good. All right. I will allow it in,
23 but you are protected on the record.

24 MR. NEWMAN: Thank you, Your Honor.

25 THE COURT: Anything else from anybody?

1 THE CLERK: We're missing two, Your Honor.

2 MS. JONES: Your Honor, I do have one brief issue with a
3 question I guess for the defense. It's the same situation we
4 were in last month. Any audio I plan on playing, I have the
5 copies of the disks redacted pursuant to Your Honor's orders.
6 I am just asking for permission to just play it -- the same
7 exact copy from our computer instead of playing from the
8 actual disk. It saves time and it's easier.

9 THE COURT: What is the defense position on that?

10 MR. NEWMAN: Subject to our objection, I don't have a
11 problem with that, but there are two spans on the video that I
12 am going to want played with audio. They occur at 17:38:25
13 and 17:40:40 and 17:43.

14 MS. JONES: Are those --

15 MR. NEWMAN: Those are times -- those are the times that
16 are on the --

17 MS. JONES: No. I understand that.

18 MR. NEWMAN: Okay.

19 MS. JONES: Are those references to drugs?

20 MR. NEWMAN: No. They are references to the detective
21 saying whatever units are just standing around down here, I'm
22 going to need somebody to keep these people out of the crime
23 scene, and at 17:40 just to let you know we've got a lot of
24 people that are walking into here from Bee's Creek side.

25 MS. JONES: Okay. The only thing -- the only audio that

1 has been redacted is references to drugs.

2 MR. NEWMAN: Okay. We just ask for fairness that it
3 comes in and that we be able on cross-examination to show that
4 the crime scene for a substantial amount of time was left
5 unprotected.

6 THE COURT: Very good. You know, a lot of times when you
7 stream it from your computer, the computer won't keep up with
8 the streaming. Have y'all tried that and practiced that?
9 That's your job, isn't it?

10 MR. HALL: Yes, Your Honor.

11 THE COURT: Did you practice it?

12 MR. HALL: Yes, sir.

13 THE COURT: Do you think it's juiced up enough to do it?

14 MR. HALL: It is.

15 THE COURT: Very good. All right. We're waiting on two
16 jurors here. For the -- for the rest of the week --
17 obviously, we're still waiting on jurors, but I'm here at nine
18 o'clock. Y'all are going to be here at nine o'clock and these
19 preliminary matters -- rather than standing around, we can get
20 those taken care of so we can start right at 9:30 and make the
21 best use of the jurors' time.

22 (WHEREUPON, there was a pause in the proceedings.)

23 THE CLERK: We have everybody.

24 THE COURT: Very good. We're ready for the jury.

25 (WHEREUPON, the jury entered the courtroom at 9:35 a.m.)

1 THE COURT: Ms. Daniela Reyes, Juror Number 163, you are
2 going to be an active juror. We've had one of the jurors who
3 has had some difficulty with daycare. So I'm going to ask
4 that you have a seat with the regular jury and you will
5 deliberate at the conclusion of the case. I'm going to ask
6 that you change chairs to the front there. Very good.

7 All right. And if you'd like to have a seat closer, why
8 don't we do that?

9 All right. Ladies and gentlemen of the jury, we are
10 about to begin the trial of the case entitled the State of
11 South Carolina versus Nathaniel Wright. I want to talk to you
12 a little bit about what to expect.

13 Perhaps many of you have participated in a jury before --
14 in a jury trial before and are very familiar with how things
15 proceed, but for those of you who have not, I want to kind of
16 sort of lay out a roadmap of what to expect.

17 The first thing that I want to make you aware of is that
18 this is criminal court. It is different than perhaps many of
19 you have served on a civil jury before and although in a civil
20 jury and in a criminal trial the scene is about the same
21 because you've got a jury sitting over there, you've got
22 litigants on both sides, witnesses taking the witness stand,
23 but the difference is -- I mean the similarities really stop
24 there because in criminal court there are certain
25 constitutional safeguards that come into play, the first of

1 which is the defendant as he's sitting there at the defense
2 table is presumed to be as innocent as me or you. It's like a
3 protective cloak that guards him and all American citizens
4 when they are accused of a crime. That presumption is a very
5 real presumption and it follows him throughout the trial and
6 on into the jury deliberation process.

7 The second constitutional safeguard is that the State has
8 the burden of proof. There are some theoretical reasons
9 behind that and that would be that we live in a free and
10 democratic society. When a police agency attempts to take
11 away your liberty, they are required to prove the elements of
12 the crime. There are some practical reasons for that because
13 they have law enforcement. They're there. They have the
14 ability to gather evidence and produce it to a jury in order
15 to obtain a conviction. They are the ones that have to prove
16 each and every element beyond a reasonable doubt.

17 There are certain Third World countries where you can be
18 accused of a crime, hauled before a tribunal, and given the
19 responsibility of proving your innocence. That isn't the way
20 it is in the United States of America. No one is required to
21 prove their innocence because, after all, everybody in their
22 everyday lives has been accused of something and it's
23 absolutely impossible to prove your innocence. You can't do
24 that quite often.

25 So that's the reason for the presumption of innocence and

1 the fact that the State has the burden of proof. Bear that in
2 mind as this trial progresses.

3 The third and perhaps most important safeguard is that
4 the State not only has to prove each and every element of all
5 of the crimes for which they are accusing the defendant of
6 committing, but they have to meet the highest burden of proof
7 known to our judicial system and it's proof beyond a
8 reasonable doubt.

9 Many of you have probably served on a jury or maybe a
10 contract dispute, a car accident, a medical malpractice case,
11 and in that instance when a plaintiff brings a lawsuit,
12 imagine with me if you will the scales of justice where the
13 lady is blindfolded from all bias and all prejudice. When the
14 case starts, the scales are even. And in a civil trial, the
15 plaintiff, the injured person, need only tilt the scales ever
16 so slightly in their favor, proof by a preponderance of the
17 evidence or more likely than not. That's all they have to
18 prove because, after all, in a civil case all you're talking
19 about is money.

20 But in a criminal case, we're talking about very
21 important constitutional and fundamental rights. For that
22 reason, the State is required to meet the highest burden of
23 proof, and it's proof beyond a reasonable doubt. I envision
24 that as locking up the scales. I will define proof beyond a
25 reasonable doubt in greater detail at the conclusion of the

1 case, but bear that in mind.

2 The State has the burden of proof and the trial will
3 begin with Ms. Jones standing up before you and giving an
4 opening statement. She's going to tell you sort of in summary
5 fashion what this case is about. She might talk to you a
6 little bit about the law and what evidence she intends to
7 present to you in this case.

8 The defendant, as I'd already mentioned to you, doesn't
9 have to prove anything. They don't have to testify. They
10 don't have to present any witnesses because, after all, the
11 burden of proof is on the State.

12 After the State presents their opening statements, the
13 defendant, although they are not required to, they'll be given
14 an opportunity to give an opening statement and I anticipate
15 they will, but they're not required to because they don't have
16 a burden of proof in this -- in this proceeding.

17 After that, then we'll begin the taking of evidence in
18 this -- in this trial. And once again, the State goes first.
19 They'll call witnesses to the witness stand and they'll start
20 presenting evidence.

21 Evidence takes many different forms, one of which is the
22 oral testimony that you hear from these witnesses. Sometimes
23 documentary evidence, sometimes stipulations from counsel,
24 sometimes in certain circumstances depositions, but not -- not
25 very often in criminal cases. But evidence will be presented

1 to you from the State.

2 Then the defendant -- after they rest and they've
3 presented all of their evidence, then the defendant is going
4 to be given an opportunity to present evidence if they elect
5 to do so, but once again, they're not required to do so.

6 At the conclusion of taking all the evidence, then we
7 will proceed forward with what's called closing arguments and
8 they're very, very similar in form to opening statements in
9 that the lawyers will stand up before you and in summary
10 fashion talk about the case.

11 But opening -- but closing statements are different than
12 opening statements in that they are truly argumentative in
13 nature because at that point in time you will have heard all
14 of the evidence that's been presented in this case and these
15 very fine lawyers can point to the evidence or lack of
16 evidence that supports their relative positions. What they
17 say is not evidence, but it will aid you immensely in your
18 deliberation process.

19 Ladies and gentlemen of the jury, you and I have
20 differing roles to play in this -- in this trial. My role is
21 the trier of the law, the arbiter of the law. I make the
22 determination as to what evidence you get to hear. I preside
23 over the proceeding and I charge you the substance of the law
24 at the conclusion of the case.

25 Ladies and gentlemen of the jury, you are the sole and

1 exclusive judges of the facts. You're the ones that are going
2 to listen to the witnesses, listen to the evidence that's
3 presented, and determine what the truth is. In every case
4 that's tried in the United States of America, there is always
5 a question of fact, and in very rare instances sometimes the
6 lawyers agree as to what the facts is, but disagree about the
7 inferences to be drawn from the facts.

8 But in both instances, there is a question of fact that
9 you are going to have to resolve. Y'all in your collective
10 wisdom are going to have to decide which version and what the
11 truth is, make the determination as to what the facts are, and
12 apply it to the law. That's your job.

13 Necessarily, ladies and gentlemen of the jury, as the
14 trier of fact you're going to be called upon to evaluate the
15 credibility of witnesses. I want to tell you a little bit
16 about how to do that. I'll charge you in greater detail at
17 the conclusion of the case, but from the outset when a witness
18 -- when a witness takes the witness stand, ask yourself what
19 opportunity they had to observe the things to which they're
20 testifying. Ask yourself whether or not they have an interest
21 in the case, whether or not there's a prejudice or a bias in
22 their testimony.

23 You can believe everything a witness says, none of what a
24 witness says, or a portion thereof. That's completely within
25 your wisdom and collective wisdom as a jury to make those

1 decisions.

2 Sometimes when you're evaluating the credibility of a
3 witness, any of you who like myself have had teenage children,
4 it's important sometimes to pay attention to what they say,
5 but sometimes more importantly to pay attention to the way in
6 which they say it, their demeanor. Just use -- we in our
7 everyday lives -- in everyday activities, we make a
8 determination as to whether or not someone is believable, and
9 the law says that you can use your good common sense in that
10 regard. So pay very close attention.

11 Ladies and gentlemen of the jury, you are the sole and
12 exclusive judges of the facts and I want to tell you something
13 from the very outset and this is something you need to pay
14 attention to. It is that if you make an error with regard to
15 the finding of fact, quite often those errors never can be
16 corrected.

17 If I make an error with regard to the decisions of law
18 about whether or not I let in the appropriate amount of
19 evidence or whether I charge the law right, quite often those
20 errors can be corrected. But if there's an error in the
21 findings of fact, quite often they never can be corrected.

22 So you need to pay very close attention. These are
23 important matters. You've taken a solemn oath that you will
24 listen to the witnesses who take the witness stand, determine
25 what the truth is, and apply it to the law.

1 Ladies and gentlemen of the jury, you are participating
2 in a time-tested system. This is a very important case. It's
3 important to the State of South Carolina, it's important to
4 the defendant, Mr. Wright, and it's important to you because
5 you have taken a solemn oath to do what you think is right and
6 what's fair and follow the law.

7 I'm going to ask -- these are very, very, very important
8 matters. I can't imagine anything that you could do as a
9 citizen other than the service in wartime that would be more
10 important than this. I'm going to ask that you proceed
11 forward with a serious and contemplative mind. You are
12 participating in a time-tested system. Pay very close
13 attention. Ms. Jones?

14 MS. JONES: Thank you, Your Honor. May it please the
15 Court.

16 THE COURT: Yes.

17 OPENING STATEMENT ON BEHALF OF THE STATE

18 MS. JONES: Nathaniel Wright, the defendant -- he also
19 goes by the name of Dion -- is a man who demands respect. And
20 on October 1st, 2014, over on Captain Bill Road pretty close to
21 the courthouse, Dion was disrespected by a man named Tag.

22 It was a typical Wednesday afternoon, mid to late
23 afternoon, over on Captain Bill Road, [REDACTED] Captain Bill to be
24 exact. Dion goes to his mother's house, his mother Lucille.
25 He gets there with another cousin named Antoine, and other

1 family members and friends are already out there. Everything
2 seems fine until Tag and Dion start arguing over money. Each
3 argued that the other owed him money.

4 It goes on for a couple minutes or so and family members
5 try to break up the argument. They're not successful though
6 and the argument continues. But as these minutes pass, Dion
7 gets more and more fed up. How dare Tag accuse him of owing
8 him money in front of his mom, in front of his kids, in front
9 of his family, in front of his friends at his mom's house?
10 How dare you do that? Dion had enough.

11 He was disrespected. He had enough. He goes into his
12 car, his green Honda, pulls out a gun, and starts firing.

13 (WHEREUPON, counsel knocks on the podium four times.)

14 MS. JONES: The first shots hit Dion -- hit Tag. He's
15 hit in the chest. He's hit in his arm. He's hit in his hand.
16 He turns to run. But Dion is not done shooting.

17 (WHEREUPON, counsel knocks on the podium three times.)

18 MS. JONES: Three more are fired. He hits him three
19 times in the lower back. Tag is on the ground helpless and
20 Dion is still not done.

21 (WHEREUPON, counsel knocks on the podium two times.)

22 MS. JONES: Two more shots come out of Dion's gun and
23 it's these last two final bullets that take Tag's life
24 forever. Tag was shot a total of eight times that afternoon.

25 And while Dion was still shooting, while he is still

1 firing his handgun at Tag, former Deputy Leonard Brown with
2 the Sheriff's Office, Jasper County Sheriff's Office, hears
3 the gunfire ringing out. He's in the area. He goes over to
4 Captain Bill Road and he sees what he can describe as a
5 frantic scene. He also sees this green Honda Accord speeding
6 out of the driveway.

7 A chase ensues. They go all throughout town. Multiple
8 sheriff's deputies get behind this green Honda. They go all
9 through Ridgeland and get on I-95, but ultimately when Dion
10 realizes he has nowhere else to go, he turns around and he
11 goes right back where it all began, his mother's home on
12 Captain Bill Road. That green Honda comes back to Captain
13 Bill Road and out steps Dion, the defendant, and he's
14 ultimately arrested.

15 When he comes back to Captain Bill Road, he's able to
16 give the Sheriff's Office and those around a little bit of
17 insight into what he was thinking. He's out of his car. Tag
18 is lying on the ground dead. The words that come out of
19 Dion's mouth are I'm not going to let that N disrespect me.
20 That's it. He murdered Tag because he felt disrespected.

21 But there's something about Tag that I haven't told you
22 yet. Tag's name was Maurice Wright. Wright. As in Lucille
23 Wright. As in Nathaniel Wright. Tag and Dion were brothers.

24 Brothers. You hear that word and you think one of the
25 strongest bonds that could possibly exist. Even the term

1 brotherhood means loyalty, friendship, and understanding, but
2 when the defendant felt disrespected by his brother, he didn't
3 look into his heart into his brotherly love. No. He goes
4 into his car, he gets that handgun, and he kills him.

5 Now, today the defendant is charged with murder for
6 murdering his brother Tag, Maurice Wright, and for possession
7 of a weapon during the commission of a violent crime for using
8 a handgun to do so. And in the next few days, you're going to
9 hear from multiple witnesses and they're going to take you
10 back in time.

11 They're going to take you back to October 1st of 2014 and
12 they're going to take you back to [REDACTED] Captain Bill Road,
13 Lucille's home, Tag's mother's home, the defendant's mother's
14 home. Please go back in time with them. I want you to open
15 your eyes and see the events that took place that day. See
16 how this argument over money escalates into murder.

17 And I'm confident that after you hear all of the evidence
18 from that witness stand that you will be firmly convinced that
19 the defendant is guilty of murder and possession of a weapon
20 during the commission of a violent crime, and all sadly
21 because he felt disrespected.

22 THE COURT: Thank you, Ms. Jones. The defense is
23 recognized. Mr. Newman? Ms. Smart?

24 MS. SMART-GITTINGS: May it please the Court, Your Honor.

25 THE COURT: Yes.

OPENING STATEMENT ON BEHALF OF THE DEFENDANT

MS. SMART-GITTINGS: Solicitor Jones. Good morning, ladies and gentlemen.

Pow, pow, pow, pow, pow, pow, pow. That's undisputed. There were gunshots fired. The State is going to tell you that one of their patrol officers were in the area of Captain Bill Road. That's important. Why is that important? Because he tells you how many gunshots that he heard. He tells dispatch how many gunshots that he heard. He's also going to tell you that he left the crime scene. He left the house. He left the yard unattended. He left the yard with people running around, ducking, screaming, and yelling.

What you will also hear from law enforcement is that they had to ask for extra help to secure the crime scene. Now, why is that important? It's undisputed that gunshots were fired, but when you see the physical evidence, when you see the photos of the crime scene, look and see how many casings are left behind. And if you know as a fact that there were a certain amount of bullets fired and those casings are not at the scene, if it's not consistent, ask yourselves what happened to the other casings. Where did they go? If they weren't discovered, where are they?

The State has about 30 witnesses that they're going to bring in to you for you to hear testimony, for them to explain to you what happened to Maurice Wright. About five or six of

1 those witnesses were actually at Lucille Wright's house that
2 day. Maybe three of them might have seen what happened.

3 Officer Brown was in close proximity; so he was able to
4 hear the information. He was able to hear the gunshots. He's
5 going to testify about that, but what he's not going to tell
6 you is that that was Tag's house -- that was Dion's house.
7 Nathaniel lived there most of the time with his mother.

8 They're not going to tell you that Nathaniel was there
9 minding his business. In fact, he was fixing his child's
10 four-wheeler. He got a screwdriver. He's trying to get this
11 four-wheeler to work for his child, and his brother comes over
12 and he's antagonizing him. He's following him everywhere he
13 goes. He's punching him. He's cursing at him. He's yelling
14 at him and he's, like, just leave me alone. Mom, tell him to
15 leave me alone. Just leave me alone. That's all I want you
16 to do. I'm going to fix my babies' four-wheeler. I'm going
17 to go about my business.

18 But Maurice doesn't do that. He continues to antagonize.
19 He continues to harass him. He continues to just debate him,
20 to anger him. You'll hear testimony that Maurice was an
21 aggressive person. He was -- he was the bigger brother. He
22 was the older brother. He was the more dominating brother.
23 All Nathaniel wanted to do was fix his bike and go on about
24 his way.

25 The State is going to bring you their most important

1 witness, Antoine Drake. Antoine Drake is going to talk to you
2 about being with Maurice that day and being with Nathaniel
3 that day and he's going to tell you what all he observed.

4 He's also going to tell you that he has to come in and
5 testify to specific facts today.) He has no other choice. He
6 can't take his story back. He has to testify consistently
7 with what he told the State.

8 Now, he didn't tell the State this the night that this
9 happened on October 1st. He didn't have anything to say to
10 Detective Wright when he tried to talk to him. He didn't talk
11 to the State in November. He didn't talk to Agent Shealy
12 until December when he was arrested for a trial in his absence
13 and he was facing a sentence. He didn't know what sentence he
14 was facing, but he was facing a sentence and the only way that
15 he wouldn't have to go to jail is if he testified truthfully
16 to the statement that Investigator Shealy had written.

17 Well, Antoine says he can't read and he can't write, but
18 he has to testify to what was written in that statement by
19 Investigator Shealy. So let's talk about bias. The judge
20 already spoke to you about bias.

21 Who has the most to lose in this case besides Nathaniel?
22 Antoine. So although he might have been a cousin to the boys,
23 but right now his freedom is at stake. And so he's going to
24 come in here and tell you exactly what the State wants him to
25 tell you so that he doesn't have to go to jail.

1 Right now, Nathaniel sits there with a blank slate. The
2 State with every witness has to paint a picture and it's up to
3 you to determine whether or not the State's witnesses have
4 painted a full picture.

5 At the end of the trial, if they haven't covered every
6 line, if they haven't connected every dot and it's still
7 blank, we submit to you that that's reasonable doubt. If you
8 don't have a full picture about what happened at Lucille
9 Wright's house on October the 1st, then the State hasn't met
10 their burden. They haven't proved to you beyond a reasonable
11 doubt that Nathaniel Wright shot his brother Maurice Wright in
12 self-defense. They have to prove to you that he had no other
13 choice. Nathaniel does not have to prove to you that it was
14 in self-defense, but the State has to prove to you that it was
15 not.

16 And we submit after you listen to the testimony and
17 you've taken into consideration the biases, you've taken into
18 consideration the opportunity for the witnesses to see -- and
19 I believe the witnesses are going to be -- for the most part
20 be pretty honest. Belinda Wright is going to tell you she was
21 in the area. She didn't see it. She didn't see the shooting.
22 She heard it, but she didn't see it.

23 Lance Wright is going to tell you he heard the argument.
24 Maurice came to his house behind Nathaniel. He saw Maurice
25 being aggressive. He saw Maurice reaching for something on

1 his -- on his side. He's going to tell you that, but he's
2 going to tell you we didn't see the shooting.

3 The neighbor is going to tell you we just didn't see it.
4 We heard it. We didn't see it. Johnny Brown is going to tell
5 you he saw a black gun. Antoine Drake has to tell you that he
6 saw a chrome gun. So Johnny Brown sees a black gun; Mr. Drake
7 sees a chrome gun. Two guns or someone is mistaken about how
8 the gun looked. If there are two guns, none of which will be
9 in this courtroom today, then you have to ask yourself where
10 did those guns go. Where are they?

11 You're going to hear testimony that Antoine Drake was
12 over Maurice's body taking things out of Maurice's pockets.
13 Well, what did he take? There wasn't a gun at the scene.
14 Officer Brown saw Nathaniel when he left the scene and he
15 followed him until he came back and he was secured as soon as
16 he got out of the car. They didn't find a gun.

17 So where did it go? If it wasn't with Nathaniel in the
18 car and it was left at the crime scene, who took it? Did his
19 mother take it? Did a grieving mother take a gun or did
20 Antoine Drake take the gun? Did Antoine Drake take the shell
21 casings? Think about that, especially when you hear the
22 testimony of Antoine Drake. What does he have to gain by
23 coming in here and telling you exactly what the State wants
24 you to hear?

25 If you find that the State has not painted a full picture

1 for you, I submit to you that your verdict, the just and true
2 verdict, will be not guilty.

3 THE COURT: Thank you, Ms. Smart. Ms. Jones, you're
4 recognized. You may call your first witness.

5 MS. JONES: Thank you, Your Honor. The State calls Rusty
6 Wells.

7 (WHEREUPON, there was a pause in the proceedings until
8 the witness entered the courtroom.)

9 THE COURT: Mr. Wells, please come forward. I'm going to
10 ask you, if you could, to approach the clerk and place your
11 left hand on the Bible and raise your right hand as the clerk
12 administers the oath.

13 THE CLERK: The testimony you are about to give the Court
14 will be the truth, the whole truth, and nothing but the truth,
15 so help you God?

16 THE WITNESS: So help me God.

17 THE CLERK: Go right around.

18 THE COURT: Have a seat in the witness chair. I'm going
19 to ask that you speak loudly, clearly, and slowly in order
20 that we can hear everything that you have to say. I'm going
21 to ask you to have a seat in the witness chair. Pull up real
22 close to that microphone and let's start with your full name,
23 Mr. Wells.

24 THE WITNESS: Yes, sir. Russell Wells.

25 RUSSELL WELLS, being first duly

RUSTY WELLS - DIRECT BY MS. JONES

1 sworn, testified as follows:

2 DIRECT EXAMINATION

3 BY MS. JONES:

4 Q: Good morning.

5 A: Good morning.

6 Q: Where are you currently employed?

7 A: Jasper County Emergency Services.

8 Q: And in what capacity do you work for Emergency Services?

9 A: Deputy director.

10 Q: What are some of your duties in that capacity?

11 A: Fire and rescue, emergency medical services, emergency
12 management, and 9-1-1 communications.

13 Q: Okay. What are some of your duties regarding 9-1-1
14 communications?

15 A: I oversee the 9-1-1 communication center.

16 Q: Did you receive a request to pull some 9-1-1 calls in
17 reference to the case we're here for today?

18 A: Yes, ma'am.

19 Q: And did you, in fact, pull those 9-1-1 calls?

20 A: Yes, ma'am.

21 Q: Did you place them on a disk?

22 A: Yes, ma'am.

23 MS. JONES: Permission to approach the witness, Your
24 Honor?

25 THE COURT: Yes.

RUSTY WELLS - DIRECT BY MS. JONES

1 BY MS. JONES:

2 Q: I'm showing you what's been previously marked as State's
3 Exhibit 1. Can you please identify that for the Court?

4 A: That would be the CD that I have created.

5 Q: Okay. How do you know that's the CD you created?

6 A: I signed it and that actually has our logo on it.

7 Q: Okay. And what does that CD contain?

8 A: All 9-1-1 audio, radio traffic audio for this particular
9 incident.

10 Q: Okay. No other incidents, just this particular one?

11 A: Yes, ma'am.

12 Q: And does that fairly and accurately depict the 9-1-1
13 calls that came in that night for this case?

14 A: Yes, ma'am.

15 MS. JONES: Your Honor, at this time, the State moves
16 State's 1 into evidence.

17 THE COURT: Any objection from the defense?

18 MS. SMART-GITTINGS: No objection, Your Honor.

19 THE COURT: All right. State's Exhibit 1 is into
20 evidence.

21 (WHEREUPON, State's Exhibit Number 1, CD containing 9-1-1
22 calls, was admitted into evidence.)

23 MS. JONES: Permission to publish?

24 THE COURT: Yes.

25 (WHEREUPON, State's Exhibit Number 1, the 9-1-1 calls on

RUSTY WELLS - CROSS BY MR. NEWMAN

1 CD, was played in open court. NOT TRANSCRIBED HEREIN.)

2 MS. JONES: We can end that call right there.

3 THE COURT: All right. Well, hang on. Might counsel
4 approach the bench?

5 (WHEREUPON, a bench conference was held off the record.)

6 (WHEREUPON, State's Exhibit Number 1 resumed playing in
7 open court and was then stopped. NOT TRANSCRIBED
8 HEREIN.)

9 MS. JONES: I have no further questions for you at this
10 time.

11 THE COURT: Cross-examination.

12 CROSS-EXAMINATION

13 BY MR. NEWMAN:

14 Q: How long did it take you all to get out there?

15 A: I honestly don't know, sir, unless I see the report.

16 Q: Okay.

17 MR. NEWMAN: I don't have any further questions.

18 THE COURT: All right. Any redirect?

19 MS. JONES: No, Your Honor.

20 THE COURT: You may step down. Thank you, sir. You may
21 call your next witness.

22 MS. JONES: The State calls Belinda Wright.

23 (WHEREUPON, there was a pause in the proceedings until
24 the witness entered the courtroom.)

25 THE COURT: Ms. Wright, please come forward. I'm going

BELINDA WRIGHT - DIRECT BY MS. JONES

1 to ask you, if you could, to approach the clerk here.

2 Approach the clerk and place your left hand on the Bible and
3 raise your right hand as the clerk administers the oath.

4 THE CLERK: The testimony you are about to give the Court
5 will be the truth, the whole truth, and nothing but the truth,
6 so help you God?

7 THE WITNESS: Yes, ma'am.

8 THE COURT: Ms. Wright, please come forward. I'm going
9 to ask you, if you could, to have a seat in the witness chair.
10 Pull up real close to that microphone and speak loudly,
11 clearly, and slowly in order that we can hear everything that
12 you have to say and let's start with your full name.

13 THE WITNESS: Belinda Brenda Marie Wright.

14 THE COURT: Say that again?

15 THE WITNESS: Belinda Brenda Marie Wright.

16 THE COURT: Very good.

17 MS. JONES: Thank you, Your Honor.

18 BELINDA WRIGHT, being first duly
19 sworn, testified as follows:

20 DIRECT EXAMINATION

21 BY MS. JONES:

22 Q: Good morning, Ms. Wright.

23 A: Good morning.

24 Q: Do you know somebody by the name of Nathaniel Wright?

25 A: Yes.

BELINDA WRIGHT - DIRECT BY MS. JONES

- 1 Q: How do you know him?
- 2 A: That's my nephew.
- 3 Q: Okay. How is he your nephew?
- 4 A: My sister's son.
- 5 Q: What sister would that be?
- 6 A: Lucille Wright.
- 7 Q: Okay. So are you Lucille's sister?
- 8 A: Yes.
- 9 Q: Okay. So would Tag -- would Maurice Wright have been
10 your nephew also?
- 11 A: Yes.
- 12 Q: Do you call them by other names besides Maurice and
13 Nathaniel?
- 14 A: Dion and Tag.
- 15 Q: Okay. Who was who?
- 16 A: Dion is Nathaniel and Tag is Maurice.
- 17 Q: Okay. You just pointed. Who are you pointing to?
- 18 A: Nathaniel.
- 19 Q: Okay.
- 20 MS. JONES: May the record reflect the witness did point
21 and identify Nathaniel as Dion.
- 22 BY MS. JONES:
- 23 Q: Do you live near Lucille?
- 24 A: Yes.
- 25 Q: Okay. How close do you live to Lucille?

BELINDA WRIGHT - DIRECT BY MS. JONES

- 1 A: Probably from here a little past the water department.
- 2 Q: Okay. So walking distance?
- 3 A: Yes.
- 4 Q: Okay. Do you remember October 1st of 2014?
- 5 A: Yes.
- 6 Q: Okay. What do you remember about that day?
- 7 A: I remember when I came up to my sister's house, they was
- 8 arguing before I got there and he left.
- 9 Q: And who is they?
- 10 A: Maurice and Dion.
- 11 Q: Okay. So they were arguing at -- where were they
- 12 arguing?
- 13 A: At their mother's house, Lucille.
- 14 Q: Okay. And then what do you remember?
- 15 A: They was arguing and I tell them y'all should stop that
- 16 arguing and I left.
- 17 Q: Okay. Was anybody else around?
- 18 A: His mother, Dion's sister-in-law, and then the kids and
- 19 Johnny Brown, Derek, Antoine.
- 20 Q: Okay. Do you know Antoine's last name?
- 21 A: Drake.
- 22 Q: Are you related to Antoine?
- 23 A: Yes.
- 24 Q: How are you related to him?
- 25 A: That's my grandnephew.

BELINDA WRIGHT - DIRECT BY MS. JONES

- 1 Q: Okay. You mentioned that you told them to stop arguing?
- 2 A: Yes.
- 3 Q: Did they listen to you?
- 4 A: No. I was not directly in their face, but I just said
- 5 y'all stop arguing and I left.
- 6 Q: Okay. When you left, where did you go?
- 7 A: I went to my cousin's house.
- 8 Q: Is that nearby?
- 9 A: Yes.
- 10 Q: How close to Lucille's is your cousin's house?
- 11 A: Right across the field. The main road that goes to my
- 12 house is between my cousin's house and my sister's house.
- 13 Q: Okay. Why did you go to your cousin's house?
- 14 A: I always go there when I go see them.
- 15 Q: Okay.
- 16 A: Yeah.
- 17 Q: When you're at your cousin's house, what happens?
- 18 A: When I was at my cousin's house?
- 19 Q: Uh-huh.
- 20 A: When I went to my cousin's house, I knocked on the door
- 21 and before she could open the door to let me in, all I hear
- 22 was the shots and I just went running back over there.
- 23 Q: Okay. How many shots do you think you heard?
- 24 A: I don't remember.
- 25 Q: Was it more than one?

BELINDA WRIGHT - DIRECT BY MS. JONES

- 1 A: Yes.
- 2 Q: Okay. You went running back over where?
- 3 A: To my sister's house.
- 4 Q: What did you see when you get back to your sister's
- 5 house?
- 6 A: I saw my nephew was laying on the ground and my sister
- 7 was hollering.
- 8 Q: Okay. Did you see anything else?
- 9 A: No.
- 10 Q: Where was Dion? Where was the defendant?
- 11 A: Oh, Dion had left.
- 12 Q: How do you know he left?
- 13 A: Because I was running over there at the time.
- 14 Q: And did you see him leave?
- 15 A: Yes.
- 16 Q: Okay. How did he leave?
- 17 A: He was in his car.
- 18 Q: What kind of car was that?
- 19 A: I think it was a Honda.
- 20 Q: Do you remember what color it was?
- 21 A: I think it was green.
- 22 Q: Okay. But you didn't see the shooting?
- 23 A: No.
- 24 Q: You just heard the shots?
- 25 A: I just heard the shots. No, I didn't saw any shooting.

BELINDA WRIGHT - DIRECT BY MS. JONES

1 Q: Okay. But again, it was the defendant who was arguing
2 with --

3 A: Uh-huh.

4 Q: -- Tag?

5 A: Uh-huh.

6 Q: Okay.

7 MS. JONES: I have no further questions for you. Thank
8 you.

9 THE COURT: Cross-examination.

10 MS. SMART-GITTINGS: No questions for this witness, Your
11 Honor.

12 THE COURT: You may step down. Thank you, ma'am. You're
13 free to leave. Ms. Jones, you may call your next witness.

14 MS. JONES: Thank you, Your Honor. The State calls
15 former Jasper County Deputy Leonard Brown.

16 (WHEREUPON, there was a pause in the proceedings until
17 the witness entered the courtroom.)

18 THE COURT: Deputy Brown, please come forward. I'm going
19 to ask you to approach the clerk and place your left hand on
20 the Bible and raise your right hand as the clerk administers
21 the oath.

22 THE CLERK: The testimony you are about to give the Court
23 will be the truth, the whole truth, and nothing but the truth,
24 so help you God?

25 THE WITNESS: Yes, ma'am.

LEONARD BROWN - DIRECT BY MS. JONES

1 THE COURT: Deputy Brown, have a seat in the witness
2 chair. I'm going to ask that you pull up close to that
3 microphone and speak loudly, clearly, and slowly in order that
4 we can hear everything that you have to say and let's state
5 your full name, please, sir.

6 THE WITNESS: Leonard Maurice Brown Sr.

7 THE COURT: Very good.

8 MS. JONES: Thank you, Your Honor.

9 LEONARD BROWN, being first duly
10 sworn, testified as follows:

11 DIRECT EXAMINATION

12 BY MS. JONES:

13 Q: Mr. Brown, where are you currently employed?

14 A: International Longshoremens' Association, Local 1414, in
15 Savannah, Georgia.

16 Q: Okay. Where were you working back on October 1st of 2014?

17 A: Jasper County Sheriff's Department.

18 Q: And in what capacity were you working with the Sheriff's
19 Department?

20 A: I was the school resource officer at the Ridgeland-
21 Hardeeville High School.

22 Q: As a school resource officer, what sort of car were you
23 driving?

24 A: I was driving an unmarked gray-in-color Crown Victoria.

25 Q: Okay. Is that car equipped with any -- any sort of audio

LEONARD BROWN - DIRECT BY MS. JONES

1 or video recording equipment?

2 A: No.

3 Q: No? And why is that?

4 A: I'm assuming it just doesn't have any. I'm not sure of
5 any particular reason.

6 Q: Okay. And when you say you're a school resource officer,
7 you report to the schools and work out of the schools?

8 A: Yes.

9 Q: Okay. How long had you been with the Sheriff's Office
10 prior to October 1st of 2014?

11 A: My hire date at the Sheriff's Office was October 22nd,
12 2012.

13 Q: Okay. So almost two years?

14 A: Correct.

15 Q: Do you remember October 1st of 2014?

16 A: Yes.

17 Q: Okay. What do you remember about that -- that afternoon?

18 A: That afternoon -- that evening, I was over in the area of
19 Fordsville. When I came to the intersection of Henry Lawton,
20 I made a left on Captain Bill Road. Shortly thereafter, when
21 I made the left turn, I saw individuals over in the yard. I
22 believe it's probably [REDACTED] Captain Bill Road. They were
23 ducking down and I downed my window at that time and I heard
24 several gunshots.

25 I proceeded to turn around at Fordsville Road. When I

LEONARD BROWN - DIRECT BY MS. JONES

1 turned my vehicle back around and got to the intersection of
2 Henry Lawton and Captain Bill Road, I heard several people in
3 the yard screaming, screaming. At that time, I saw the green
4 Honda Accord pull out of the driveway at a high rate of speed
5 leaving the area.

6 Q: Okay. Just to backtrack a little bit, Fordsville -- the
7 Fordsville area or Henry Lawton Road, Captain Bill Road, what
8 county is that in?

9 A: Jasper County.

10 Q: Okay. How close is that to where we are today?

11 A: Not very far. Maybe two miles approximately I would say,
12 something like that.

13 Q: Okay. So after you see this green Honda, how would you
14 describe it exiting the driveway?

15 A: It left the driveway pretty quickly.

16 Q: Okay.

17 A: So it drew my attention to it.

18 Q: Okay. After you see this green Honda leaving pretty
19 quickly, what do you do?

20 A: I slow down. I heard the individuals in the yard
21 screaming and at that time I contacted communications to
22 advise them because I had already heard the gunshots in the
23 area to send EMS to that location and I also advised them at
24 that time that I would be in pursuit of the green Honda
25 Accord. At that time, I initiated my emergency sirens and

LEONARD BROWN - DIRECT BY MS. JONES

1 lights and I continued to pursue the green Honda Accord up
2 Henry Lawton Road.

3 Q: Okay. And did you, in fact, pursue this -- this green
4 Honda?

5 A: Yes, I did.

6 Q: Okay.

7 (WHEREUPON, there was a pause in the proceedings as
8 counsel conferred.)

9 MR. NEWMAN: Just subject to our previous objection on
10 this matter.

11 THE COURT: All right. Your objection is noted and
12 that's denominated as?

13 MS. JONES: State's Exhibit 2.

14 THE COURT: State's Exhibit 2 is into evidence.

15 (WHEREUPON, State's Exhibit 2, large roadmap, was
16 admitted into evidence.)

17 MS. JONES: Thank you.

18 BY MS. JONES:

19 Q: Mr. Brown, can I ask you to come down from the witness
20 stand?

21 (WHEREUPON, the witness complied.)

22 MS. JONES: Well, Your Honor, permission to have Mr.
23 Brown come down?

24 THE COURT: Yes.

25 BY MS. JONES:

LEONARD BROWN - DIRECT BY MS. JONES

- 1 Q: What is this that I -- that you see here?
- 2 A: That's a map of the area in which I pursued the Honda
- 3 Accord.
- 4 Q: Okay. Can you see on that map where you initiated your
- 5 pursuit?
- 6 A: Yes.
- 7 Q: Okay. Can you point that out, please?
- 8 A: It was right here where the green circle is at the
- 9 intersection of Henry Lawton and Captain Bill Road.
- 10 Q: And from that location, where did y'all travel?
- 11 A: From this location, we traveled back up Henry Lawton
- 12 right here.
- 13 Q: Stand over here so the jury can hear you.
- 14 A: Okay. From this location here at Henry Lawton Road, we
- 15 traveled back down Henry Lawton to Grahamville Road. We made
- 16 this right on Grahamville Road and proceeded back down and we
- 17 turned here. We proceeded down Green Street, crossed over.
- 18 We crossed over Wilson Street and proceeded back down Green
- 19 Street all the way down to South -- towards South Jacob Smart
- 20 Boulevard. We continued pursuing at this time. When we --
- 21 when we got back here around in this area here, that's when
- 22 Deputy Ellis took over the pursuit.
- 23 Q: Is he also with the Sheriff's Department?
- 24 A: Yes, he is.
- 25 Q: Why did he take over the pursuit?

LEONARD BROWN - DIRECT BY MS. JONES

1 A: He has video and camera equipment in his vehicle -- his
2 patrol vehicle.

3 Q: Okay. But did you remain in the chase?

4 A: Yes.

5 Q: Okay. When Deputy Ellis picked up, where did y'all
6 travel next?

7 A: We continued to travel back all the way down South Jacob
8 Smart Boulevard, also Highway 17, and we entered onto 95 at
9 Exit 18, like on the outskirts going back towards out of town
10 towards Hardeeville. We traveled I-95 South all the way down
11 southbound until about here and I believe that's mile marker
12 12 or something. I'm not exactly sure.

13 Q: Okay.

14 A: And that's at that time when he veered off into the
15 median. He came into oncoming traffic, which is traveling
16 northbound. We continued the pursuit all the way back up 95
17 northbound to Bee's Creek, back to Exit 18 where he got off on
18 Exit 18, entered Bee's Creek Road, traveled down Bee's --
19 well, there were some patrol units here when he got off of 95,
20 but that didn't stop him.

21 The pursuit continued. We continued onto Bee's Creek
22 Road all the way back down -- all the way back down to Captain
23 Bill Road and our pursuit ended here because this road -- the
24 road was blocked off with other deputies and EMS responders at
25 the incident.

LEONARD BROWN - DIRECT BY MS. JONES

1 Q: Okay. Was it close to where you originally saw him
2 fleeing?

3 A: Yes, it was.

4 Q: Okay. You can have a seat. Thank you so much.

5 (WHEREUPON, the witness complied.)

6 BY MS. JONES:

7 Q: You mentioned right around here there was some other law
8 enforcement?

9 A: Yes. There was another patrol unit blocking the roadway
10 at there. Once we got off of the exit ramp on Exit 18 to keep
11 -- he couldn't go any further up that way. There was a patrol
12 unit blocking, like, right there at the intersection at Bee's
13 Creek Road. So that's when he veered off back onto Bee's
14 Creek Road.

15 Q: Okay. At this time, how long from when you initially
16 start the chase up here until you go all this way? He cuts
17 through the median around 12 or so you said?

18 A: Yes.

19 Q: Comes back up Exit 18 all the way back to Captain Bill
20 Road. Approximately how much time had passed?

21 A: I can't exactly answer that for sure how much time has
22 passed because I was in the pursuit. I wasn't really
23 monitoring, like, a time frame.

24 Q: Okay. But I mean this is quite some distance?

25 A: Right.

LEONARD BROWN - DIRECT BY MS. JONES

1 Q: Okay. Okay. When the pursuit ends right almost exactly
2 where it started, what happens then?

3 A: There are deputies in the road, like, that he was going
4 towards on Captain Bill. Deputy Ellis was in front of me. At
5 that time when he stopped, we stopped behind him. We got out
6 of -- we exited our patrol units, guns -- weapons drawn,
7 ordered him out of his vehicle and to kneel down on the
8 roadway. Deputy Ellis -- Deputy Ellis stood in front of me
9 maintaining a visual on him. I approached him, handcuffed him
10 along with Detective Wright, which is also employed at the
11 Sheriff's Office. At that time, we placed him in handcuffs.

12 Q: Okay. You keep saying him or he. Who exited that green
13 Honda?

14 A: The defendant.

15 Q: Okay. Can you please point him out for the Court?

16 A: He's sitting over there between his counsel, yes.

17 MS. JONES: May the record reflect that the witness did
18 identify Mr. Wright as the driver of that green Honda.

19 BY MS. JONES:

20 A: Yes.

21 Q: After you, along with a few other members of the
22 Sheriff's Office, placed him in custody, what happens next?

23 A: That's -- when we placed him in custody, he uttered that
24 he --- he didn't respect this -- actually what he said?

25 Q: Yes. What did he say? And he, as in the defendant.

LEONARD BROWN - DIRECT BY MS. JONES

1 What did the defendant say?

2 A: I'm not going to let this nigger disrespect me.

3 Q: Okay. Did he say that once?

4 A: The second time he said I'm not going to let him

5 disrespect me.

6 Q: Okay. Who was he talking to?

7 A: He never said a name of who he was talking to.

8 Q: Okay.

9 A: He just uttered those statements out.

10 Q: Were you asking him questions?

11 A: No questions were asked. Even when he made that

12 statement, no question was asked of who he was speaking in

13 reference to.

14 Q: Okay. Where is he when he makes this statement?

15 A: He's standing up beside his -- the vehicle -- the green

16 Honda Accord, like, at the back of the green Honda Accord.

17 Q: And then he spontaneously says these two statements?

18 A: Yes.

19 Q: Okay. After that, what happens to the defendant?

20 A: The defendant is placed in a patrol unit. That's Deputy

21 Moran's patrol unit at that time.

22 Q: Okay. And was he searched prior to being placed in that

23 patrol unit?

24 A: Yes, he was. He was searched by myself and Detective

25 Wright.

LEONARD BROWN - DIRECT BY MS. JONES

1 Q: Okay.

2 MS. JONES: Permission to approach the witness, Your
3 Honor?

4 THE COURT: Yes.

5 BY MS. JONES:

6 Q: I'm going to show you what's been marked as State's
7 Exhibit 4. Can you identify that, please?

8 A: Yes. These are the belongings which I took off of the
9 defendant out of this person or out of his pockets. The cash
10 was in his right pocket. The cell phone, the lighter, and the
11 car keys.

12 Q: Okay. And does that picture fairly and accurately depict
13 the contents out of his pocket that day?

14 A: Yes, it does.

15 Q: Okay. And that -- you were actually the officer who
16 retrieved those items?

17 A: That's correct.

18 Q: Okay.

19 MS. JONES: Your Honor, at this time, the State moves
20 State's 4 into evidence.

21 THE COURT: Any objection from the defense?

22 MR. NEWMAN: As to relevancy, yes, Your Honor.

23 THE COURT: Let me see it. Might counsel approach the
24 bench?

25 (WHEREUPON, a bench conference was held off the record.)

LEONARD BROWN - DIRECT BY MS. JONES

1 THE COURT: Objection is overruled and 4 is into
2 evidence.

3 (WHEREUPON, State's Exhibit Number 4, a photograph, was
4 admitted into evidence.)

5 MS. JONES: Thank you, Your Honor. Permission to publish
6 to the jury?

7 THE COURT: Yes.

8 BY MS. JONES:

9 Q: Is this the picture that I just showed you? I guess this
10 would be the easiest TV for you to see.

11 A: Yes.

12 Q: Okay. And again, what are those items?

13 A: A cigarette lighter, a cell phone. There's a pack of gum
14 under the cell phone. And there's a quantity of cash.

15 Q: Okay.

16 A: Along with some car keys.

17 Q: Can you tell what those denominations of cash are?

18 A: It's in my initial report. I'm not exactly sure of the
19 amount.

20 Q: Okay.

21 A: But it's in my report.

22 Q: And all that cash came out of the defendant's pocket?

23 A: Yes.

24 Q: Okay.

25 MS. JONES: I have no further questions for this witness.

LEONARD BROWN - CROSS BY MR. NEWMAN

1 THE COURT: Cross-examination, defense.

2 CROSS-EXAMINATION

3 BY MR. NEWMAN:

4 Q: We saw a picture with some money up there. Who's got
5 that money?

6 A: That money was turned over to the South Carolina Law
7 Enforcement Division.

8 Q: Okay.

9 A: Along with all of his other belongings.

10 Q: All right. Now, if I'm reading your report correctly --
11 you did write a written report in this; correct?

12 A: Yes.

13 Q: And you're trained in your reports to be as accurate as
14 you can; correct?

15 A: Yes.

16 Q: And to truthfully relate, recall, and record information;
17 correct?

18 A: Yes.

19 Q: For situations like this that you may have to testify
20 several years after an event may have occurred?

21 A: Yes.

22 Q: All right. Now, in your report you saw some people
23 scattered -- scattering and it says you slowed down to see
24 what was going on and you put your window down and you heard
25 around three gunshots; correct?

LEONARD BROWN - CROSS BY MR. NEWMAN

1 A: Yes.

2 Q: Okay. And you noted that in your report?

3 A: Yes.

4 Q: Okay. Now, you heard Mr. Wright mumbling something about
5 I wouldn't let him disrespect me. Would getting shot at be a
6 form of disrespect?

7 MS. JONES: Objection for speculation.

8 THE COURT: Overruled.

9 BY MR. NEWMAN:

10 Q: Would getting shot at be a form of disrespect?

11 A: I guess it would be.

12 Q: Okay. And then you noted after that you heard four more
13 shots; correct?

14 A: Yes.

15 Q: Okay. And to be clear, when Nathaniel surrendered
16 himself, stopped in the road and got out of the car, it was
17 you and Detective Wright that clapped the bracelets on him?

18 A: Detective Wright was more or less there, but I initially
19 put the bracelets on him.

20 Q: Okay. But Detective Wright was with you?

21 A: Yes.

22 Q: All right. In the roadway?

23 A: Yes.

24 Q: All right.

25 MR. NEWMAN: I believe I'm about done. Let me just

LEONARD BROWN - CROSS BY MR. NEWMAN

1 check.

2 BY MS. JONES:

3 Q: Do you know approximately what time you were at --

4 THE COURT: Just one moment. He's not -- he's not
5 concluded.

6 CONTINUED CROSS-EXAMINATION

7 BY MR. NEWMAN:

8 Q: Did y'all ever write down or make an estimate of how many
9 people were in the yard or in the area?

10 A: I didn't myself.

11 Q: The fact is there was a sea of people around, were there
12 not? Too many to count?

13 A: Yes.

14 Q: All right. And the roadway is about 500 feet from where
15 the incident took place?

16 A: Approximately probably around 500 feet.

17 Q: Would that be about right?

18 A: Yes.

19 Q: Okay.

20 MR. NEWMAN: Thank you.

21 THE COURT: Redirect.

22 MS. JONES: Thank you, Your Honor.

23 REDIRECT EXAMINATION

24 BY MS. JONES:

25 Q: Why didn't you have the number of people in the drive --

LEONARD BROWN - REDIRECT BY MS. JONES

1 in the yard?

2 A: When I came back -- when I turned my vehicle around and
3 came back to the yard -- well, to that particular area, I only
4 heard the lady screaming. I saw Nathaniel Wright in the Honda
5 Accord leaving that area at a high rate of speed. So I
6 pursued that vehicle because there were shots fired in that
7 area to see if this was the suspect that may or may not have
8 fired those shots.

9 Q: All right.

10 A: I pursued the vehicle that was leaving.

11 Q: Okay. And again, what time was this? What time in the
12 afternoon was this?

13 A: I said maybe around 5:30, 5:40, something like that.

14 Q: Okay.

15 MS. JONES: Thank you. I have no further questions.

16 THE COURT: All right. You may step down. Any objection
17 to this witness being excused?

18 MS. SMART-GITTINGS: No objection.

19 THE COURT: You're free to leave. Thank you. You may
20 call your next witness.

21 MS. JONES: The State calls Deputy Ellis.

22 THE COURT: While Deputy Ellis is coming, why don't we
23 stand and stretch just a moment. Why don't we do that and
24 stretch a little bit?

25 (WHEREUPON, there was a pause in the proceedings.)

RAYMOND MORAN - DIRECT BY MS. JONES

1 MS. JONES: Your Honor, permission to approach?

2 THE COURT: Yes.

3 (WHEREUPON, a bench conference was held off the record.)

4 MS. JONES: The State calls Deputy Moran.

5 (WHEREUPON, there was a pause in the proceedings until
6 the witness entered the courtroom.)

7 THE COURT: Deputy Moran, please come forward and
8 approach the clerk and place your left hand on the Bible and
9 raise your right hand as the clerk administers the oath.

10 THE CLERK: The testimony you are about to give the Court
11 will be the truth, the whole truth, and nothing but the truth,
12 so help you God?

13 THE WITNESS: So help me God.

14 THE COURT: Please come forward. I'm going to ask you,
15 if you could, to have a seat in the witness chair. Pull up
16 real close to that microphone and speak loudly, clearly, and
17 slowly in order that we can hear everything that you have to
18 say. Let's start with your full name.

19 THE WITNESS: Raymond Moran.

20 THE COURT: Very good. Spell that last one for us.

21 THE WITNESS: M-o-r-a-n.

22 THE COURT: Very good. Yes, ma'am?

23 MS. JONES: Thank you, Your Honor.

24 RAYMOND MORAN, being first duly
25 sworn, testified as follows:

RAYMOND MORAN - DIRECT BY MS. JONES

DIRECT EXAMINATION

1
2 BY MS. JONES:

3 Q: Deputy Moran, where are you currently employed?

4 A: Jasper County Sheriff's Office.

5 Q: And in what capacity do you work with the Sheriff's
6 Office?

7 A: It will be six years in March.

8 Q: You've been there for six years in March?

9 A: Yes.

10 Q: Okay. What are some of your duties with the Sheriff's
11 Department?

12 A: Patrolling, answering calls, and service to the
13 community.

14 Q: Okay. Were you working with the Sheriff's Department
15 back on October 1st of 2014?

16 A: That's correct.

17 Q: Okay. And were you involved in the case we're here for
18 today?

19 A: Yes.

20 Q: What do you remember? About what time in that afternoon
21 do you recall --

22 A: I could not tell you. I know it was in the afternoon
23 time.

24 Q: Okay. Can you explain your involvement in this case?

25 A: Yes. After the chase, I was probably the last vehicle to

RAYMOND MORAN - DIRECT BY MS. JONES

1 pull up on Captain Bill Road where the incident came to a
2 stop.

3 Q: Okay.

4 A: Shortly after being there, the suspect was brought to my
5 vehicle already in handcuffs and detained in my vehicle.

6 Q: Do you see the person who was placed in the back of your
7 vehicle in the courtroom today?

8 A: Yes. He's sitting to the left.

9 Q: Okay.

10 A: To my left.

11 MS. JONES: May the record reflect the witness identified
12 the defendant.

13 BY MS. JONES:

14 Q: After he was placed in his vehicle, what do you do?

15 A: Well, we sat there for a little while. While we were
16 sitting there, three female subjects approached the vehicle,
17 one of which asked -- he was sitting in my vehicle. A
18 question was asked and his response was fuck that nigger.

19 Q: Do you know -- was anybody able to identify who these
20 women were?

21 A: Yes.

22 Q: Did you learn who these women were?

23 A: Yes, I did.

24 Q: Who was any --

25 A: One of --

RAYMOND MORAN - DIRECT BY MS. JONES

1 Q: -- of these involved?

2 A: One of the women was his mother.

3 Q: Okay. Were you able to get identities of the other two?

4 A: No.

5 Q: Okay. They approached and he says what?

6 A: Fuck that nigger.

7 Q: Okay. After he's in the back of your patrol car, what do

8 you do with him?

9 A: After we sat there for a while, we left that scene. I

10 took him to the detective's office, where he was questioned.

11 Upon leaving the detective's office, we then went to the

12 hospital, where he was treated.

13 Q: Okay. How --

14 A: From the --

15 Q: I'm sorry.

16 A: Go ahead.

17 Q: How long were y'all at the hospital?

18 A: I could not tell you.

19 Q: Could you give me an estimate approximately?

20 A: It was -- it was -- it was some hours.

21 Q: It was -- I'm sorry?

22 A: A few hours.

23 Q: A few hours?

24 A: Yes.

25 Q: Okay. What happens to him at the hospital?

RAYMOND MORAN - DIRECT BY MS. JONES

1 MR. NEWMAN: Your Honor, objection as to that.

2 THE COURT: All right. You may approach.

3 (WHEREUPON, a bench conference was held off the record.)

4 BY MS. JONES:

5 Q: Did you remain with the defendant at the hospital the
6 whole time he was there?

7 A: That's correct.

8 Q: Okay. What are you doing while y'all are at the
9 hospital?

10 A: Just sitting there.

11 Q: Okay. What's he doing?

12 A: He was in -- in a gurney. He was in the bed.

13 Q: Okay. Did you observe anything else happening at the
14 hospital?

15 A: He was in and out of sleep or consciousness.

16 MR. NEWMAN: Your Honor, that's subject to my objection.

17 THE COURT: All right. I think it's part of ordinary
18 perception of -- ordinary perception. I'll allow him to do
19 that. If he saw him sleeping, he can say that.

20 MS. JONES: Okay. Thank you, Your Honor.

21 BY MS. JONES:

22 Q: So you said a couple of -- a few hours maybe?

23 A: Yes.

24 Q: After a few hours passed, what happens?

25 A: Then we ended up taking him to -- I ended up taking him

RAYMOND MORAN - DIRECT BY MS. JONES

1 to the jail.

2 Q: In order to take him to the jail, was he released from
3 the hospital?

4 A: Yes.

5 Q: Okay. Was that still the same night of October 1st?

6 A: Yes.

7 Q: And you take him to the detention center?

8 A: That's correct.

9 Q: Okay.

10 MS. JONES: I have no further questions for you at this
11 time. Thank you.

12 THE COURT: Cross-examination.

13 CROSS-EXAMINATION

14 BY MR. NEWMAN:

15 Q: As I understand it at this time, you told me that you
16 were driving a - you were assigned an '08 Charger that did
17 not have any video nor audio?

18 A: It may or may not. Let me better clarify myself.
19 Between that time and/or shortly before that until now, I've
20 had several deer incidents; so I'm not sure exactly what
21 vehicle and what was equipped inside that vehicle because I
22 was in several vehicles, but I know it was a 2008 Dodge
23 Charger.

24 Q: Okay. And you told me that it didn't have video or
25 audio?

RAYMOND MORAN - CROSS BY MR. NEWMAN

1 A: It may or may not have had video. I don't recall it
2 having video, counselor.

3 Q: Okay. Because I asked you that yesterday when we were
4 talking and you told me it did not.

5 A: Well, it did not -- it may not have. Like I said, I
6 can't remember. I know for a fact that I was in and out of
7 vehicles because of having incidents. Whenever you hit a
8 deer, you're going to get another vehicle and it's not your
9 assigned vehicle.

10 Q: Okay.

11 A: But I know I was in a 2008 Charger.

12 Q: So the long and short of it -- although most police cars
13 have audio and video recording, yours either did not or you
14 did not record any -- you have no recorded evidence to bring
15 to this court today; correct?

16 A: Concerning that matter, no, counselor.

17 Q: Okay. That was my question. Thank you.

18 A: No problem.

19 THE COURT: Any redirect?

20 MS. JONES: No, Your Honor.

21 THE COURT: You may step down. Madam Forelady and ladies
22 and gentlemen of the jury, we're going to allow you to return
23 to the jury room to refresh yourselves. Do not discuss the
24 case in any way, shape or form. Madam Forelady, I'm going to
25 ask that you enforce that rule. Everyone remain seated as the

JEFF CROSBY - DIRECT BY MS. JONES

1 jury exits the courtroom.

2 (WHEREUPON, the jury exited the courtroom at 10:56 a.m.)

3 THE COURT: Do you have other witnesses other than Deputy
4 Ellis?

5 MS. JONES: I do, Your Honor.

6 THE COURT: Okay. We need to get those lined up. We're
7 going to take about a five-minute recess and we'll proceed
8 forward.

9 MS. JONES: Okay. Thank you.

10 (WHEREUPON, there was a break in the proceedings from
11 10:57 a.m. until 11:11 a.m.)

12 THE COURT: You can go ahead and get your witness lined
13 up.

14 MS. JONES: Lieutenant Crosby.

15 THE COURT: Just hold your place right there. That would
16 be good. We're waiting on the jury. We're ready for the
17 jury.

18 (WHEREUPON, the jury entered the courtroom at 11:12 a.m.)

19 THE COURT: Detective Crosby, please come forward,
20 approach the clerk, place your left hand on the Bible, and
21 raise your right hand as the clerk administers the oath.

22 THE CLERK: The testimony you are about to give the Court
23 will be the truth, the whole truth, and nothing but the truth,
24 so help you God?

25 THE WITNESS: Yes.

JEFF CROSBY - DIRECT BY MS. JONES

1 THE CLERK: Go right around.

2 THE COURT: Have a seat in the witness chair. Pull up
3 real close to that microphone and speak loudly, clearly, and
4 slowly in order that we can hear everything that you have to
5 say and let's start with your full name.

6 THE WITNESS: My name is Jeff Crosby.

7 MS. JONES: Thank you.

8 THE COURT: Ms. Jones?

9 JEFF CROSBY, being first duly
10 sworn, testified as follows:

11 DIRECT EXAMINATION

12 BY MS. JONES:

13 Q: Detective Crosby, where do you work?

14 A: Jasper County Sheriff's Office.

15 Q: And in what capacity do you work for the Sheriff's
16 Office?

17 A: I'm a sergeant in the detective's office.

18 Q: Okay. How long have you been with the Sheriff's Office?

19 A: Twenty-seven years.

20 Q: Okay. So back in October of 2014, you were with the
21 Sheriff's Office?

22 A: I was.

23 Q: Okay. What are some of your duties?

24 A: We investigate violent crimes throughout the county,
25 white-collar crimes, you know, your shootings, your rapes,

JEFF CROSBY - DIRECT BY MS. JONES

1 your robberies, burglaries, things of that nature.

2 Q: Were you involved in the case we're here for today?

3 A: Yes, I was.

4 Q: Okay. And can you tell me about your involvement?

5 A: I intercepted a radio transmission of Deputy Brown, who

6 said that he had heard gunshots. He was telling dispatch that

7 he heard gunshots in the area of Henry Lawton Road and Captain

8 Bill Road.

9 Q: What day and time was this?

10 A: I think -- I think it was October 3rd. I'm not sure about

11 the time.

12 Q: Could it have been October 1st?

13 A: It could have been.

14 Q: Okay.

15 A: It's been a while.

16 Q: Okay. And you said intersection of Captain Bill and

17 Henry Lawton?

18 A: Yes, ma'am.

19 Q: Okay. After hearing that, what did you do?

20 A: I headed to that area. He told me that -- he told

21 dispatch that he was in a car chase at that point. Detective

22 Wright arrived on scene before I did. I intercepted a radio

23 transmission with Detective Wright and dispatch telling

24 dispatch that there was an individual that was lying on the

25 ground. He needed help with crowd control --

JEFF CROSBY - DIRECT BY MS. JONES

1 Q: Do you know --

2 A: -- and things of that nature.

3 Q: Sorry to interrupt.

4 A: That's all right.

5 Q: Do you know approximately how much time it took you after

6 hearing the initial radio transmission to you getting to Henry

7 Lawton Road and Captain Bill Road?

8 A: It probably took me about ten minutes. I was halfway up

9 278 toward Gillisonville.

10 Q: Okay. But Detective Wright was already there when you

11 got there?

12 A: That's correct.

13 Q: Okay. When you get there, what do you observe?

14 A: There was a lot of people in the crime scene. Maurice

15 Wright was laying on the ground next to a vehicle in front of

16 the single-wide mobile home. Detective Wright was trying to

17 keep people out of the crime scene and trying to get

18 everything under control.

19 Q: Okay. After you get there and you observe this, what do

20 you do?

21 A: I got out and tried to assist Detective Wright in keeping

22 people -- in keeping control of the crime scene, keeping

23 people out. Other deputies arrived on scene. They put up

24 crime scene tape and we still had a problem with people

25 crossing the crime scene tape.

JEFF CROSBY - DIRECT BY MS. JONES

1 Q: Okay. So did you stay and maintain crowd control I guess
2 you could say?

3 A: That's correct.

4 Q: Approximately how many other law-enforcement officers
5 were around?

6 A: I couldn't tell you an exact number. There was a good
7 bit that eventually arrived on scene.

8 Q: Okay. While you were there, did you have a chance to
9 take any photographs?

10 A: I did.

11 MS. JONES: Your Honor, permission to approach?

12 THE COURT: Yes.

13 BY MS. JONES:

14 Q: Detective Crosby, I'm showing you what has been marked
15 State's 6, 7, and 8. Can you please identify those for the
16 Court?

17 A: These are photographs that -- these are the photographs
18 that I took of the crime scene.

19 Q: Okay. And you, in fact, took those photographs?

20 A: I did.

21 Q: And do they fairly and accurately depict the crime scene
22 as you saw it that day?

23 A: They do.

24 Q: Okay.

25 MS. JONES: Your Honor, at this time, the State moves

JEFF CROSBY - DIRECT BY MS. JONES

1 State's 6, 7, and 8 into evidence.

2 MR. NEWMAN: Without objection.

3 THE COURT: 6, 7, and 8 are into evidence.

4 (WHEREUPON, State's Exhibits Number 6, 7, and 8, all
5 photographs, were admitted into evidence.)

6 MS. JONES: Permission to publish?

7 THE COURT: Yes.

8 BY MS. JONES:

9 Q: Detective Crosby, I'm showing you what has been admitted
10 as State's 6. What does this picture depict?

11 A: That is the single-wide mobile home. The white sheet
12 that you see up there is Maurice lying on the ground. The
13 white car --

14 Q: I'm sorry. The white car?

15 A: I think the white car is his wife's car.

16 Q: Maurice's wife's car?

17 A: Yes. That's correct. The blue car -- I don't remember
18 -- I don't recall whose car that is.

19 Q: Okay. And the other car in the driveway?

20 A: I don't recall whose car that is.

21 Q: How about this? How about State's 7?

22 A: Like I said, the white car is -- I believe that was
23 Maurice's wife's car, and the car in front of it -- I don't
24 recall whose car that is. And you can see the white sheet on
25 the other side of the silver car.

JEFF CROSBY - DIRECT BY MS. JONES

1 Q: Okay. And State's 8?

2 A: Again, that's Maurice underneath the sheet. That's the

3 single-wide mobile home and the white car there I believe was

4 Maurice's wife's car.

5 Q: Okay.

6 A: And I don't know who the silver car belongs to.

7 Q: Okay. But you don't remember who the blue car was?

8 A: No, ma'am.

9 Q: Okay. Could it have been Maurice's car?

10 A: It could have been.

11 Q: After -- while you're still on scene maintaining crowd

12 control, does the defendant come back to the scene?

13 A: Yes, he does.

14 Q: Okay.

15 A: He was chased back to the scene by the deputies that were

16 pursuing him.

17 Q: Okay. And are you there when they get back?

18 A: I am.

19 Q: Okay. What do you do when they get back?

20 A: When he turned back onto Captain Bill Road off of Bee's

21 Creek Road, he was still at a high rate of speed. He

22 accelerated back to a high rate of speed. I advised the EMS

23 and fire department personnel to retreat to their vehicles, to

24 get into a safe location. I stepped out in the middle of the

25 road and pulled my weapon and pointed it at the front

JEFF CROSBY - DIRECT BY MS. JONES

1 windshield of the car.

2 Q: Okay. And does -- does a person ultimately get out of

3 that green car?

4 A: Yes, they do.

5 Q: Okay. And who was that?

6 A: That was Nathaniel Wright.

7 Q: Do you see Nathaniel today?

8 A: Yes, I do.

9 Q: Where? Can you point to him, please?

10 A: He's sitting right there in the black shirt next to Mrs.

11 Smart.

12 Q: Okay. Thank you.

13 MS. JONES: May the record reflect the witness did

14 identify the defendant.

15 BY MS. JONES:

16 Q: After he is taken into custody, what do you do next?

17 A: I photographed some items that were on the trunk of his

18 car that -- that had been removed from his pockets.

19 Q: Do you --

20 A: I took some photographs I believe of the car and

21 everything.

22 Q: At some point, did another agency respond?

23 A: Yes, they did. I -- I eventually contacted SLED and

24 requested their assistance. They sent a crime scene unit down

25 to investigate the crime scene and process the crime scene.

JEFF CROSBY - DIRECT BY MS. JONES

1 They also sent multiple agents down to assist.

2 Q: Is it common for the Sheriff's Office to get assistance
3 from SLED?

4 A: It is.

5 Q: Okay.

6 A: They have more resources than we do.

7 Q: Okay. And is that why they were called out for this
8 particular case?

9 A: That is correct.

10 Q: Okay. So after SLED gets there, do you do anything else?

11 A: I actually come back to Emergency Services up here on 278
12 and they have a generator that's got lights on it. I got that
13 to the crime scene so that they would have light because it
14 was -- it was dark by the time they got there. And I stood --
15 stood by and helped in securing the crime scene until they
16 arrived.

17 Q: Okay. And does that conclude your involvement with that
18 case -- this case?

19 A: Yes, ma'am.

20 Q: Okay.

21 THE COURT: I have no further questions for you. Thank
22 you.

23 THE COURT: Cross-examination, Mr. Newman.

24 CROSS-EXAMINATION

25 BY MR. NEWMAN:

JEFF CROSBY - CROSS BY MR. NEWMAN

1 Q: If I get your testimony correctly, you were in the
2 roadway when Mr. Wright was arrested; correct?

3 A: . That's correct.

4 Q: ' All right. And to your knowledge, Elvin Wright would
5 have been the first on the scene?

6 A: Yes, sir.

7 Q: All right.

8 A: He was there before I arrived.

9 Q: Okay. Do you know how long he was there before you
10 arrived?

11 A: No, I don't.

12 Q: Okay. Do you agree that there is a period of time that
13 the scene is left totally unattended by law enforcement?

14 A: There probably was. I heard Deputy Brown say that he
15 heard the gunshots and he was chasing a car that was leaving
16 the scene, and I don't know how much time had elapsed before
17 another officer arrived.

18 Q: Okay. So the photograph you took -- we don't know
19 whether that crime scene had been altered by anybody, whether
20 any pieces of evidence had been taken, any pieces of evidence
21 had been disturbed?

22 A: I can't -- I can't be one hundred percent positive of
23 that. I know Deputy -- Detective Wright was having a problem
24 keeping two individuals off of Maurice while he was lying on
25 the ground.

JEFF CROSBY - CROSS BY MR. NEWMAN

- 1 Q: Okay. And part of your job as an investigator -- in
2 fact, even patrol officers are trained that it's very
3 important to maintain the crime scene and to keep people out
4 of it?
- 5 A: That's correct.
- 6 Q: To preserve evidence; correct?
- 7 A: That's correct.
- 8 Q: And that was not done in this case?
- 9 A: I don't know if there was a lapse there. I don't know if
10 there was evidence removed from the scene. I know that I was
11 probably the second officer that arrived; so I can't tell you
12 what occurred before I arrived.
- 13 Q: And even at the time you arrived, there was problems with
14 people --
- 15 A: Yes, sir.
- 16 Q: -- in the crime scene?
- 17 A: Yes, sir.
- 18 Q: And would you describe the amount of people enough people
19 that you wouldn't be able to count them?
- 20 A: No. I would say there were probably -- probably a half a
21 dozen or so that we had problems with keeping out of the crime
22 scene.
- 23 Q: And was one of those persons Antoine Drake?
- 24 A: I don't remember seeing Antoine Drake.
- 25 Q: You don't remember seeing him there at all?

JEFF CROSBY - CROSS BY MR. NEWMAN

1 A: No, I don't.

2 Q: Now, on the recording, did you ever make a radio
3 transmission that said whatever the units -- whatever units
4 are just standing around down there, I'm going to need
5 somebody to keep the people out of the crime scene?

6 A: I'd have to hear the recording to be able to tell you
7 that.

8 Q: Okay.

9 A: It's been so long ago.

10 Q: Did you not review any of the evidence before your
11 testimony today?

12 A: I haven't listened any of the recordings.

13 Q: Then to your knowledge, Antoine Drake was not at that
14 scene?

15 A: I can't say if he was or he wasn't. I don't remember
16 seeing Antoine Drake.

17 Q: Okay. And you'd know him if you see him?

18 A: Probably so.

19 Q: You've had contact with him before?

20 A: I think I have.

21 MR. NEWMAN: Your Honor, as per the Court's instruction,
22 I believe I need to approach. There are several questions I
23 may or may not want to proffer at this point.

24 THE COURT: Very good.

25 (WHEREUPON, a bench conference was held off the record.)

JEFF CROSBY - CROSS BY MR. NEWMAN

1 BY MR. NEWMAN:

2 Q: Let me ask you a very specific question. You knew the
3 decedent, Maurice Tag Wright; is that correct?

4 A: That's correct.

5 Q: All right. And to your knowledge, did he have a
6 reputation for being armed?

7 A: I've never encountered him being armed.

8 Q: Okay. When you drew down, Mr. Wright's car was
9 approaching you and it eventually came to a stop; correct?

10 A: That's correct.

11 Q: Okay. Did you go over to assist in the arrest?

12 A: No, I did not.

13 Q: Okay. How far away were you from where Mr. Wright was
14 being arrested? I'm assuming they took him to the ground or
15 told him to get on the road?

16 A: I don't know what they said to him. He got out of the
17 car and got on his knees and then he laid down on the -- on
18 the asphalt. I don't know what they said to him. We were
19 probably two -- maybe three houses apart.

20 Q: Could you estimate the distance?

21 A: Fifty -- 75 yards.

22 Q: All right. And is your part of the investigation limited
23 to taking those one -- two -- three crime scene photos that we
24 saw?

25 A: That's correct.

JEFF CROSBY - CROSS BY MR. NEWMAN

1 Q: Okay. And you had no other role in this?

2 A: No. Not that I recall.

3 Q: All right..

4 MR. NEWMAN: Thank you.

5 THE COURT: Redirect?

6 MS. JONES: No, Your Honor.

7 THE COURT: You may step down. You may call your next
8 witness.

9 MS. JONES: Deputy Ellis.

10 (WHEREUPON, there was a pause in the proceedings until
11 the witness entered the courtroom.)

12 MS. JONES: Your Honor, may Detective Crosby be released
13 from his subpoena?

14 THE COURT: Any objection from the defense?

15 MS. SMART-GITTINGS: No objection, Your Honor.

16 THE COURT: You're free to leave. Thank you.

17 Deputy Ellis, please come forward. I'm going to ask that
18 you approach the clerk here, place your left hand on the
19 Bible, and raise your right hand as the clerk administers the
20 oath.

21 THE CLERK: The testimony you are about to give the Court
22 will be the truth, the whole truth, and nothing but the truth,
23 so help you God?

24 THE WITNESS: So help me God.

25 THE COURT: I'm going to ask you, if you could, to have a

MICHAEL ELLIS - DIRECT BY MS. JONES

1 seat in the witness chair. Speak loudly, clearly, and slowly
2 in order that we can hear everything that you have to say and
3 let's start with your full name, please, sir.

4 THE WITNESS: Deputy Michael A. Ellis.

5 THE COURT: Yes, ma'am.

6 MS. JONES: Thank you, Your Honor.

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

9 DIRECT EXAMINATION

10 BY MS. JONES:

11 Q: Deputy Ellis, where are you currently employed?

12 A: Jasper County Sheriff's Department.

13 Q: And in what capacity do you work at the Sheriff's
14 Department?

15 A: I work as a patrolman.

16 Q: Okay. What are some of your duties as a patrolman?

17 A: I respond to certain areas as dispatched, maintain crime
18 scenes, collect evidence, various other positions or duties as
19 we need to help out.

20 Q: How long have you been employed with the Sheriff's
21 Office?

22 A: Going on about six years.

23 Q: Okay. So on October 1st of 2014, you were working in that
24 capacity with the Sheriff's Department?

25 A: Yes, ma'am.

MICHAEL ELLIS - DIRECT BY MS. JONES

1 Q: All right. Do you remember that -- that afternoon?

2 A: Yes, ma'am. I remember certain incidents from that
3 afternoon.

4 Q: Okay. And is one of those incidents the case we're here
5 for this afternoon?

6 A: Yes, ma'am.

7 Q: Okay. What do you remember about getting involved in
8 this case?

9 A: I remember it was the end of tour, end of shift,
10 approximately 1700 or a little after 1700.

11 Q: What time would that be for us who don't use the military
12 time?

13 A: It would be right after five o'clock.

14 Q: Okay.

15 A: Probably around 5:20.

16 Q: Thank you.

17 A: All right. Shift change normally is at 5:30. We
18 normally change at about five o'clock.

19 So on that particular day, I remember Resource Officer
20 Brown -- he was in the Fordsville/Henry Lawton area. He
21 stated he heard some shots fired and -- which is not too
22 uncommon for that area. So he gave a BOLO that he saw a green
23 Honda Accord speeding off at the time. He gave the direction
24 of travel and I went back pretty much on duty, and I met Mr.
25 Brown on Grahamville and South Logan where I did observe the

MICHAEL ELLIS - DIRECT BY MS. JONES

1 vehicle traveling at a high rate of speed.

2 Q: Okay. After you see the vehicle, what do you do?

3 A: After I see the vehicle -- the resource officer was in an
4 unmarked vehicle, Crown Vic. I was in a -- more or less a
5 pursuit Charger equipped with a dash cam. As the pursuit
6 continued to go about the town of Ridgeland, I picked up lead
7 vehicle in the pursuit on Highway 17 South.

8 Q: Okay. From Highway 17 South, where did -- where did
9 y'all travel?

10 A: Okay. From Highway 17 South, we entered the interstate
11 traveling south at a high rate of speed.

12 Q: How fast would be a high rate of speed?

13 A: It's recorded, but I think we got up to speeds of maybe
14 110 miles per hour.

15 Q: Okay.

16 A: At the time, the driver of that car was acting very
17 erratic. He was trying to run the patrol vehicles off the
18 road, as well as the pedestrians as well.

19 Q: Okay. After the chase is on I-95, what happens?

20 A: Well, we were traveling south on Interstate 95. We got
21 about to the 13 or halfway to Hardeeville. We were traveling
22 toward Hardeeville. The driver immediately turned into the
23 median and pulled into oncoming traffic that was traveling
24 north on 95. He changed directions and started heading north
25 and we continued to pursue him. He was still driving in the

MICHAEL ELLIS - DIRECT BY MS. JONES

1 same manner.

2 Q: Okay. Where does the chase end?

3 A: The chase ends back on Captain Bill near Henry Lawton

4 area and that was the crime scene.

5 Q: Near where Deputy Brown had heard the shots?

6 A: Exactly.

7 Q: Okay. What kind of car were you driving?

8 A: I was driving a -- I think it was a '13 Charger equipped

9 with a dash cam.

10 Q: Okay. And can you explain a little bit how your dash cam

11 works?

12 A: Well, dash cams work in various ways. You can manually

13 turn it on and we have ours where it's activated when you turn

14 on the blue lights as well.

15 Q: Okay. Was yours activated during this chase?

16 A: Yes, it was.

17 Q: Was it activated by manually turning it on or by blue

18 lights activating it?

19 A: By blue light. Once -- once we realized how severe the

20 chase was, blue lights were activated, sirens were activated,

21 so we can warn the oncoming people and also to alert the

22 suspect that we were behind him so there wouldn't be no

23 mistake.

24 Q: Okay. And to your knowledge, was your video and audio

25 recording equipment working that day?

MICHAEL ELLIS - DIRECT BY MS. JONES

1 A: It was.

2 Q: Okay. Was that recording preserved?

3 A: It was.

4 Q: Okay.

5 MS. JONES: Permission to approach, Your Honor?

6 THE COURT: Yes.

7 BY MS. JONES:

8 Q: Deputy Ellis, I'm showing you what has been previously
9 marked as State's Exhibit 5. Can you identify that for the
10 Court, please?

11 A: This is a copy of a video that I did sign and date.

12 Q: Okay. Why -- what does your signature and date indicate?

13 A: That it is authentic by me and I am the one that also
14 depicted these incidents on that day and that's an accurate
15 recording of it.

16 Q: So this is the recording from that day of the chase?

17 A: It is.

18 Q: Okay.

19 MS. JONES: Your Honor, at this time, the State moves
20 State's 5 into evidence.

21 MR. NEWMAN: Subject to our objection on relevancy and
22 under Rule 403.

23 THE COURT: Your objection is noted. It's into evidence
24 and that's denominated as?

25 MS. JONES: State's Exhibit 5.

MICHAEL ELLIS - DIRECT BY MS. JONES

1 THE COURT: State's Exhibit 5 is into evidence.

2 (WHEREUPON, State's Exhibit Number 5, dash cam video, was
3 admitted into evidence.)

4 MS. JONES: Permission to publish, Your Honor?

5 THE COURT: Yes, you may.

6 MS. JONES: Thank you. Your Honor, I beg the Court's
7 indulgence.

8 (WHEREUPON, State's Exhibit Number 5, the dash cam video,
9 began playing in open court. NOT TRANSCRIBED HEREIN.)

10 BY MS. JONES:

11 Q: Why is there no audio?

12 A: It kicks in 30 seconds later.

13 (WHEREUPON, the dash cam video with sound continued
14 playing in open court and was then stopped at the end.

15 NOT TRANSCRIBED HEREIN.)

16 BY MS. JONES:

17 Q: After you stop your car and that video ends, what are you
18 doing?

19 A: A felony stop.

20 Q: Let me -- let me rephrase this question. You get out of
21 your car and what do you do?

22 A: Once I get out of my vehicle and my weapon is drawn, I
23 ordered the suspect out of the vehicle at gunpoint and ordered
24 him to the ground at the time. That's where other officers
25 came in to detain him at the time.

MICHAEL ELLIS - DIRECT BY MS. JONES

1 Q: Okay. Once he's detained, does that mean he's placed in
2 handcuffs?

3 A: Yes. He was -- he was placed in handcuffs at the time,
4 but prior to that the suspect -- he did made a comment once he
5 -- once he got out of his vehicle, he did comply with
6 directions, but he kicked the front tire of his vehicle and
7 pretty much stated slow-assed car.

8 Q: Okay. Was that spontaneous?

9 A: It was spontaneous. No one asked him anything. He was
10 -- he just uttered that out.

11 Q: Okay. After he says that, is he taken into custody?

12 A: Yes, he is, after, you know, being directed to get on the
13 ground and stuff like that.

14 Q: Okay. After all of that, what is the rest of your
15 involvement in this case?

16 A: The rest of my involvement is crowd control because the
17 crowd is pretty much out there.

18 Q: What do you -- what do you mean by pretty much out there?

19 A: It's a lot of people out there.

20 Q: Okay.

21 A: So we had to maintain the crime scene with tape and, you
22 know, have proper people, you know, stay back behind the lines
23 and stuff like that. At that point, the detectives were
24 already on scene; so we were assisting them at the time.

25 Q: Okay. And where that video ended, that was the crime

MICHAEL ELLIS - DIRECT BY MS. JONES

1 scene; right?

2 A: Exactly.

3 Q: And is that -- is that already -- do we already see
4 police tape in that video?

5 A: I'm not sure. I saw -- I saw the emergency vehicles in
6 the roadway. I can't say that I've seen tape already.

7 Q: Okay. But there are law enforcement already there?

8 A: Right. There was law enforcement out there. You could
9 hear it on the tape. Detective Wright -- after shots fired
10 was given, he actually stated that there was a subject in the
11 yard lying down lifeless.

12 Q: Okay.

13 A: So we got that on the radio as we were in pursuit of that
14 vehicle.

15 Q: Okay. So after that, you helped with crowd control and
16 then did that end your involvement?

17 A: Yes, ma'am.

18 Q: Okay.

19 MS. JONES: I have no further questions for this witness,
20 Your Honor.

21 THE COURT: Cross-examination.

22 MR. NEWMAN: Thank you.

23 CROSS-EXAMINATION

24 BY MR. NEWMAN:

25 Q: Good morning.

MICHAEL ELLIS - CROSS BY MR. NEWMAN

- 1 A: Good morning. How are you doing?
- 2 Q: It's close to afternoon, somewhere in there.
- 3 A: Yes, sir.
- 4 Q: I just want to ask a couple questions off the -- off the
- 5 video.
- 6 A: Okay.
- 7 (WHEREUPON, State's Exhibit Number 5, the dash cam video,
- 8 was partially played and then stopped.)
- 9 BY MR. NEWMAN:
- 10 Q: Now, in your video it captured someone running off and
- 11 another person about to run off; is that correct?
- 12 A: Yes, sir.
- 13 Q: Okay. And you can see at this time that there's no crime
- 14 scene tape up?
- 15 A: Say that again?
- 16 Q: Would you agree with me that there's no crime scene tape
- 17 up yet?
- 18 A: I see crime scene tape now.
- 19 Q: Okay. And did they put further crime scene tape in that
- 20 area?
- 21 A: They would place it behind the suspect's vehicle that we
- 22 were chasing because that is another part of the evidence
- 23 right there. They later put that up.
- 24 Q: Okay. And they put tape across this side too?
- 25 A: Well, I see it now, but I wasn't there when they placed

MICHAEL ELLIS - CROSS BY MR. NEWMAN

1 it up there.

2 Q: My point is they put more tape up. They had not finished
3 doing all the taping; correct?

4 A: Exactly.

5 Q: Okay. Okay. We're on the same page with that.

6 MR. NEWMAN: And if you go to 17:38? 17:38:20?

7 MR. HALL: Are you talking about on the --

8 MR. NEWMAN: Yeah. On the counter on the --

9 MR. HALL: On the actual time?

10 MR. NEWMAN: Yes, sir. Thank you.

11 MR. HALL: I think it stops right here at 17:35.

12 MR. NEWMAN: That's as far as your tape goes?

13 MR. HALL: It goes to 17:35:27 is what's displayed at
14 this time and I don't have three minutes to move forward to
15 17:38.

16 MS. JONES: Your Honor, may we approach?

17 THE COURT: Yes.

18 (WHEREUPON, a bench conference was held off the record.)

19 THE COURT: Ladies and gentlemen of the jury, we're going
20 to take a break for lunch. We're going to come back at 1:30,
21 1:30 sharp.

22 It's very important that we be here and be here on time
23 in order for -- we've got a lot of work ahead of us. During
24 the lunch break, do not discuss the case amongst yourselves or
25 with anyone else. Madam Forelady, I'm going to ask that you

MICHAEL ELLIS - CROSS BY MR. NEWMAN

1 enforce the rule. When people -- when the jurors reconvene in
2 the jury room, don't allow there to be any discussion.

3 Y'all have heard about this area. I'm not as familiar
4 with Ridgeland as you, but I kind of have a general idea where
5 this is. Certainly, y'all who live here know where all this
6 took place. Do not go out there and do any independent
7 investigation. Do not go out to these scenes and start doing
8 any observations.

9 You need to base your decision on what transpires here in
10 this courtroom. Do not -- if there were any radio broadcasts,
11 TV broadcasts or anything in the paper, divert your attention
12 from that. No independent investigation on the Internet and
13 no social media.

14 I'm going to ask that you be back at 1:30, 1:30 sharp.
15 Everyone remain seated as the jury exits the courtroom.

16 (WHEREUPON, the jury exited the courtroom at 12:06 p.m.)

17 THE COURT: Anything from the State before we recess?

18 MS. JONES: No, sir, Your Honor.

19 THE COURT: Anything from the defense?

20 MR. NEWMAN: No, sir, Your Honor.

21 THE COURT: All right. I'm going to ask that -- I'm
22 going to ask that y'all get that resolved before you leave and
23 we'll be back at 1:30, 1:30 sharp.

24 MR. NEWMAN: Thank you, Your Honor.

25 (WHEREUPON, there was a break in the proceedings from

MICHAEL ELLIS - CROSS BY MR. NEWMAN

1 12:08 p.m. until 1:31 p.m.)

2 THE COURT: Anything from the State before we proceed?

3 MS. JONES: No, Your Honor.

4 THE COURT: Anything from the defense?

5 MR. NEWMAN: No, other than I guess to have the witness
6 resume the witness stand.

7 THE COURT: Yes. If you could, return to the witness
8 stand.

9 MR. NEWMAN: I will basically with this witness play two
10 clips from the video.

11 THE COURT: Very good. Do we know where the bailiff is?

12 THE CLERK: We're missing one. Nathan Phillips.

13 (WHEREUPON, there was a pause in the proceedings.)

14 THE CLERK: We've got them all.

15 THE COURT: Okay. All right. We're ready for the jury.

16 (WHEREUPON, the jury entered the courtroom at 1:36 p.m.)

17 THE COURT: Madam Forelady and ladies and gentlemen of
18 the jury, everybody looks well fed and ready to proceed
19 forward with the trial.

20 I want to mention to each of you, of course, we are very
21 sensitive to the fact that y'all are essentially volunteering
22 your time. You're not volunteering; you were drafted to
23 participate in this process and y'all have other places you
24 would rather be.

25 So we're going to try to be here -- when we say we're

MICHAEL ELLIS - CROSS BY MR. NEWMAN

1 going to start at 9:30, we want to be here ready for y'all and
2 be sensitive to the fact that y'all need to be other places.
3 And I'm going to ask that each of y'all be here and be here on
4 time so we can start on time and be sensitive to everybody on
5 the jury.

6 Of course, all of us are being paid to be here. Y'all
7 aren't. So we're going to be here ready to go when we say
8 we're ready to go and we want each of y'all to be here and be
9 here on time.

10 All right. Cross-examination, Mr. Newman.

11 MR. NEWMAN: Thank you, Your Honor. May it please the
12 Court.

13 THE COURT: Yes.

14 CONTINUED CROSS-EXAMINATION

15 BY MR. NEWMAN:

16 Q: Deputy Ellis, I just have a few more questions for you
17 that are related to -- obviously, you've identified this as
18 being from the dash cam of your patrol vehicle; correct, sir?

19 A: Yes, sir.

20 Q: All right. And in that the way the camera is set up, we
21 are able to hear other deputies' radio transmissions; is that
22 correct?

23 A: Yes, sir.

24 Q: All right. I want to play two clips for you and ask if
25 you recognize the voice. Let me play the first clip where we

MICHAEL ELLIS - CROSS BY MR. NEWMAN

1 started.

2 (WHEREUPON, a portion of State's Exhibit Number 5, the
3 dash cam video, was played in open court.)

4 BY MR. NEWMAN:

5 Q: Would that have been one of the detectives?

6 A: Yes, sir.

7 Q: Do you -- do you recognize that as Detective Crosby's
8 voice?

9 A: I do.

10 Q: Okay. And your -- your camera has got a time link on it.
11 and it says it's 17:38 and some seconds. That actually means
12 your camera is recording that at 5:38 in the afternoon; is
13 that correct?

14 A: Correct.

15 Q: All right, sir.

16 MR. NEWMAN: If we could, go to 17:40.

17 (WHEREUPON, a portion of State's Exhibit Number 5, the
18 dash cam video, was played in open court.)

19 BY MR. NEWMAN:

20 Q: Okay. And I couldn't identify that officer. Do you know
21 who that was?

22 A: I'm not sure whose voice was that.

23 Q: It was one of the officers. And so at 17:38, we know
24 from the radio transmission that the crime scene is not
25 secured because there are a lot of people in there. In fact,

MICHAEL ELLIS - CROSS BY MR. NEWMAN

1 Crosby is saying I need some help getting people out of here;
2 correct?

3 A: Well, that's a speculation on that. There could be
4 people walking on the outside of it, meaning that the crime
5 scene could have been secure. I can't speculate on why he's
6 saying that.

7 Q: Okay. Because I thought I'd heard on there that he said
8 whatever unit is just standing around down there, I'm going to
9 need somebody to keep these people out of the crime scene.

10 A: Well, that's a comment that he made, but in any type
11 crime scene, especially one as large as this one here, you're
12 going to need additional personnel because this one here was
13 spread out a little bit.

14 Q: Right. And that's my point.

15 A: Yeah.

16 Q: And there are a lot of people there?

17 A: Yes. I stated that earlier there was a lot.

18 Q: Okay. Thank you very much.

19 A: You're welcome.

20 THE COURT: Any redirect?

21 MS. JONES: No, Your Honor.

22 THE COURT: You may step down. Any objection to this
23 witness be excused?

24 MS. SMART-GITTINGS: No, Your Honor.

25 THE COURT: You're free to leave. Thank you.

ALBERTUS HEYWARD - DIRECT BY MS. JONES

1 THE WITNESS: All right. Thank you.

2 THE COURT: You may call your next witness.

3 MS. JONES: The State calls Albertus Heyward.

4 (WHEREUPON, there was a pause in the proceedings until
5 the witness entered the courtroom.)

6 THE COURT: Ms. Heyward, please come forward. I'm going
7 to ask you, if you could, to approach the clerk right here and
8 place your left hand on the Bible and raise your right hand as
9 the clerk administers the oath.

10 THE CLERK: Right here. Put your left hand on the Bible.
11 The testimony you are about to give the Court will be the
12 truth, the whole truth, and nothing but the truth, so help you
13 God?

14 THE WITNESS: Uh-huh.

15 THE CLERK: You've got to say yes or no.

16 THE WITNESS: Yeah.

17 THE CLERK: Thank you. Come right around this way this
18 way.

19 THE COURT: Yes, ma'am. Watch your step and please come
20 around. Watch your step there. Have a seat in that witness
21 chair. I'm going to ask that you pull up close to that
22 microphone, speak loudly, clearly, and slowly in order that we
23 can hear everything that you have to say.

24 THE CLERK: Let's bring this down to her. That's good.

25 THE COURT: Very good. Let's state your full name,

ALBERTUS HEYWARD - DIRECT BY MS. JONES

1 please, ma'am.

2 THE WITNESS: Albertus Heyward.

3 THE COURT: All right. Say your name once again.

4 THE WITNESS: Albertus Heyward.

5 THE COURT: Okay. Very good. Yes, ma'am?

6 MS. JONES: Thank you, Your Honor.

7 ALBERTUS HEYWARD, being first duly
8 sworn, testified as follows:

9 DIRECT EXAMINATION

10 BY MS. JONES:

11 Q: Good afternoon, Ms. Heyward. How are you today?

12 A: Not feeling well.

13 Q: Not feeling good?

14 A: Yeah.

15 Q: Okay. I noticed you were shaking. Has something
16 happened?

17 A: Huh?

18 Q: Do you have some sort of medical condition?

19 A: Uh-huh. My -- I don't know. They keep telling me I had
20 a stroke.

21 Q: Okay. Do you know when you had a stroke?

22 A: No. I can't remember.

23 Q: Okay. Was it -- was it recently in the past few months?

24 A: I can't remember how long ago it was.

25 Q: You don't remember? That's okay. That's okay. Does

ALBERTUS HEYWARD - DIRECT BY MS. JONES

1 that affect your memory? Does the stroke make it hard to
2 remember?
3 A: I can't remember things.
4 Q: You can't remember things?
5 A: No.
6 Q: Okay. Okay. Do you know where you live?
7 A: Yeah.
8 Q: Where do you live?
9 A: I live here in Ridgeland.
10 Q: Okay. Do you know your street address?
11 A: I got to look on a paper.
12 Q: How about do you know -- do you know what your neighbor's
13 name is?
14 A: My sister, Leola Hewlett.
15 Q: Okay. Do you live by somebody named Lucille?
16 A: I -- I know this house is by me, but I see it, you know,
17 but I don't --
18 Q: Okay. Lucille's house is by your house?
19 A: My sister's house is by my house.
20 Q: Okay. Do you remember October of 2014?
21 A: Huh?
22 Q: Can you remember things that happened in October about a
23 year and a half ago?
24 A: No.
25 Q: No? Was that before your stroke?

ALBERTUS HEYWARD - DIRECT BY MS. JONES

1 A: What?

2 Q: Was -- was a year and a half ago before your stroke?

3 A: I -- I --

4 THE COURT: Might counsel approach the bench for just one
5 moment? Bear with us, if you could, Ms. Heyward.

6 (WHEREUPON, a bench conference was held off the record.)

7 BY MS. JONES:

8 Q: Ms. Heyward, do you remember a shooting on October 1st,
9 2014, near your home?

10 A: No, I don't remember.

11 Q: You don't remember the shooting?

12 A: Huh-uh.

13 Q: Okay. Do you remember talking to Agent Shealy and
14 another agent, Bancroft, about the shooting?

15 A: Who is that? I don't know who you're talking about.

16 Q: Okay. This man right here. Do you remember talking to
17 him about the shooting?

18 A: Huh-uh.

19 Q: No? Do you remember giving a statement about the
20 shooting?

21 A: I don't know what you're talking about.

22 Q: Okay.

23 THE COURT: Madam Forelady and ladies and gentlemen of
24 the jury, I'm going to ask that you retire to the jury room,
25 but do not discuss the case.

1 (WHEREUPON, the jury exited the courtroom at 1:49 p.m.)

2 THE COURT: All right. I'll be glad to hear from defense
3 counsel.

4 MR. NEWMAN: If it pleases the Court, Your Honor,
5 unfortunately, I believe the -- sadly, the witness' condition
6 does not allow her today competent to give testimony. I don't
7 think it would be proper to -- she doesn't remember making a
8 statement. There is no written statement by her and the
9 problem under complication that comes -- I can't cross-examine
10 a statement that was allegedly given or taken down a year and
11 a half ago because I don't have a witness that is,
12 unfortunately due to a medical condition, competent to be
13 cross-examined. So I think it's a very strong complication
14 issue.

15 THE COURT: Let me hear what -- what the State has to say
16 about that.

17 MS. JONES: Well, Your Honor, there is a written
18 statement.

19 THE COURT: All right. Well, I understand that.

20 MR. NEWMAN: It was written by the agent.

21 THE COURT: Well, but regardless, the issue is statements
22 are hearsay and inadmissible and the only way that you can get
23 into a statement is if you ask an individual what happened
24 here in court today and then if -- once they testify, then you
25 can cross-examine them and point out inconsistencies between

1 the statement and what she says here today.

2 Quite often, witnesses testify here in court today
3 completely consistent with their previous statement. A lot of
4 lawyers obviously have an obligation -- given the statement,
5 they review it before they get on the stand and they say the
6 exact same thing. And in that instance, there would be no
7 cross-examination with regard to the statement.

8 But statements are inadmissible unless it's a defendant
9 who has given a confession and under those circumstances it's
10 admissible. But for a witness, it's inadmissible unless first
11 of all she renders her version of what transpires here today.

12 I want the record to reflect that the witness clearly has
13 -- when she walked up, I could tell that she had had a stroke.
14 I mean she has weakness on one side. She had difficulty
15 raising her arm when she gave the oath. She was unsteady
16 getting onto the -- onto the witness stand and,, based on her
17 responses, clearly has some difficulty with recall, which
18 quite often happens with a stroke.

19 But the bottom line is she has no recollection of what
20 transpired that day and therefore I think that the motion to
21 strike her -- not to strike her testimony, but not to allow
22 you to get into the statement is granted on the fact of
23 competency, number one, and number two is that she has no
24 recollection.

25 Now, what that would do is you would put in a statement

1 given by somebody who was competent at that time, but there's
2 no way for defense counsel to cross-examine an entity that
3 does not exist now because she's had a stroke.

4 So that's the reasoning behind my ruling and I'll-- and
5 I'll sustain the defendant's objection that the statement is
6 inadmissible.

7 MS. JONES: What about Rule 613, prior statements of
8 witnesses that allow extrinsic evidence of a statement if they
9 are advised of the time and date the statement is made, who
10 it's made to, where it's made, and the substance of the
11 statement? All they have to do is not admit it. She's not
12 admitting this. I wasn't able to lay the proper foundation
13 because it was ruled that I couldn't give leading questions.

14 THE COURT: Well, first of all, she -- in order for you
15 to get into the statement at all, you have to ask her here
16 today what happened that day. She says she doesn't recall.
17 In addition to that, she says she doesn't even recall giving
18 the statement.

19 MS. JONES: But isn't that what Rule 613 is for?

20 THE COURT: It is not for that. It is for cross-
21 examination when they give inconsistent statements.

22 Or what you could do is you could just start introducing
23 statements without a witness and that's what we have here
24 today. We don't have a witness. We've got a statement. We
25 can't cross-examine a statement. That's the reason why it's

1 hearsay. That's the reason why it's inadmissible.

2 MS. JONES: What about a witness who does not have a
3 medical condition like Ms. Heyward has who just refuses to
4 acknowledge they gave a statement or refuses to recall the
5 statement they gave?

6 THE COURT: Well --

7 MS. JONES: And I'm asking that because that is --

8 THE COURT: That is a person who has -- who is competent
9 to do that and then you could actually ask them specific
10 questions about that, but, number one, she doesn't know who
11 her neighbor is, she doesn't recall a shooting, she doesn't
12 recall giving the statement. You can't do that. You're --
13 you're protected on the record. All right.

14 MS. JONES: Okay.

15 THE COURT: All right. You may step down. Thank you
16 very much. All right. You may call your next witness.

17 THE CLERK: Do I bring the jury in?

18 MS. JONES: Your Honor, I have a brief question about my
19 next witness.

20 THE COURT: Yes.

21 MS. JONES: He is not anywhere near the extent that Ms.
22 Heyward is. He is slow I guess. Maybe this is something we
23 should first do outside the jury's presence.

24 THE COURT: Well, let's -- let's bring him in if we
25 could. If you could, call your next witness.

1 MS. JONES: Johnny Brown.

2 THE COURT: We'll -- we'll address the issue of
3 competency at this time.

4 (WHEREUPON, there was a pause in the proceedings until
5 the witness entered the courtroom.)

6 THE COURT: Yes, sir. Please come forward. And this --
7 and this witness' full name is?

8 MS. JONES: Johnny Brown.

9 THE COURT: Mr. Brown, please come forward.

10 THE CLERK: Raise your right hand. I'm sorry. Raise
11 your left hand. The testimony you are about to give the Court
12 will be the truth, the whole truth, and nothing but the truth,
13 so help you God?

14 THE WITNESS: Uh-huh.

15 THE CLERK: You've got to say yes or no.

16 THE WITNESS: Yep.

17 THE CLERK: Come right around. Have a seat in that
18 chair.

19 THE COURT: I'm going to ask you, if you could, to have a
20 seat in the witness chair. I'm going to ask that you have a
21 seat and pull up real close to that microphone and speak
22 loudly, clearly, and slowly in order that we can hear
23 everything that you have to say. Let's start with your full
24 -- with your full name.

25 THE WITNESS: Now?

JOHNNY BROWN - DIRECT BY THE COURT

1 THE COURT: Yes.

2 THE WITNESS: Johnny L. Brown.

3 DIRECT EXAMINATION BY THE COURT

4 THE COURT: All right. How old are you, Mr. Brown?

5 THE WITNESS: Sixty-seven.

6 THE COURT: Sixty-seven years old? How far did you go in
7 school?

8 THE WITNESS: Fifth grade.

9 THE COURT: All right. Can you read and write?

10 THE WITNESS: No.

11 THE COURT: All right. Do you understand the difference
12 between the truth and a lie?

13 THE WITNESS: That's two different things is what I'm
14 saying.

15 THE COURT: Say that again?

16 THE WITNESS: That's two different -- that's two
17 different things.

18 THE COURT: All right. What is -- do you understand that
19 this is a very important proceeding? It has a lot of
20 ramifications for everybody. It's very important. And if --
21 and if asked a question, can you give a truthful answer?

22 THE WITNESS: Yeah. Yeah, what I know.

23 THE COURT: Can you tell the truth?

24 THE WITNESS: Yep.

25 THE COURT: Do you know the difference between the truth

JOHNNY BROWN - DIRECT BY THE COURT

1 and a lie?

2 THE WITNESS: Well, I ain't going to lie to something I
3 ain't see.

4 THE COURT: Say that again?

5 THE WITNESS: I said I'm not going to lie to something
6 what I ain't see.

7 THE COURT: Okay. So you understand the difference
8 between a lie and the truth, don't you?

9 THE WITNESS: I'm going to tell the truth.

10 THE COURT: Very good. And is telling a lie wrong?

11 THE WITNESS: No, I'll tell the truth.

12 THE COURT: All right. Well, is telling -- telling
13 something that's not true, a lie, wrong?

14 THE WITNESS: Now, I ain't going to mess with that now.

15 THE COURT: You don't understand that?

16 THE WITNESS: No. I don't understand that.

17 THE COURT: Do you understand that that if you -- if you
18 -- if they ask you a question and you tell something that is
19 not the truth, you could be punished for that? Do you
20 understand that?

21 THE WITNESS: Uh-huh.

22 THE COURT: Is that a yes?

23 THE WITNESS: I -- I'm going to tell you what I know and
24 that's it.

25 THE COURT: All right. Will you tell the truth?

JOHNNY BROWN - DIRECT BY THE COURT

1 THE WITNESS: I ain't seen it. I ain't seen it.

2 THE COURT: Okay. Will you tell the truth?

3 THE WITNESS: Yep.

4 THE COURT: All right. Any questions with regard to
5 competency from the State?

6 MS. JONES: No, Your Honor.

7 THE COURT: Any from the defense? I'll be glad to -- you
8 can question him in that regard.

9 PROFFERED DIRECT EXAMINATION

10 BY MR. NEWMAN:

11 Q: Do you take any medicines, Mr. Brown?

12 A: No.

13 Q: I'm sorry, sir?

14 A: No, sir.

15 Q: No medicines at all?

16 A: No.

17 Q: Okay. Have you ever been treated for any mental health
18 issues?

19 A: Mental health?

20 Q: Mental health.

21 A: No.

22 Q: Okay. When's the last time you held a job, sir?

23 A: Last time I had a job?

24 Q: Yes, sir.

25 A: I don't work.

JOHNNY BROWN - PROFFERED DIRECT BY MR. NEWMAN

1 Q: Do you remember when you last worked?

2 A: I get my money every month.

3 Q: You don't remember where you last had a job?

4 A: No. I just -- I'm just disabled.

5 Q: You're disabled? Have you always been disabled, sir?

6 A: Huh?

7 Q: Have you always been disabled?

8 A: Yeah. I do a little bit of work and stuff like that.

9 Q: I'm sorry. Did you say you did pickup work?

10 A: I don't understand. I do a little work around the house.

11 Q: Okay. But did you ever work anywhere where you got a

12 paycheck?

13 A: Huh-uh. No. I don't do that work.

14 Q: Okay. Have you ever been seen at the Department of

15 Mental Health or Special Needs?

16 A: Mental health?

17 Q: What's that?

18 A: No.

19 Q: Okay.

20 A: I ain't never gone to mental health.

21 Q: What's your address, Mr. Brown?

22 A: PO Box [REDACTED] Captain Bill Road. I don't know what that damn

23 thing is. I don't know. I forgot -- I forgot the box number.

24 People don't make no sense to me.

25 Q: I don't mean to be rude, Mr. Brown, but do you drink?

JOHNNY BROWN - PROFFERED DIRECT BY MR. NEWMAN

1 A: Yes, sir.

2 Q: Do you drink every day?

3 A: Do I drink every day?

4 Q: Yes.

5 A: No.

6 Q: Do you recall giving statements in this case?

7 A: Huh?

8 Q: Do you recall giving statements in this case?

9 A: A statement for my check?

10 Q: Do you know why you're here today?

11 A: Why I get my check?

12 Q: Yes, sir.

13 A: Because -- because I got burned. Just because I got

14 burned.

15 MS. JONES: Your Honor, he misunderstood Mr. Newman's

16 question. He thinks he's talking about a check.

17 BY MR. NEWMAN:

18 A: And just disabled.

19 Q: No. Do you know why you're here today?

20 A: Oh. Well, what do you call the thing? It has to do with

21 something. I don't know, man.

22 Q: You're not sure?

23 THE COURT: Do you know your telephone number?

24 THE WITNESS: No, sir.

25 THE COURT: You don't know your telephone number?

JOHNNY BROWN - PROFFERED DIRECT BY MR. NEWMAN

1 THE WITNESS: Huh-uh.

2 THE COURT: Can you spell your name?

3 THE WITNESS: No. I don't know how -- I don't know how
4 to write. I don't know how to spell it.

5 MR. NEWMAN: I think that's all.

6 THE COURT: What is the reason for your disability? Do
7 you know?

8 THE WITNESS: Huh?

9 THE COURT: Why do you get a check? Have you gotten a
10 check ever since you were born?

11 THE WITNESS: I've got a check since I got burned.

12 THE COURT: Oh, okay.

13 THE WITNESS: And that's been -- I don't remember how
14 long that's been. I started getting it then.

15 THE COURT: How did you get burned?

16 THE WITNESS: Kerosene lamp.

17 THE COURT: What?

18 THE WITNESS: Kerosene lamp.

19 THE COURT: Kerosene lamp? All right. Might counsel
20 approach for a minute?

21 THE WITNESS: I ain't seen it anyway.

22 (WHEREUPON, a bench conference was held off the record.)

23 MR. NEWMAN: Without leading questions?

24 THE COURT: Yes.

25 PROFFERED DIRECT EXAMINATION

JOHNNY BROWN - PROFFERED DIRECT BY MS. JONES

1 BY MS. JONES:

2 Q: Mr. Brown, where do you live?

3 A: Ma'am?

4 Q: Who do you live with?

5 A: What did you say now?

6 Q: Who do you live with?

7 A: Oh, I be -- I be in the yard.

8 Q: Whose yard?

9 A: Lucille Wright.

10 Q: Is that where you live?

11 A: Uh-huh.

12 Q: Okay. Do you remember -- do you know why we're here

13 today?

14 A: Oh, Lord. I don't know.

15 Q: Who is the man at that table in the middle? Do you know

16 who that man is?

17 A: Huh?

18 Q: Who is that man in the black long-sleeved T-shirt? In

19 the black shirt, who is that man?

20 A: Black shirt?

21 Q: Next to the lady in the pink shirt.

22 A: Man, I don't know.

23 Q: You don't know who that is? Can you see? Do you need to

24 stand up?

25 A: No.

JOHNNY BROWN - PROFFERED DIRECT BY MS. JONES

1 Q: No?

2 A: No.

3 Q: Can you see this table? Can you see? I don't think you
4 can see. Why don't you stand up?

5 A: I don't know him.

6 Q: You don't know this man?

7 A: Huh-uh.

8 Q: Do you remember giving a statement to the police about
9 this man?

10 MR. NEWMAN: Your Honor, that is leading. If he
11 remembers giving a statement, not what's in the statement, the
12 sum and substance of it.

13 MS. JONES: Your Honor, I don't under -- I don't see how
14 I can get into the substance of his statement without leading.
15 He can't read the statement. I can't show it to him to
16 refresh his memory.

17 THE COURT: We aren't getting into the statement. We're
18 just asking what --

19 THE WITNESS: (Muttering unintelligibly.)

20 THE COURT: We're going to ask him what he knows about
21 the statement.

22 THE WITNESS: (Muttering unintelligibly.)

23 THE COURT: We aren't getting into the statement.

24 THE WITNESS: I ain't see it anyway.

25 THE COURT: As I understand it, the statement was written

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1 by the police officer and signed by him.

2 THE WITNESS: (Muttering unintelligibly.)

3 THE COURT: What we need to do is find out what he had to
4 say, what he -- what he knows about the event.

5 THE WITNESS: (Muttering unintelligibly.)

6 THE COURT: You need to ask him about that here today.

7 THE WITNESS: (Muttering unintelligibly.)

8 MS. JONES: Okay.

9 BY MS. JONES:

10 Q: Mr. Brown, what do you remember about the shooting at
11 Lucille's house?

12 A: I know it happened and that's it.

13 Q: You remember what?

14 A: All I know is there was a shooting.

15 Q: Who was shooting? Who was shooting? What do you
16 remember?

17 A: I don't remember. The only thing I know is Tag -- Dion
18 was shooting Tag and that's it.

19 Q: Who shot Tag?

20 A: Dion.

21 Q: Okay. Who is Dion?

22 A: (No response.)

23 Q: Mr. Brown?

24 A: Ma'am?

25 Q: Who is Dion?

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1 A: Dion -- (Muttëring unintelligibly)

2 Q: Who is Dion?

3 A: (No response.)

4 Q: Do you see Dion today?

5 A: No.

6 Q: Are you telling the truth?

7 A: (No response.)

8 THE COURT: All right.

9 THE WITNESS: Man, y'all just holding me up for nothing.

10 THE COURT: What did he say?

11 MS. JONES: We're holding him up for nothing.

12 THE WITNESS: I ain't never done no thing like this.

13 MS. JONES: Your Honor, Mr. Brown does not want to be

14 here. I -- can we approach, Your Honor?

15 THE COURT: Yes.

16 (WHEREUPON, a bench conference was held off the record.)

17 THE WITNESS: That's what I'm waiting for the court. I

18 ain't never been to one. Can't even explain my own self. Got

19 to get out of here.

20 MR. NEWMAN: I've shown this to the solicitor and I

21 understand the Court wants this marked, not as a defendant's

22 exhibit, but as a Court's exhibit.

23 (WHEREUPON, the statement of Johnny Brown was marked as

24 Court's Exhibit Number 1.)

25 THE COURT: All right. Can -- Ms. Jones, do you agree

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1 that the statement -- the substance of the statement was
2 written by the investigating officer and signed by this
3 particular individual?

4 MS. JONES: Yes. It was written by actually Bobby
5 Bancroft with SLED.

6 THE COURT: Okay.

7 MS. JONES: And --

8 MR. NEWMAN: It says this was written by Shaun Harley.

9 MS. JONES: Oh, I'm sorry. Shaun Harley.

10 THE COURT: Okay.

11 MS. JONES: Shaun Harley.

12 THE COURT: I just want to make that a part of the
13 record. I'm not going to allow him to testify because, number
14 one, I don't think he's competent to do that. He indicated
15 that he didn't know why he was here. He felt as though he was
16 just being held up. His answers have sort of been incoherent.

17 It is clear that he has a -- is intellectually deficient
18 in a number of different ways and I think the State recognized
19 that in their motion to address his competency before we move
20 forward, and the State was very forthright in that regard.

21 He indicates that he doesn't know who the defendant is
22 and he was asked several times why he was here and he doesn't
23 really know. He says he's just being held up. It is clear
24 that he is not competent to testify and it's clear that he's
25 not feigning his disability. It's clear from watching his

1 demeanor here today that, as they say in Lake City, he ain't
2 right.

3 So that's kind of laying it -- laying it -- laying it out
4 as clearly as I can. And it's kind of hard to say for the
5 record to reflect exactly what's transpired here today, but
6 I've had an opportunity to observe his demeanor and I am one
7 hundred percent confident that he is not competent to testify.
8 You may step down.

9 Anything before we bring the jury out?

10 MS. JONES: No, Your Honor, but because that does
11 eliminate a few other witnesses, I just want to double check
12 to make sure that my next three or four are outside waiting.

13 THE COURT: Okay.

14 (WHEREUPON, there was a pause in the proceedings.)

15 MS. JONES: Your Honor, I do have two agents with SLED
16 who were originally on the witness list. I'm just asking that
17 they be allowed to now remain in court because I no longer
18 intend on calling them. It's Bancroft and Harley.

19 MR. NEWMAN: As long as they're not going to testify, I
20 have no objection.

21 MS. JONES: They aren't.

22 THE COURT: Sure. It's a public forum and they are
23 entitled to be here.

24 MS. JONES: The State is ready to proceed.

25 THE COURT: Very good. We're ready for the jury.

MELINDA WORLEY - DIRECT BY MS. JONES

1 (WHEREUPON, the jury entered the courtroom at 2:17 p.m.)
2 THE COURT: Ms. Jones, you're recognized.
3 MS. JONES: Thank you, Your Honor. The State calls
4 Special Agent Worley.
5 THE COURT: Special Agent Worley, please come forward.
6 I'm going to ask you, if you could, to approach our fine clerk
7 here and place your left hand on the Bible and raise your
8 right hand as the clerk administers the oath.
9 THE CLERK: The testimony you are about to give the Court
10 will be the truth, the whole truth, and nothing but the truth,
11 so help you God?
12 THE WITNESS: Yes, ma'am.
13 THE CLERK: Thank you.
14 THE COURT: Yes, ma'am. Have a seat in the witness chair
15 there. Pull up real close to that microphone and speak
16 loudly, clearly, and slowly in order that we can hear
17 everything that you have to say and let's start with your full
18 name, please.
19 THE WITNESS: My name is Melinda Worley.
20 THE COURT: Very good. Yes, ma'am?
21 MELINDA WORLEY, being first duly
22 sworn, testified as follows:
23 DIRECT EXAMINATION
24 BY MS. JONES:
25 Q: Agent Worley, where are you currently employed?

MELINDA WORLEY - DIRECT BY MS. JONES

- 1 A: The South Carolina Law Enforcement Division.
- 2 Q: Okay. Does it have an acronym it commonly goes by?
- 3 A: SLED.
- 4 Q: Thank you. How long have you been working at SLED?
- 5 A: About four-and-a-half years.
- 6 Q: Okay. What -- what department do you work in at SLED?
- 7 A: I'm in the crime scene unit.
- 8 Q: What does that entail?
- 9 A: We respond to crime scenes all over the state when
- 10 requested and we document, collect, and preserve the evidence
- 11 from the scene.
- 12 Q: Okay. Were you involved in a case on October 1st, 2014?
- 13 A: Yes, I was.
- 14 Q: Okay. Why -- how did you get involved in that case?
- 15 A: We were notified that there had been a homicide in -- in
- 16 Ridgeland and I was on call and we were called to respond to
- 17 the scene.
- 18 Q: Okay. Do you know about what time you actually arrived
- 19 at the scene?
- 20 A: I believe it was right before eight p.m.
- 21 Q: Okay. Do you remember where the scene was in Ridgeland?
- 22 A: Captain Bill Road.
- 23 Q: Okay. You said it was about eight when you got there?
- 24 A: Yeah. It was just before that.
- 25 Q: Why -- what explains the lapse in time?

MELINDA WORLEY - DIRECT BY MS. JONES

- 1 A: We come out of Columbia. We drive from Columbia.
- 2 Q: Okay. Who do you come to the -- to Ridgeland with that
- 3 night?
- 4 A: Special Agent James Tallon was my partner.
- 5 Q: Okay. Are there anybody else with SLED at the scene when
- 6 you get there?
- 7 A: Yes, there were.
- 8 Q: Do you remember who was there?
- 9 A: Captain Ryan Neil, Agent Bob Bancroft, Jonathan Shealy,
- 10 Angela Peterson, Lieutenant Shaun Harley.
- 11 Q: Okay. When you get to the crime scene, what is the first
- 12 thing you do?
- 13 A: We meet with the investigators there to find out what
- 14 information --- basically what is provided over the phone
- 15 before we got there and see what they've learned before we
- 16 arrived and try to get on the same page with what's going on.
- 17 Just do a little initial walk-through of the scene, find out,
- 18 you know, what it entails, what kind of evidence we're looking
- 19 at, and that sort of thing.
- 20 Q: Okay. And you did that with this crime scene?
- 21 A: Yes, we did.
- 22 Q: After you do your initial walk-through, what do you do?
- 23 A: We usually start taking photographs of the scene.
- 24 Q: Before you get there, it had been about a couple hours.
- 25 Is this scene roped off? Is anything marking this as a crime

MELINDA WORLEY - DIRECT BY MS. JONES

1 scene?

2 A: Yes. It was secured with crime scene tape.

3 Q: Okay. So to go back, you said you took some photographs?

4 A: Yes.

5 (WHEREUPON, there was a pause in the proceedings as
6 counsel conferred.)

7 MR. NEWMAN: Your Honor, I've looked at State's -- I
8 don't know if they're in order. I've looked at a number of
9 photographs. I have no objection to any photographs the State
10 wants to --

11 THE COURT: Very good.

12 MR. NEWMAN: -- introduce.

13 MS. JONES: And for the record, they are State's 15
14 through State's 37.

15 THE COURT: 15 through 37 are into evidence without
16 objection from defense.

17 (WHEREUPON, State's Exhibits Number 15 through 37, all
18 photographs, were admitted into evidence.)

19 MS. JONES: Permission to publish, Your Honor?

20 THE COURT: Yes.

21 BY MS. JONES:

22 Q: Agent Worley, I am going to show you a series of
23 photographs and if you could identify these? This is State's
24 15. What does this picture depict?

25 A: That is the front -- the victim was lying in the front

MELINDA WORLEY - DIRECT BY MS. JONES

1 yard of that residence.

2 Q: Okay. State's 16?

3 A: That's the same residence from a different angle.

4 Q: Okay. State's 17?

5 A: Same residence.

6 Q: State's 18?

7 A: That was a cartridge case found in the driveway of that

8 residence.

9 Q: What is that yellow thing in the picture?

10 A: That's a marker, Marker 1.

11 Q: Was that there when you got there or would crime scene

12 put that there?

13 A: I believe we put those ourselves.

14 Q: Okay. And that is a casing?

15 A: Yes. A cartridge case.

16 Q: Okay. State's 19?

17 A: That's a close-up on that same cartridge case.

18 Q: Okay. And what is a cartridge casing?

19 A: It's the part of -- when you fire a gun, it's the part

20 that ejects from the gun.

21 Q: Okay. Thank you. State's 20?

22 A: Number 2 -- Marker 2 was also a cartridge case in the

23 driveway.

24 Q: State's 21?

25 A: A close-up on that cartridge case.

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1 Q: Okay. State's 22?

2 A: Marker 3 was also a cartridge case in the driveway.

3 Q: State's 23?

4 A: And a close-up on that cartridge case.

5 Q: State's 24?

6 A: That was just a disturbance in the dirt in the driveway.

7 Q: Okay. What is that white thing in the corner of the

8 picture? Is that the white car we saw earlier?

9 A: Yes.

10 Q: State's 25?

11 A: Marker 4 was also a cartridge case in the driveway.

12 Q: State's 26?

13 A: Marker 5 was a fired projectile.

14 Q: State's 27?

15 A: That's a close-up on that projectile.

16 Q: State's 28?

17 A: That was a car that was parked in front of the residence.

18 Q: State's 29?

19 A: The same car.

20 Q: State's 30?

21 A: That was I believe the interior of that car.

22 Q: Of the blue car?

23 A: The blue car.

24 Q: State's 31?

25 A: Interior of that same car.

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1 Q: That's the center console?

2 A: Yes.

3 Q: State's 32?

4 A: There were skid marks in the road. The driveway for the

5 scene is right there on the right before it I believe and then

6 skid marks going away from the residence.

7 Q: Okay. So that's the driveway into [REDACTED] --

8 A: Yes.

9 Q: -- Captain Bill? State's 33?

10 A: The same -- same view of those skid marks in the road.

11 Q: State's 34?

12 A: That was the suspect's car that was seen fleeing the

13 scene and then returned and was in the middle of the road not

14 far from the actual scene.

15 Q: Okay. What are those two yellow bands on either side of

16 the car?

17 A: It had been taped off with crime scene tape to secure it.

18 Q: State's 35?

19 A: The same vehicle.

20 Q: State's 36?

21 A: The same vehicle.

22 Q: And State's 37?

23 A: The same vehicle.

24 Q: Okay. After taking all of those photos, what else do you

25 do?

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1 A: We also do a sketch of the scene and -- and do
2 measurements -- measurements of where the evidence is in the
3 scene in relation to reference points. I believe in this case
4 we used two large trees in the yard. We also -- after all the
5 evidence has been photographed and put in the sketch, we
6 collect the evidence and package it.

7 Q: Okay. I want to go back to the sketch. How is this
8 sketch done?

9 A: It's just hand-drawn at the scene based on what evidence
10 is at the scene, what landmarks, like the residence itself or
11 whatever to show where the evidence is in the scene.

12 Q: Okay.

13 (WHEREUPON, there was a pause in the proceedings as
14 counsel conferred.)

15 MR. NEWMAN: No objection.

16 MS. JONES: Your Honor, may I have the witness step down
17 --

18 THE COURT: Yes.

19 MS. JONES: -- from the stand?

20 MR. NEWMAN: If it please the Court, Your Honor, I know
21 it's a little cramped, but may I stand near the flag so that I
22 can see?

23 THE COURT: You sure can.

24 BY MS. JONES:

25 Q: Agent Worley, I'm showing you what has been marked as

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1 State's Exhibit 14. Can you identify this?

2 A: This is a computer version of the sketch that I did at
3 the scene.

4 Q: And does it fairly and accurately depict the sketch you
5 did?

6 A: Yes.

7 Q: Okay.

8 MS. JONES: Your Honor, at this time, the State moves
9 State's 14 into evidence.

10 THE COURT: Any objection?

11 MS. SMART-GITTINGS: Without objection, Your Honor.

12 THE COURT: 14 is into evidence without objection.

13 (WHEREUPON, State's Exhibit Number 14, sketch of the
14 crime scene, was admitted into evidence.)

15 BY MS. JONES:

16 Q: Can you please tell the Court what exactly this sketch
17 shows?

18 A: This was Captain Bill Road, the skid marks that we saw
19 evidence of in front of the residence here. These were the
20 two vehicles that were in the driveway and where we laid out
21 our markers on the -- these were all cartridge cases and this
22 was the fired projectile. The victim was laying in the
23 driveway here. These were the trees that I used as reference
24 points to these markers. These are the markers.

25 Q: All right. What is this on this side of the sketch?

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1 A: This is the green Honda Accord that's in the middle of
2 the road.

3 Q: That was taped off on either side?

4 A: Yes.

5 Q: Okay. I have no further questions regarding the sketch.
6 You can have a seat.

7 (WHEREUPON, the witness complied.)

8 BY MS. JONES:

9 Q: After you did the sketch, what else did you do? You
10 mentioned you started collecting evidence.

11 A: Yes.

12 MS. JONES: Permission to approach, Your Honor?

13 THE COURT: Yes.

14 (WHEREUPON, a bench conference was held off the record.)

15 MR. NEWMAN: We would have an objection over this
16 exhibit.

17 THE COURT: All right.

18 (WHEREUPON, a bench conference was held off the record.)

19 THE COURT: Objection is overruled.

20 MS. JONES: Your Honor, at this time, the State moves
21 State's 12 into evidence.

22 THE COURT: What?

23 MS. JONES: At this time, the State moves State's 12 into
24 evidence.

25 THE COURT: 12 is into evidence over objection from

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1 defense.

2 (WHEREUPON, State's Exhibit Number 12, a black plastic
3 bag, was admitted into evidence.)

4 MS. JONES: Permission to approach the witness, Your
5 Honor?

6 THE COURT: Yes.

7 BY MS. JONES:

8 Q: Special Agent Worley, can you identify that for the
9 Court?

10 A: Can I not open it?

11 Q: I'm trying to. I'll get you some scissors. Thank you.

12 A: It's Item 7. I'm not sure what Item 7 was.

13 Q: Okay. Do you have your chain of custody?

14 A: I do.

15 Q: You can actually open that bag as well.

16 A: It's the black plastic bag.

17 Q: Okay. It's a black plastic bag?

18 A: Yes.

19 Q: Who -- who did you collect that evidence from?

20 A: My partner, James Tallon, received it by chain of custody
21 from Special Agent Jeff Croft --

22 Q: Okay.

23 A: -- at the scene.

24 Q: Okay.

25 MS. JONES: Permission to approach, Your Honor?

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1 THE COURT: Yes.

2 BY MS. JONES:

3 Q: It seems to be stuck on a piece of tape. And this is it?

4 It's just a black plastic bag?

5 A: Yes.

6 Q: Okay.

7 MS. JONES: Permission to approach?

8 THE COURT: Yes.

9 BY MS. JONES:

10 Q: Agent Worley, I'm showing you what's been marked State's

11 13. It's actually SLED Number 6. Can you identify that?

12 Before you open it, can you identify -- do you see any

13 markings on that container?

14 A: It's my handwriting and my initials on the seal.

15 Q: Okay. What do your initials on the seal indicate?

16 A: It indicates that I'm the one who sealed it.

17 Q: Okay.

18 A: And dated it and put my initials on it.

19 Q: Okay. And you can open that bag at that time -- at this

20 time. My apologies.

21 (WHEREUPON, the witness complied.)

22 BY MS. JONES:

23 Q: Okay. And what is that item you just pulled out of

24 there?

25 A: This is a gunshot residue kit collected from Nathaniel

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1 Wright.

2 Q: From Nathaniel Wright?

3 A: Yes.

4 Q: Who collected that kit?

5 A: This was transferred by chain of custody from Special

6 Agent Jeff Croft to my partner James Tallon at the scene.

7 Q: And from James Tallon it came to you?

8 A: Yes.

9 Q: While it was under your care and control, did you

10 maintain the integrity of that item?

11 A: Yes.

12 Q: Did you alter it in any way?

13 A: No, I did not.

14 Q: Did it come into your hands the same way it left your

15 hands?

16 A: Yes.

17 Q: From your possession, where did it go?

18 A: I sent it to our trace department at SLED.

19 Q: Okay. When did you come into contact with this item?

20 A: It was transferred to me by chain of custody I believe at

21 the scene. If not at the scene, then back at our lab. I'm

22 not sure.

23 Q: Okay. And then you said you transferred it to trace?

24 A: Yes. I logged this in to our database, our system, and

25 then I transferred it to our trace department.

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1 Q: Okay. And that was sealed until we just opened it;
2 correct?

3 A: I sealed this outer envelope. This was sealed by whoever
4 collected it.

5 Q: Okay. But the outer envelope and your seal still intact
6 indicates it was not tampered with?

7 A: Right.

8 Q: Okay. I can take that. Thank you. Agent Worley, I'm
9 showing you what's been marked as State's 38. And can you
10 please identify those for the Court? State's 38, SLED A I
11 believe.

12 A: These are all the -- the four cartridge cases and the one
13 fired projectile that were collected at the scene.

14 Q: Okay. Are there any markings on that outer package?

15 A: The outer package -- it was sealed and has my initials
16 and the date I sealed it.

17 Q: Okay. Can you describe that bag that they are in, that
18 outer bag?

19 A: It's a heat-sealed pouch. We seal it in the lab.

20 Q: Okay. And did you, in fact, collect these casings?

21 A: Yes.

22 Q: And from your collection, where did they go?

23 A: I logged them in to our system and I transferred them to
24 firearms, our firearms department.

25 Q: Okay. Do you know who with firearms?

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1 A: I believe Michelle Eichenmiller.

2 Q: Okay. Thank you. And what date did you collect these
3 casings?

4 A: October 1st. Yes. I wanted to make sure I had the same.
5 Yes, it was October 1st.

6 Q: Okay. And while these casings are in your custody and
7 control, do you maintain the integrity of them?

8 A: Yes.

9 Q: Do you alter them in any way?

10 A: No.

11 Q: Do you tamper with them in any way?

12 A: No.

13 Q: Okay. You can go ahead and open that bag as well.

14 (WHEREUPON, the witness complied.)

15 MS. JONES: And, Your Honor, at this time, the State is
16 going to mark the individual items as 38-A, B, C, D, and E for
17 identification.

18 THE COURT: Any objection?

19 MR. NEWMAN: Marked for identification? I don't have any
20 problem.

21 BY MS. JONES:

22 Q: And just so the Court can know, what are you -- what are
23 you opening right now?

24 A: This Ziploc-type bag -- it has -- I believe that's
25 Michelle Eichenmiller from firearms -- her initials.

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1 Q: Okay. And it appears sealed and intact?

2 A: Yes, it's sealed.

3 Q: Okay. And what remains in that bag? What are those?

4 A: There are four cartridge cases.

5 Q: Okay.

6 MS. JONES: And the State will mark those 38-F.

7 MR. NEWMAN: Testified to identification, solicitor?

8 MS. JONES: Yes. Yes, for identification purposes only,

9 38-F.

10 (WHEREUPON, there was a pause in the proceedings as

11 counsel conferred.)

12 MS. JONES: Permission to approach, Your Honor?

13 THE COURT: Yes.

14 BY MS. JONES:

15 Q: Agent Worley, I'm showing you what's been marked as

16 State's 40 and can you please identify that for the record?

17 A: These are projectiles that were recovered from the

18 victim's body at autopsy.

19 Q: Okay. When did you come into contact with those items

20 for the first time?

21 A: After Special Agent Dawn Claycomb attended autopsy and

22 was -- all these were transferred to her at autopsy at MUSC.

23 She transported them back to the lab at SLED and transferred

24 custody to me.

25 Q: Okay. Do you remember what date that was you received

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1 custody of those items?

2 A: I believe it was the 2nd or 3rd. I'm not sure.

3 Q: Of October?

4 A: Of October.

5 Q: Okay. Did your -- have you marked that outer envelope in
6 any way, the outer bag?

7 A: Yes. I indicated which items were inside the bag and I
8 sealed it with my initials and the date that I sealed it.

9 Q: Does it appear to be tampered with?

10 A: No.

11 Q: And your seal -- your initials indicate that it wasn't
12 tampered with?

13 A: Right.

14 Q: While you have custody of these various items, do you
15 maintain the integrity of them?

16 A: Yes.

17 Q: Do you alter them in any way?

18 A: No.

19 Q: Do you manipulate them in any way?

20 A: No.

21 Q: You maintain the integrity of each of these items?

22 A: Yes.

23 Q: Okay. If you could, open that bag, and the State will
24 pre-mark the items inside as 40-A, 40-B, 40-C, and 40-D for
25 identification purposes only.

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1 (WHEREUPON, the witness complied.)

2 BY MS. JONES:

3 Q: And what are you handing me?

4 A: This is Item 17, bullet number three from autopsy.

5 Q: Okay. And that will be State's 40-A for identification.

6 A: This is our Item 18, bullet number four.

7 Q: Okay. 40-B for identification.

8 A: Item 15, bullet number one.

9 Q: 40-C for identification.

10 A: And Item 16, bullet number two.

11 Q: 40-D for identification. And that's everything in that

12 outer envelope; correct?

13 A: Yes.

14 Q: The outer bag; correct?

15 A: Uh-huh.

16 Q: Okay. Agent Worley, I'm now showing you what's been

17 marked as State's Exhibit 39, SLED Lab Number 23. And do you

18 have any identifying markers on that item?

19 A: I have seal tape where I sealed it and put my date -- the

20 date and my initials when I sealed it.

21 Q: What is the date you sealed that bag?

22 A: October 3rd.

23 Q: Of?

24 A: 2014.

25 Q: Okay. Does that seal appear to be tampered with in any

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1 way?

2 A: No.

3 Q: Okay. If we could, open that bag, please.

4 (WHEREUPON, the witness complied.)

5 BY MS. JONES:

6 Q: Okay. What is in that Item 39?

7 A: This is a gunshot residue kit that was collected from
8 Maurice Wright at autopsy.

9 Q: Okay. And who did you receive that item from?

10 A: Special Agent Dawn Claycomb.

11 Q: Okay. And when did you receive it from her?

12 A: The same time I would have received the others. I
13 believe the 2nd or 3rd of October.

14 Q: Okay. And while that item is in your control, do you
15 maintain its integrity?

16 A: Yes.

17 Q: Do you alter it in any way?

18 A: No.

19 Q: Do you manipulate it in any way?

20 A: No.

21 Q: You maintain the integrity of this item while it's under
22 your custody and control?

23 A: I do.

24 Q: Okay. And from your hands, who did that item go to?

25 A: I logged it in as -- in our system and I transferred it

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1 to our trace department for analysis.

2 Q: Okay. Does trace have another -- what is trace?

3 A: They examine gunshot residue kits, hair, fibers, paint
4 from cars.

5 Q: Okay. If I can get them back from you? Thank you.

6 Prior to receiving these items from Agent Claycomb that she
7 collected from autopsy, did you do anything else at the scene
8 that night?

9 A: We also -- after we had collected the cartridge cases and
10 the one fired projectile that we found at the scene, we used a
11 metal detector in that front yard to see if we could find any
12 other firearms-related evidence, cartridge cases or
13 projectiles, but we did not find any.

14 Q: Okay. Nothing else was located?

15 A: No.

16 MS. JONES: I beg the Court's indulgence.

17 BY MS. JONES:

18 Q: What time did you leave the scene that night?

19 A: I believe it was right around midnight.

20 MS. JONES: I have no further questions for you at this
21 time. Thank you.

22 THE COURT: Yes, sir. Cross-examination.

23 CROSS-EXAMINATION

24 BY MR. NEWMAN:

25 Q: Special Agent Worley, this is a blowup of a diagram that

MELINDA WORLEY - CROSS BY MR. NEWMAN

- 1 you made; correct?
- 2 A: Yes, it is.
- 3 Q: Okay. This car -- what was the VIN number of this car?
- 4 Were y'all able to trace that down?
- 5 A: I would have to look at my records. I don't think we --
- 6 crime scene didn't -- didn't do anything with that vehicle.
- 7 Q: Okay. So you have no clue who that belongs to?
- 8 A: No.
- 9 Q: Okay. Did you run the tag on this vehicle?
- 10 A: We didn't. Crime scene wouldn't.
- 11 Q: So you have no clue who this car belongs to?
- 12 A: I'm not sure, no.
- 13 Q: And actually, the car as found in the depiction is not
- 14 quite right because the driver's door was open on the car when
- 15 you found it; correct?
- 16 A: Yes.
- 17 Q: Okay. And that's shown in the photograph. Who owned
- 18 this vehicle right here, the dark -- dark blue car?
- 19 A: I think that was the victim's vehicle.
- 20 Q: Okay. But you don't know who owned this car?
- 21 A: I'm not sure, no.
- 22 Q: All right. Who was the registered owner of the land and
- 23 trailer?
- 24 A: I believe it was the victim and his mother.
- 25 Q: Okay. But you don't know that for sure?

MELINDA WORLEY - CROSS BY MR. NEWMAN

- 1 A: I don't know that for sure.
- 2 Q: All right. Now, let's start kind of reverse with the
- 3 shell casings. Where are they? Down here? All right. The
- 4 shell casing -- so that I get my nomenclature correct because
- 5 the firearms guys always want me to get it correct. The shell
- 6 casing is actually the piece of brass?
- 7 A: Right.
- 8 Q: And it will sometimes have an intact primer or primer
- 9 that's been discharged or sometimes the primer is missing?
- 10 A: I'm not sure about that.
- 11 Q: Okay. But it's the brass?
- 12 A: Yes.
- 13 Q: When you qualify on the range, you have to pick up all
- 14 the brass --
- 15 A: Right.
- 16 Q: -- after everybody is shooting, your brass?
- 17 A: Yes.
- 18 Q: Okay. Now, the brass was never sent for any type of
- 19 scientific testing or processing; is that correct?
- 20 A: Nothing other than the firearms, yes.
- 21 Q: Okay. And is it not unusual that shell casings are sent
- 22 to fingerprinting?
- 23 A: We do that. Yes.
- 24 Q: Okay. Because I'm kind of sweating right now. It's also
- 25 common for shells to be sent for touch DNA processing;

MELINDA WORLEY - CROSS BY MR. NEWMAN

1 correct?

2 A: Yes, it is.

3 Q: Okay. That was not done here?

4 A: No.

5 Q: So there's nothing scientifically to connect any of those
6 shell casings to the defendant in this case?

7 A: No.

8 Q: Okay. Likewise with this black bag, that was found
9 wherever it was found, in fact, you can't testify where it was
10 found?

11 A: No.

12 Q: Because it was handed to you? Okay. I noticed that that
13 item was sent for chemical processing?

14 A: Yes, it was.

15 Q: Okay. And it notes in the report that this item had a
16 latent print --

17 MS. JONES: Your Honor, objection. Permission to
18 approach?

19 THE COURT: Yes.

20 (WHEREUPON, a bench conference was held off the record.)

21 BY MR. NEWMAN:

22 Q: And this bag was tested for -- for fingerprints and a
23 partial fingerprint was found on that bag; is that correct?

24 A: I do not know about that. I didn't process it.

25 Q: Okay. Do you know who the agent is that processed it?

MELINDA WORLEY - CROSS BY MR. NEWMAN

1 A: I believe Tom Darnell in our latent print department.

2 Q: Okay. Oh, you are correct. Let me ask you this, if you
3 know. You are familiar and have worked with and processed
4 crime scenes for touch DNA, have you not?

5 A: Yes.

6 Q: Okay. And is it fair to assume that if a partial
7 fingerprint is found that a DNA analysis --

8 MS. JONES: Objection.

9 Q: -- can be done?

10 THE COURT: He can ask her if she knows. He can ask her
11 about her training. Lay the proper foundation and you can ask
12 her.

13 BY MR. NEWMAN:

14 Q: Let me ask you this. Have you been trained in collection
15 of touch DNA?

16 A: Yes.

17 Q: Okay. And touch DNA comes from the microscopic skin
18 cells that come off. They can come off from sweat?

19 A: Yes.

20 Q: And we -- through your training, you know that you have
21 sweat glands in your fingerprints?

22 MS. JONES: Objection.

23 THE COURT: He -- she's received training and he can ask
24 her the question. If she knows, she can answer it and if she
25 doesn't, she can say she doesn't know.

MELINDA WORLEY - CROSS BY MR. NEWMAN

1 BY MR. NEWMAN:

2 A: That's correct, yes.

3 Q: I'm sorry?

4 A: That is correct. You do have --

5 Q: That is correct?

6 A: -- sweat glands. Yes.

7 Q: And what makes a fingerprint typically are sebums and
8 ureas, chemicals from your body that adhere to a surface?

9 A: Right.

10 Q: Okay. You can try and do a latent print on those and you
11 can also swab some of that for -- because that chemical that
12 makes the fingerprint is going to have or should have some
13 trace DNA in it; correct?

14 A: It's possible.

15 Q: Okay. You were not asked to do any type of touch DNA
16 collection on the shells?

17 A: No, I wasn't.

18 Q: You were not asked to do any type of touch DNA collection
19 on whatever this bag is and wherever it was found?

20 A: No.

21 Q: Okay. Were you present when the GSR kit was collected
22 from either -- either Mr. Wright in this case?

23 A: No, I wasn't.

24 Q: Okay. And you have no knowledge as to -- as to any of
25 that?

MELINDA WORLEY - CROSS BY MR. NEWMAN

1 A: They were collected and then transferred to me by chain
2 of custody.

3 Q: Okay. So your role limited to this was to examine the
4 crime scene where you collected four spent shells? You
5 collected one either projectile or partial projectile?

6 A: Yes.

7 Q: Okay. And basically nothing else; correct?

8 A: That was -- that was all we found at the -- at the crime
9 scene, yes.

10 Q: Okay. Is there any reason you didn't note the four-
11 wheeler on your -- let me ask you was the four-wheeler there
12 when you did your crime scene?

13 A: I don't recall seeing one.

14 Q: So you don't know if the crime scene was altered in any
15 way before you got there? Obviously, you wouldn't know?

16 A: Right.

17 Q: Okay. I'm going to show you State's Exhibit 6 and --

18 MR. NEWMAN: Approach the witness, Your Honor?

19 THE COURT: Yes.

20 BY MR. NEWMAN:

21 Q: And in State's Exhibit 6, would you agree that there's a
22 four-wheeler right by the white car?

23 A: Yes.

24 Q: Okay.

25 MR. NEWMAN: May I publish that to the jury?

MELINDA WORLEY - CROSS BY MR. NEWMAN

1 THE COURT: Yes.

2 BY MR. NEWMAN:

3 Q: And that was not put on your drawing?

4 A: My drawing displays mainly the main objects to orient
5 what the -- what is in the drawing and the evidence that we
6 found at the scene. That's why it says not all items shown.
7 It's not going to include every single thing -- item that was
8 actually there.

9 Q: Okay. And in processing this crime scene, particularly
10 with that white car having the door open, you processed for no
11 latent prints and for no DNA?

12 A: Right.

13 Q: Were you told not to process for that?

14 A: I don't remember anybody requesting that we do process
15 for that.

16 Q: Well, is it not typical that when SLED comes that you are
17 looking for evidence? You're looking for trace evidence,
18 physical evidence?

19 A: Yes, we do. Not necessarily always touch DNA or latent
20 prints. It varies depending on what the scene is.

21 Q: Okay. On your vehicle that you came down with, is it not
22 equipped with items to collect touch DNA?

23 A: Yes.

24 Q: And those items can be as simple as cotton swabs;
25 correct?

MELINDA WORLEY - CROSS BY MR. NEWMAN

- 1 A: Yes, that's correct.
- 2 Q: Okay. And is your standard -- when you go to crime
3 scenes, do you typically bring a fingerprint kit?
- 4 A: Yes, we do.
- 5 Q: All right. And hopefully, the fingerprint kit is a
6 little bit better now. You have various brushes and various
7 powders for various surfaces; correct?
- 8 A: Yes.
- 9 Q: Because you can get fingerprints off metals, glass,
10 almost any kind of nonporous item; correct?
- 11 A: Yes, that's right.
- 12 Q: All right. You took no prints?
- 13 A: No.
- 14 Q: You were asked to take no prints?
- 15 A: No.
- 16 Q: You took no DNA?
- 17 A: No.
- 18 Q: And were asked to take no DNA?
- 19 A: Right.
- 20 Q: And did not process the shells for any prints or DNA?
- 21 A: Right.
- 22 Q: Thank you.
- 23 THE COURT: Any redirect?
- 24 MS. JONES: No, Your Honor.
- 25 THE COURT: You may step down. Any objection to this

1 witness being excused?

2 MS. JONES: Not from the State, Your Honor.

3 THE COURT: Madam Forelady and ladies and gentlemen of
4 the jury, we're going to allow y'all to return to the jury
5 room, refresh yourselves, and once again do not discuss the
6 case. Everyone remain seated as the jury exits the courtroom.

7 (WHEREUPON, the jury exited the courtroom at 3:01 p.m.)

8 THE COURT: All right. We'll stand at ease for five
9 minutes.

10 (WHEREUPON, there was a break in the proceedings from
11 3:02 p.m. until 3:15 p.m.)

12 THE COURT: Anything from the State before we -- we need
13 the defendant.

14 MS. JONES: Your Honor, I do have two matters.

15 THE COURT: Wait until the defendant gets in here.

16 (WHEREUPON, there was a pause in the proceedings.)

17 THE COURT: Ms. Jones, you're recognized.

18 MS. JONES: Thank you, Your Honor. A couple different
19 things before the jury comes in. Just a scheduling question.
20 I've gone and given a rough estimate of the witnesses before
21 we get to Mr. Drake. I have one -- two -- three -- four --
22 five -- six witnesses before Mr. Drake. I estimate about an
23 hour and 20 minutes -- an hour and a half worth of testimony.

24 Mr. Drake is going to be extremely lengthy. I think both
25 my cross -- my direct examination as well as the cross-

1 examination potentially will be very lengthy. I would just
2 ask that he be first thing in the morning.

3 THE COURT: I'll tell you what we'll do is we'll proceed
4 forward and, you know, if we have some extra time, we'll start
5 with him and we'll finish thereafter.

6 MS. JONES: Okay. Prior to starting with him, there is
7 reference in his statement that -- of a statement made by the
8 victim while he was being shot by the defendant and we would
9 plan on eliciting this statement under 803, hearsay exception.

10 THE COURT: All right. We'll address that at the
11 appropriate time. We've got a lot of testimony between now
12 and then. All right. Anything else?

13 MS. JONES: Oh, Your Honor, the State will be calling Ms.
14 Bostick as a witness at the end of the trial, our last
15 witness, in order to get in that certified conviction that Mr.
16 Wright had heard this morning. She was not put on the witness
17 list and we would just ask that she be added at this time.

18 THE COURT: And it's pertaining to what?

19 MS. JONES: The guilty plea that Mr. Wright entered this
20 morning.

21 MR. NEWMAN: That case is over with except for
22 sentencing. We'll just tell the jury it's been disposed of
23 and we're going forward on the murder and the weapon charge.

24 THE COURT: We'll address that later. I'm not real sure
25 that's necessary.

1 MR. NEWMAN: And I do have his -- is Detective Wright one
2 of your witnesses? We need to get into, Your Honor, one of
3 the issues. I have copies of three warrants taken out by
4 Elvin Wright, who is a witness coming to testify, for three
5 incidents of Mr. Wright firing a weapon, three counts of
6 assault and battery first-degree all involving -- all
7 involving shooting at three different victims.

8 THE COURT: All right. All right. It seems like to me
9 -- the general rule is that specific acts of misconduct are
10 inadmissible. That's the rule. There are some exceptions.

11 Reputation testimony is indeed admissible and that
12 necessarily has to be hearsay testimony. You can ask a person
13 if they know the individual, how they know them, and what
14 their reputation for truth and veracity is or their reputation
15 for peace and tranquility. That's one way to get into
16 character-type testimony.

17 The specific instances of violence in this case can be
18 entered into -- generally cannot be entered into. However,
19 there is an exception pursuant to 404(a)(2) that shows motive,
20 identity, existence of a common scheme or plan, like a modus
21 operandi, or the absence of mistake or accident or intent.
22 That -- do you maintain that that's one of the reasons why you
23 want to do it?

24 MR. NEWMAN: Well, there's also --

25 THE COURT: I'm asking is it --

1 MR. NEWMAN: That is one of the reasons. The other
2 reason --

3 THE COURT: All right. Which one is it? Is it motive?
4 Identity? Existence of common scheme or plan? Mistake or
5 accident or intent?

6 MR. NEWMAN: I believe it's 402 --

7 THE COURT: No. I'm asking you whether or not you
8 believe that 404(b) applies and that exception to that is
9 motive, identity, existence of common scheme or plan, absence
10 of mistake or accident or intent.

11 MR. NEWMAN: I would say it comes under intent -- Mr.
12 Wright's intent.

13 THE COURT: To do what?

14 MR. NEWMAN: Well, I needed my rules back because there's
15 another rule that deals with -- I believe it's 404 --

16 THE COURT: Okay. Well, I'm asking --

17 MR. NEWMAN: -- (a) (2).

18 THE COURT: My specific question to you is do you believe
19 that 404(a) (2) allows for that.

20 MR. NEWMAN: Yes, I do because I can get into the -- if
21 it's for a claim of defense, it can get into specific
22 incidents of conduct of the victim. And the State is entitled
23 to rebut that.

24 THE COURT: All right.

25 MR. NEWMAN: And I have to --

1 THE COURT: In a case --

2 MR. NEWMAN: -- assert that.

3 THE COURT: All right. The specific acts of violence in
4 this particular incident -- I don't think that motive,
5 identity, existence of common scheme or plan or absence of
6 mistake or accident or intent apply in this case. However,
7 with regard to acts of violence in a murder/self-defense type
8 case, you can get into specific instances of violence if the
9 violence is directed against the defendant.

10 And in these -- let's cross that threshold. Is -- are
11 these previous specific acts of violence against the
12 defendant? Yes or no?

13 MR. NEWMAN: They are against members of his family.

14 THE COURT: All right. Well, the question is is it
15 against the defendant?

16 MR. NEWMAN: The specific warrants that I have, no, they
17 are not against the defendant.

18 THE COURT: All right. And then secondly if it's against
19 another person, it's incumbent upon you to determine -- for us
20 to determine whether or not --

21 MR. NEWMAN: And I would cite *State v. Douglas*.

22 THE COURT: All right. All right. If it was not against
23 the defendant, then it's incumbent upon you -- and if it's
24 directed against others, which in this case it was family
25 members, we need to determine whether it was so closely

1 connected at the point of time or occasion with the homicide
2 as reasonably to indicate the state of mind of the deceased at
3 the time of the homicide or produce reasonable apprehension of
4 great bodily harm. And there has to be a showing that -- that
5 he knew about these instances.

6 All right. And my question to you is is it closely
7 connected in time and occasion to the homicide?

8 MR. NEWMAN: It is within approximately a year. However,
9 it was in nearly the same place on Henry Lawton Road. One of
10 the victims was a child of Mr. Wright, his cousin, and
11 Cornelius Wright -- another cousin, Cornelius Wright, who all
12 lived in the same area. So we've got the same area. Mr.
13 Wright -- the deceased Mr. Wright was actually out on bond for
14 those charges during this incident and was wearing an ankle
15 monitor as part of a condition of his bond. And I also cite
16 Rule 405.

17 THE COURT: That's what we're talking about.

18 MR. NEWMAN: I thought you had asked me about 404(a) in
19 your other question.

20 THE COURT: All right. Well, do you think 405(a)
21 applies?

22 MR. NEWMAN: I think 405(a) -- I have another witness to
23 get into that, but the witness Mr. Wright -- because he was
24 the investigating officer in that, I want to cite 404(b),
25 specific incidents of conduct in which a character trait or

1 the character of a person is an essential element of the
2 charge claimed for defense. Proof may also be made by
3 specific incidents of that person's conduct.

4 And in the case that I've cited to you, that was a
5 separate -- actually, two separate incidents involving
6 separate victims. *State v. Douglas* is 768 S.E.2d 232. Again,
7 these are instances where it is very inferable that Mr. Wright
8 would have knowledge of it because they are family members and
9 they occurred at virtually the same location.

10 THE COURT: All right. Tell me what each one of the
11 instances are.

12 MR. NEWMAN: The instances are that Maurice Wright did
13 commit the offense of assault and battery first degree on the
14 victim, Cornelius Wright Jr., who is a cousin to Maurice, by
15 firing a weapon in the direction of the victim, unlawfully
16 offering or attempting to injure him with the present ability
17 to do so in likely means to produce death or great bodily
18 result on the property at [REDACTED] Henry Lawton Road in Ridgeland.

19 THE COURT: So he shot at one of his cousins?

20 MR. NEWMAN: He shot at three of his cousins.

21 THE COURT: Three of his cousins. All right.

22 MR. NEWMAN: Well, one of them was a baby.

23 THE COURT: All right. And how long ago was that event?

24 MR. NEWMAN: That was on August 29th, 2013, approximately
25 13 months and a day -- well, approximately one year from this

1 incident.

2 THE COURT: All right. What does the State have to say
3 about that particular incident?

4 MS. JONES: Your Honor, I would actually look at the
5 *State v. Day* case. I do have copies for everybody of that
6 case.

7 That case was a -- the best case I could say was a love
8 triangle, murder for hire sort of instance. In that case, the
9 victim, who actually was the one who was shot and killed, was
10 the original person who set up the murder for hire of the
11 girlfriend. The shooter who was supposed to do this murder
12 for hire couldn't follow through with it because he was also
13 in love with this intended target. Instead, he went and told
14 the victim that he had, in fact, killed the girl when, in
15 fact, he hadn't killed her.

16 The prior specific instance that that Court let in was
17 one in which the victim in that case had been deceived on an
18 earlier instance four months prior by another woman regarding
19 a drug deal situation and he held a gun at her head. The
20 State reasoned that that particular -- well, the Court
21 reasoned that that particular specific instance of conduct was
22 admissible because it dealt with the same sort of feeling, the
23 same sort of knowledge that the victim had at that time,
24 deception.

25 The shooter was allowed to get into that because of the

1 incident four months ago. The victim felt deceived; so he
2 reacted with a gun. His theory of self-defense was that I was
3 deceiving this particular man and I know in the past he was
4 acting with a gun.

5 It's such a narrow interpretation of the specifics being
6 allowed in. I think they have to be so closely connected,
7 such as an instance like that, and I just don't see how a
8 shooting over a year prior to this is admissible as relevant.
9 It shows no -- no similarities to this incident that we're
10 here for.

11 The theory of this case is that the argument was over
12 money. I think if it had perhaps been an argument over money
13 or something similar to that and the victim in turn reacted
14 with gunfire, that would be a different situation, but I think
15 that because we don't know any specifics about that, him just
16 allegedly shooting -- and again, this is him allegedly
17 shooting. He was never convicted of these assault and battery
18 first degrees. He was -- he died before these cases could
19 come to trial.

20 I just don't see how all that is relevant. It's too far
21 outside of the time range that we're dealing with here. A lot
22 can happen in over a year and I just don't see how similar
23 they are in order to apply here.

24 THE COURT: All right. What do you have to say about
25 that?

1 MR. NEWMAN: I believe --

2 THE COURT: First of all, Ms. Jones, do you believe that
3 in order for him to it admit acts of violence -- prior acts of
4 violence against other people, not him, does he have to prove
5 knowledge?

6 MS. JONES: I think so because how can he -- how can he
7 rely on those appearances if he doesn't even know of those
8 appearances.

9 THE COURT: Okay. Mr. Newman, how do you think the
10 requisite knowledge can be established? Do you think it's
11 necessary that you -- that he take the stand in order to
12 establish knowledge?

13 MR. NEWMAN: I think --

14 THE COURT: And these cases, the defendants generally get
15 up and say that I was aware of these convictions.

16 MR. NEWMAN: Your Honor, I think it's certainly
17 inferable. One of the things that we get in self-defense that
18 you're going to charge the jury is a person can act on
19 reasonable appearances. A person can use his knowledge of the
20 victim to assess the situation. Those are within the standard
21 charge.

22 THE COURT: I know. But we've got to figure out whether
23 or not he knew it.

24 MR. NEWMAN: What we have is three of his first cousins
25 at -- near the same incident location with his brother. I

1 think it's inferable that he had knowledge of his brother's
2 violent tendencies, but we do have a witness we can tie this
3 up. We do not anticipate that Mr. Wright is going to testify,
4 but we have a witness that we are going to put up that will
5 talk about the lifelong bullying and violence from Mr. Tag
6 Wright in this. And I think this is part and parcel of that.

7 THE COURT: Well, that's a whole different thing,
8 reputation for violence in a general way. That's a lot
9 different than a specific act of violence. My question to you
10 is how are you going to establish that the defendant knew that
11 these charges -- that the offense took -- that the alleged
12 offense took place and the fact that he knew it?

13 MR. NEWMAN: Well, one of the things that we know is
14 correct there is that this Mr. Wright was wearing an ankle
15 monitor. He was on bond. These are brothers that live
16 roughly a mile from this courthouse. He was on bond for a
17 year. I think it would be disingenuous to think that he
18 didn't know of this.

19 THE COURT: Well, my question is --

20 MR. NEWMAN: I would be able to put that in through our
21 witness.

22 MS. JONES: Your Honor, I just don't see how inferring is
23 actually knowledge. He has to have actual knowledge there
24 were two --

25 MR. NEWMAN: I mean if that's the issue --

1 MS. JONES: He has to have knowledge.

2 MR. NEWMAN: If that's the limited issue for the
3 admissibility of this, I can proffer Mr. Wright outside of the
4 jury for that limited purpose.

5 MS. JONES: Well, now he knows about it.

6 MR. NEWMAN: He knew about it all along. How do you
7 think we found out about it?

8 MS. JONES: I still would rely on my other argument in
9 that *Day* case that absent -- I still contend that you have to
10 prove actual knowledge. Absent that, there's no way to
11 closely connect these particular instances enough with respect
12 to the facts of this case.

13 MR. NEWMAN: And that's not what the *Douglas* case -- the
14 2015 case says. It doesn't say about that. It is about the
15 reputation and the acts of the victim. And that goes to
16 establishing whether or not Mr. Wright was violent and/or
17 would use violence. He used violence in basically the same
18 place.

19 THE COURT: All right. I'll allow you to tender his
20 testimony outside of the presence of the jury to determine
21 what he knew about the details of it, whether he knew about
22 it, and what he knew.

23 MR. NEWMAN: Without being subject to further examination
24 in front of the jury?

25 THE COURT: That's correct.

NATHANIEL WRIGHT - PROFFERED DIRECT BY MR. NEWMAN

1 MR. NEWMAN: For the very limited purpose of this in
2 camera hearing, we tender the defendant.

3 THE COURT: Mr. Wright, please come forward. I'd ask
4 you, if you could, place your left hand on the Bible and raise
5 your right hand as the clerk administers the oath.

6 THE CLERK: The testimony you are about to give the Court
7 will be the truth, the whole truth, and nothing but the truth,
8 so help you God?

9 THE DEFENDANT: Yes.

10 THE CLERK: Come around and have a seat.

11 THE COURT: Have a seat in the witness chair and respond
12 to your lawyer's questions.

13 NATHANIEL WRIGHT, being first duly
14 sworn, testified as follows:

15 PROFFERED DIRECT EXAMINATION

16 BY MR. NEWMAN:

17 Q: Mr. Wright, how old are you?

18 A: Thirty-two.

19 Q: How old was Tag?

20 A: I think 38.

21 Q: All right. I have referenced the charges that were three
22 counts of assault and battery first degree that were pending
23 here in this courthouse. Were you aware of those charges back
24 on October 1st of 2014?

25 A: I been in the yard when he done it.

NATHANIEL WRIGHT - PROFFERED DIRECT BY MR. NEWMAN

1 Q: So you witnessed the shots that Tag fired at your cousins
2 and their child?

3 A: Yes.

4 Q: Okay. And you were aware that he was arrested by
5 authorities?

6 A: Yes.

7 Q: And that he was coming to roll calls and courts for these
8 three shooting cases?

9 A: Yes.

10 Q: Okay.

11 MR. NEWMAN: I don't have any further questions.

12 THE COURT: Any cross-examination?

13 PROFFERED CROSS-EXAMINATION

14 BY MS. JONES:

15 Q: You said you were in the yard when it happened?

16 A: Yes, ma'am.

17 Q: Why didn't you tell the police that?

18 A: The police ain't asked me.

19 Q: Okay. You didn't try to tell the police you were there?

20 A: No. I been in -- I been in my yard -- my mom's yard.

21 Q: Okay. How close --

22 A: He went back in the yard behind.

23 Q: Okay. So you didn't see it?

24 A: I been right there. I just -- I seen when they went back
25 there. They went back there causing problems.

NATHANIEL WRIGHT - PROFFERED CROSS BY MS. JONES

1 Q: Okay. But you didn't actually see him shooting? You
2 were in your yard and then you went like this --

3 A: I'm right there by the stop sign, ma'am.

4 Q: Okay. Did you see him shooting?

5 A: Yes.

6 Q: Okay. But you didn't tell the police that?

7 A: No.

8 Q: Why didn't you tell the police that?

9 A: No one asked me.

10 Q: Okay.

11 MS. JONES: - I have no further questions, Your Honor.

12 MR. NEWMAN: I have no follow-up.

13 THE COURT: All right. You may step down. Is there any
14 other specific acts of violence that you intend to introduce?

15 MR. NEWMAN: I do through another witness that is going
16 to testify about years of violence committed by Tag against
17 this Mr. Wright.

18 THE COURT: All right.

19 MR. NEWMAN: It's going to be an aunt.

20 THE COURT: All right. We'll address that issue. With
21 regard to this particular prior bad act, I find that the
22 defendant did know about it and it affected his state of mind
23 in a situation where you're trying to determine whether or not
24 a situation involves murder or self-defense, and I think it --
25 in the case -- let's see which. I think it's *State v.*

1 *Franklin -- Graham Franklin Douglas, which is 678 S.E.2d 232.*

2 I think it was maybe -- let's see the time. They made a
3 point of saying it was only four months prior to the victim's
4 death and therefore it was closely -- close enough in time.

5 I find that under these circumstances that it -- that
6 this particular act of violence is so closely connected at the
7 point in time within a year that it would reasonably affect
8 the state of mind of the defendant and I'm going to allow that
9 particular specific act of violence to come in.

10 All right. We're ready for the jury.

11 (WHEREUPON, the jury entered the courtroom at 3:39 p.m.)

12 THE COURT: Madam Forelady and ladies and gentlemen of
13 the jury, thank you for your patience. We had one legal
14 matter that needed to be resolved before we brought you out.
15 I'm going to let you know that we were indeed out here working
16 while you were in the room.

17 Ms. Jones, you're recognized. You may call your next
18 witness.

19 MS. JONES: Thank you, Your Honor. The State calls
20 Special Agent Tallon.

21 (WHEREUPON, there was a pause in the proceedings until
22 the witness entered the courtroom.)

23 THE COURT: Yes, sir. If you could, come forward and
24 approach the clerk. Place your left hand on the Bible and
25 raise your right hand as the clerk administers the oath.

JAMES TALLON - DIRECT BY MS. JONES

1 THE CLERK: The testimony you are about to give the Court
2 will be the truth, the whole truth, and nothing but the truth,
3 so help you God?

4 THE WITNESS: Yes, ma'am.

5 THE CLERK: Come right around and have a seat in the
6 witness chair.

7 THE COURT: Have a seat in the witness chair. Speak
8 loudly, clearly, and slowly in order that you -- in order that
9 we can hear everything that you have to say and let's start
10 with your full name.

11 THE WITNESS: James Tallon, T-a-l-l-o-n.

12 THE COURT: Very good. Ms. Jones?

13 MS. JONES: Thank you, Your Honor.

14 JAMES TALLON, being first duly
15 sworn, testified as follows:

16 DIRECT EXAMINATION

17 BY MS. JONES:

18 Q: Agent Tallon, where are you currently employed?

19 A: The South Carolina Law Enforcement Division, also known
20 as SLED.

21 Q: Okay. And in what capacity do you work at SLED?

22 A: I'm a special agent in crime scene.

23 Q: How long have you been employed with SLED?

24 A: I've been employed with SLED for a little over two years
25 now.

JAMES TALLON - DIRECT BY MS. JONES

1 Q: Okay. Were you working with SLED on October 1st of 2014?

2 A: Yes, ma'am, I was.

3 Q: Okay. In what capacity?

4 A: I was a crime scene agent.

5 Q: Okay.

6 MS. JONES: Your Honor, permission to approach?

7 THE COURT: Yes.

8 BY MS. JONES:

9 Q: Agent Tallon, I'm going to show you what has been

10 previously marked for identification only as State's 13. Can

11 you identify what is inside that envelope?

12 A: It is a GSR kit collected from Nathaniel Wright.

13 Q: Okay. And did that particular GSR kit ever come into

14 your custody and control?

15 A: Yes, ma'am, it did.

16 Q: When was that?

17 A: On scene at the night in question.

18 Q: Okay. Who did you collect that from?

19 A: I collected this exact GSR kit from Jeff Croft -- Special

20 Agent Jeff Croft.

21 Q: Okay. Is he also employed with SLED?

22 A: Yes, ma'am, he is.

23 Q: And did you -- where were you when you collected that

24 kit?

25 A: In the roadway right in front of Captain Bill Road.

JAMES TALLON - DIRECT BY MS. JONES

1 Q: Okay. And from your hands, who did you transfer that
2 item to?

3 A: To Special Agent Melinda Worley.

4 Q: Okay. When this item is under your control and custody,
5 do you maintain the integrity of this item?

6 A: Yes, ma'am.

7 Q: Do you alter it in any way?

8 A: No, ma'am.

9 Q: Do you manipulate it or change it?

10 A: No, ma'am.

11 Q: Okay. Is the way that you received it the way that you
12 transferred it to Special Agent Worley?

13 A: Yes, ma'am. Sealed.

14 Q: Sealed? You mentioned sealed. Why sealed?

15 A: Once the GSR kit is collected, it is sealed with this
16 piece of red seal tape here to show that it's not been
17 tampered with.

18 Q: Okay. And you put that seal on?

19 A: No, ma'am. Jeff Croft put the seal on because he's the
20 one that collected it.

21 Q: Okay. And it was intact when you received it?

22 A: Yes, ma'am.

23 Q: Okay.

24 MS. JONES: Thank you. Agent Tallon, I have no further
25 questions for you at this time.

JAMES TALLON - CROSS BY MR. NEWMAN

1 THE COURT: Mr. Newman?

2 CROSS-EXAMINATION

3 BY MR. NEWMAN:

4 Q: Special Agent Tallon, welcome to Jasper County, South
5 Carolina. Where are you from?

6 A: I'm originally from Lee County, South Carolina.

7 Q: Lee County? Okay. Very good. Now, were you in law
8 enforcement anywhere else prior to joining the South Carolina
9 Law Enforcement Division?

10 A: Yes, sir. I did five years at the Sumter Police
11 Department.

12 Q: At which one?

13 A: Sumter Police Department.

14 Q: Sumter. Okay. Very good. And I'm sure you are a police
15 academy graduate?

16 A: Yes, sir.

17 Q: And you are a certified police officer?

18 A: Yes, sir.

19 Q: And you take so many hours every year of continuing
20 criminalistics courses?

21 A: Yes, sir.

22 Q: To stay current? Okay. And did you have to receive any
23 special training to become a crime scene agent?

24 A: I have taken several courses while I was employed with
25 the City of Sumter Police Department. I was sent to several

JAMES TALLON - CROSS BY MR. NEWMAN

1 different training, such as DNA collection, fingerprint
2 analysis, several hours of training all over.

3 Q: Okay.

4 A: And from SLED, I've also been sent to bloodstain pattern
5 analysis and I've done a minimum of eight months of in-house
6 training where we go through several different blocks of
7 training, such as photography, footwear, tire tread
8 collection.

9 Q: Okay. And within that training and knowledge that you
10 have there are places that you can look for DNA, such as
11 steering wheels, fingerprints on mirrors of cars, various
12 places that a trained eye like you would be able to attempt to
13 test surfaces for either DNA or fingerprints; correct?

14 A: That is correct.

15 Q: Much more than what a layman might know? You could get
16 there a little bit quicker than a layman, couldn't you?

17 A: Probably, yes, sir.

18 Q: Okay. And in your basic training, do you remember the
19 days you wore a uniform?

20 A: Yes, sir.

21 Q: Okay. Let's take you -- let's take you back there to
22 kind of the basics. One of the basics that is taught at the
23 police academy and taught to uniforms because they're
24 typically first officers on scene is integrity and
25 preservation of a crime scene; is that correct?

JAMES TALLON - CROSS BY MR. NEWMAN

- 1 A: Yes, sir.
- 2 Q: You don't want people walking in and out. People can
3 disturb it, add evidence, take evidence, deposit things, take
4 things. It's just you want the crime scene preserved;
5 correct?
- 6 A: That is true.
- 7 Q: Okay. Now, of course, you getting there some hours
8 later, you weren't there during the initial incident; correct?
- 9 A: Correct.
- 10 Q: All right. And did you participate in the collection of
11 the shell casings and bullet fragment?
- 12 A: The most -- most of the stuff that I did on this scene
13 was basically take photographs.
- 14 Q: Okay. So you were the photo guy and Agent Worley
15 actually --
- 16 A: She was the lead agent in that case.
- 17 Q: -- collected the stuff? Okay. Did you have a DNA kit
18 with you?
- 19 A: A DNA kit?
- 20 Q: Well, things that you could -- either buccal swabs or
21 swabs that you can take touch DNA with?
- 22 A: That is true. We had equipment to collect DNA.
- 23 Q: Okay. And I'm assuming you had a fingerprint kit?
- 24 A: Yes, sir.
- 25 Q: Did it have various powders and various type of brushes

JAMES TALLON - CROSS BY MR. NEWMAN

1 for different surfaces? Metal, glass, pretty much any porous
2 and any nonporous surface?

3 A: Yes, sir.

4 Q: Okay. And it's true that no swabbings for DNA were taken
5 in this crime scene and no fingerprints were attempted to be
6 lifted at this crime scene?

7 A: You would have to refer to Melinda Worley's notes on that
8 one. I can't say specifically.

9 Q: Okay.

10 A: I was taking photographs.

11 Q: Well, let me ask you, specifically taking photographs,
12 you did not take any samplings for DNA?

13 A: No, sir, I did not.

14 Q: Nor were asked to?

15 A: No, sir.

16 Q: You did not process or attempt to find latent fingerprint
17 evidence?

18 A: No, sir.

19 Q: Okay. And in your experience as a crime scene
20 investigator and as a -- as a police officer and SLED agent,
21 is it fairly typical that things like shells are processed for
22 fingerprints and touch DNA? Bullet cartridges?

23 A: It really depends on the request. It is very difficult
24 to get a fingerprint or DNA in that case off of a shell casing
25 or cartridge case.

JAMES TALLON - CROSS BY MR. NEWMAN

1 Q: Wow. I had an agent testify just the opposite. Okay.
2 So it's your opinion that it's hard to get DNA or a
3 fingerprint off of shell casings?
4 A: That is true.. Once it's been fired, that is correct.
5 Q: Okay. What about off of the console of a car or a mirror
6 of a car?
7 A: It really depends on how the hand touches the mirror, but
8 it is possible to get.
9 Q: Okay. My whole point is here is nobody even tried;
10 correct? To your knowledge?
11 A: Not to my knowledge.
12 Q: All right. So there is no forensic or physical evidence
13 that links anybody to this particular crime scene; isn't that
14 true?
15 A: I would not be able to say any forensic evidence. Like I
16 said, I'm just the secondary agent on this case.
17 Q: Taking photographs?
18 A: Correct.
19 MR. NEWMAN: Thank you.
20 THE COURT: Any redirect?
21 MS. JONES: No, Your Honor.
22 THE COURT: You may step down. You're free to leave.
23 THE WITNESS: Thank you, sir.
24 THE COURT: You may call your next witness.
25 MS. JONES: The State calls Special Agent Jeff Croft.

JEFF CROFT - DIRECT BY MS. JONES

1 (WHEREUPON, there was a pause in the proceedings until
2 the witness entered the courtroom.)

3 THE COURT: Yes, sir. Please come forward. I'm going to
4 ask you to approach the clerk. Place your left hand on the
5 Bible and raise your right hand as the clerk administers the
6 oath. 5

7 THE CLERK: The testimony you are about to give the Court
8 will be the truth, the whole truth, and nothing but the truth,
9 so help you God?

10 THE WITNESS: Yes, ma'am.

11 THE CLERK: Go right around and have a seat.

12 MR. NEWMAN: Your Honor, before we start, may I approach
13 with the solicitor?

14 THE COURT: Yes.

15 (WHEREUPON, a bench conference was held off the record.)

16 MS. JONES: Thank you, Your Honor.

17 JEFF CROFT, being first duly
18 sworn, testified as follows:

19 DIRECT EXAMINATION

20 BY MS. JONES:

21 Q: Good afternoon, Agent Croft.

22 A: Good afternoon.

23 Q: Where are you currently employed?

24 A: South Carolina Law Enforcement Division.

25 Q: And what are some of your duties with SLED?

JEFF CROFT - DIRECT BY MS. JONES

1 A: I'm a special agent with investigating services in the
2 low country --

3 Q: Okay.

4 A: -- region.

5 Q: What do you do as a special agent in the low country?

6 A: Criminal investigations.

7 Q: Okay. Were you involved a little bit in this case we're
8 here for this afternoon?

9 A: Yes, ma'am.

10 Q: Okay. I'm going to show you what has been previously
11 marked as State's 13.

12 MS. JONES: Permission to approach, Your Honor?

13 THE COURT: Yes.

14 BY MS. JONES:

15 Q: Agent Croft, could you please tell me what is inside that
16 envelope?

17 A: It is a gunshot residue evidence collection kit.

18 Q: Okay. Belonging to who?

19 A: It was taken from the suspect, Nathaniel Wright.

20 Q: Okay. Who took this kit?

21 A: I did.

22 Q: Okay. What -- how do you collect gunshot residue from a
23 person?

24 A: Inside the kit -- it's a sealed kit when we first open it
25 up. I would show it to -- or I did show it to Mr. Wright. We

JEFF CROFT - DIRECT BY MS. JONES

1 broke the seal on it. I explained to him what I was doing.
2 It comes with little collection vials.
3 Q: Okay.
4 A: Which it has a right hand -- a right back, right palm,
5 left hand back and left palm. You pull the vials out and you
6 dab the back of the hands and reseal the container.
7 Q: Okay. And is that what you did in this case??
8 A: Yes, ma'am, it was.
9 Q: And from your hands, who did that GSR kit go to?
10 A: It would have went to Special Agent Tallon.
11 Q: Okay. Would that -- what -- do you know what date that
12 was?
13 A: I think it was done on the 1st of October.
14 Q: Okay. Of 2014?
15 A: Yes, ma'am.
16 Q: After you collect this kit, what do you do with it?
17 A: It is placed back into its original package. It is
18 sealed and I would seal -- I would place the evidence seal on
19 the back.
20 Q: Okay. And you, in fact, did that in this case?
21 A: Yes, ma'am, I did.
22 Q: And that indicates that it hasn't been tampered with?
23 A: Yes, ma'am, it does.
24 Q: Okay. While this kit is in your custody and control,
25 aside from you actually collecting the kit from the defendant,

JEFF CROFT - DIRECT BY MS. JONES

1 do you maintain the integrity of this item?

2 A: Yes, ma'am, I do.

3 Q: Do you alter it in any way?

4 A: No, ma'am, I don't.

5 Q: Do you tamper with it or change it?

6 A: No, ma'am, I don't.

7 Q: Do you manipulate it?

8 A: No, ma'am, I don't.

9 Q: Okay. When you collect it from the defendant and place

10 it in that bag, seal it, it is in the same -- the same way

11 that you receive it goes to Special Agent Tallon?

12 A: It's the same condition.

13 Q: The same condition. That's the word I was looking for.

14 Thank you. You can put that back in there again.

15 A: Okay.

16 Q: Thank you.

17 A: Yes, ma'am.

18 Q: Aside from collecting this gunshot residue kit from the

19 defendant, did you do anything else with this case?

20 A: Yes, ma'am, I did. I was able to view the in-car video

21 from the patrol unit involved in the -- in the case.

22 Q: Okay. Why did you do that?

23 A: In an attempt to see if any items were disposed of out of

24 the window of the vehicle.

25 Q: Okay. Were you looking for a particular item?

JEFF CROFT - DIRECT BY MS. JONES

1 A: We were actually looking for a weapon, yes.

2 Q: Okay. After you looked at this video, what did you do?

3 A: After looking at the video, I was able to identify a
4 location. I think it's Highway 17. It's in front of a
5 nightclub where an item was observed coming from the window of
6 the vehicle. It appeared to be in a black bag.

7 Q: Okay.

8 A: I was able to count the telephone poles back by slowing
9 the video down. I went to this area and walked the area in an
10 attempt to locate the item.

11 Q: Okay. Why --

12 MS. JONES: Well, permission to approach, Your Honor?

13 THE COURT: Yes.

14 BY MS. JONES:

15 Q: I am going to show you what has been previously admitted
16 as State's 12. Is this the -- is this the black bag that you
17 collected?

18 A: That is the black bag I collected from that location.

19 Q: From Highway 17?

20 A: Yes, ma'am.

21 Q: Okay. And you collected a black bag why?

22 A: Because it appeared to be a black bag which was disposed
23 of out of the window of the vehicle as it went down Highway
24 17. You could see the item come out of the car. It appeared
25 to be heavy. It dropped straight to the ground.

JEFF CROFT - DIRECT BY MS. JONES

1 Q: Okay. But when you collected this bag, was there
2 anything in it?

3 A: No, there wasn't.

4 Q: Okay. It was empty when you collected it?

5 A: Yes, ma'am, it was.

6 Q: Okay.

7 MS. JONES: I have no further questions for you.

8 THE WITNESS: Thank you.

9 THE COURT: Cross-examination.

10 MR. NEWMAN: Yes, sir. It's going to take a minute. I'm
11 going to need to have technical support to find out if we can
12 actually watch this black bag as it -- as it floats out of the
13 window of the car. And I don't know exactly where -- I had
14 not anticipated this. I don't know exactly where on that
15 video it is. If I can get some assistance in finding it?

16 MS. JONES: It may take a second to get to the exact
17 spot.

18 THE COURT: Okay. We've got a second.

19 (WHEREUPON, there was a pause in the proceedings as the
20 video was readied.)

21 (WHEREUPON, State's Exhibit 5, the dash cam video, was
22 partially played in open court and then stopped. NOT
23 TRANSCRIBED HEREIN.)

24 CROSS-EXAMINATION

25 BY MR. NEWMAN:

JEFF CROFT - CROSS BY MR. NEWMAN

- 1 Q: All right. And that's the video that you viewed?
- 2 A: Yes, sir, it is.
- 3 Q: All right. And you found this bag in that general
- 4 vicinity?
- 5 A: Yes, sir, I did.
- 6 Q: Okay. And it was empty?
- 7 A: Yes, sir, it was.
- 8 Q: And was it in this same condition?
- 9 A: It was on the side of the road in that condition, yes,
- 10 sir.
- 11 Q: Okay. Now, did you do any testing on the bag?
- 12 A: No, sir. I collected the bag and turned it over to SLED
- 13 crime scene.
- 14 Q: Okay. And you have no idea what was in the bag?
- 15 A: No, sir, I do not.
- 16 Q: Okay. And let me ask you this because I think the State
- 17 wants everybody to speculate that a gun might have been in
- 18 that bag. Did you do any GSR testing on that bag?
- 19 A: No, sir, I did not do any testing on the bag.
- 20 Q: If a weapon were in there, you could GSR test the bag
- 21 because you GSR test clothes, you GSR test other inanimate
- 22 objects, do you not?
- 23 A: The bag was turned over to SLED crime scene.
- 24 Q: That's not my question.
- 25 A: I did not do any testing on the bag. I collected the

JEFF CROFT - CROSS BY MR. NEWMAN

1 bag, secured the bag, and turned it over to SLED crime scene.

2 Q: Okay. And my question is GSR testing could have been
3 done on the bag; correct?

4 A: Yes, sir, it could.

5 Q: Okay. And it was not?

6 A: I did not do it.

7 Q: Okay. So we have nothing -- you can't say what, if
8 anything, was in that bag?

9 A: I did not do any testing on the bag. It was an empty bag
10 when I found it.

11 Q: Okay. My question, sir, is you cannot say if anything
12 was or was not in that bag or what that item was?

13 A: I do not know what item was in the bag. No, sir.

14 MR. NEWMAN: Thank you.

15 THE COURT: Any redirect?

16 MS. JONES: Briefly, Your Honor.

17 REDIRECT EXAMINATION

18 BY MS. JONES:

19 Q: Agent Croft, do you know roughly what time it was you
20 collected this item?

21 A: I do not recall the time, no, ma'am.

22 Q: Was it after 5:30 that afternoon?

23 A: Yes, ma'am, it was. It was dark.

24 Q: It was dark?

25 A: Yes, ma'am.

1 MS. JONES: I have no further questions. Thank you.

2 THE COURT: Very good. All right. You may step down.

3 THE WITNESS: Thank you, sir.

4 THE COURT: Any objection to this witness being excused?

5 MS. JONES: No, Your Honor.

6 THE COURT: You're free to leave. Thank you, sir.

7 THE WITNESS: Thank you.

8 THE COURT: All right. You may call your next witness.

9 MS. JONES: The State calls Special Agent Dawn Claycomb.

10 (WHEREUPON, there was a pause in the proceedings until
11 the witness entered the courtroom.)

12 THE COURT: Yes, ma'am. Please come forward. I'm going
13 to ask you, if you could, to approach our fine clerk there and
14 place your left hand on the Bible and raise your right hand as
15 the clerk administers the oath.

16 THE CLERK: The testimony you are about to give the Court
17 will be the truth, the whole truth, and nothing but the truth,
18 so help you God?

19 THE WITNESS: I do.

20 THE CLERK: Go right around and have a seat.

21 THE COURT: Yes, ma'am. If you could, have a seat in the
22 witness chair.

23 THE WITNESS: Thank you. Your Honor.

24 THE COURT: Pull up real close to the microphone. Speak
25 loudly, clearly, and slowly in order that we can hear

DAWN CLAYCOMB - DIRECT BY MS. JONES

1 everything that you have to say and let's start with your full
2 name and let's spell that last one.

3 THE WITNESS: My full name is Dawn Marie Claycomb. My
4 last name is C-l-a-y-c-o-m-b.

5 MS. JONES: Thank you, Your Honor.

6 DAWN CLAYCOMB, being first duly
7 sworn, testified as follows:

8 DIRECT EXAMINATION

9 BY MS. JONES:

10 Q: Agent Claycomb, where are you employed?

11 A: South Carolina Law Enforcement Division.

12 Q: And in what capacity do you work with SLED?

13 A: A crime scene agent.

14 Q: What are some of your duties as a crime scene agent?

15 A: Responding to crime scene calls for local agencies.

16 Q: Did you respond to a -- to a call in reference to the
17 case we're here for today?

18 A: Yes, ma'am, I did.

19 Q: And what was your part in responding?

20 A: I responded to the actual autopsy.

21 Q: Okay. What date was that?

22 A: October 2nd.

23 Q: Of?

24 Q: 2014.

25 Q: Thank you. And it was the autopsy of -- what was the

DAWN CLAYCOMB - DIRECT BY MS. JONES

1 decedent's name?

2 A: Maurice Wright.

3 Q: Okay. Why would somebody with SLED respond to an
4 autopsy?

5 A: Basically, if it's a SLED case or a local case, if
6 there's any evidence that we need to retrieve at the autopsy,
7 we basically retrieve that evidence and return it to the
8 laboratory.

9 Q: Okay. And did you retrieve some evidence from that
10 autopsy?

11 A: Yes, ma'am, I did.

12 Q: Okay. I am going to show you what has been previously
13 marked as State's 39.

14 MS. JONES: Permission to approach, Your Honor?

15 THE COURT: Yes.

16 BY MS. JONES:

17 Q: Agent Claycomb, what is within State's 39?

18 A: This would be the GSR kit that I collected from Maurice
19 Wright.

20 Q: Okay. And how do you know that's the GSR kit collected
21 from Maurice Wright?

22 A: My name right here and who it was collected from.

23 Q: Okay. And this was done at -- where was this taken?

24 A: At autopsy at MUSC or the Medical University of South
25 Carolina.

DAWN CLAYCOMB - DIRECT BY MS. JONES

- 1 Q: Okay. And how did you collect this particular kit?
- 2 A: Basically, there are small adhesive tabs that are
- 3 collected from the palms of the hands -- from the hands, the
- 4 right and left hands.
- 5 Q: Okay. And that's what was done in this case?
- 6 A: Yes, ma'am.
- 7 Q: And after you collected the kit, did you yourself place
- 8 it in that bag -- that white bag?
- 9 A: I did not.
- 10 Q: Okay. Who did?
- 11 A: That would be -- I see two. That would have been Worley
- 12 -- Agent Worley.
- 13 Q: Okay. What about the white bag? That bag there?
- 14 A: This here -- this would have been my initials here where
- 15 it was sealed after I collected it.
- 16 Q: Okay. And you placed that tape on there for what reason?
- 17 A: That's showing that it was sealed after I collected it.
- 18 Q: Okay. And after you collected this item, did you -- did
- 19 you place any markings on it to indicate you collected it?
- 20 A: Yes, ma'am. My initials and my name.
- 21 Q: Okay. And who did you transfer this item to?
- 22 A: Agent Worley.
- 23 Q: When was that?
- 24 A: That would have been October 3rd.
- 25 Q: Okay. Where did this transfer take place?

DAWN CLAYCOMB - DIRECT BY MS. JONES

- 1 A: At the laboratory.
- 2 Q: Okay. When it was under your control, aside from the
3 actual taking of the samples, did you alter it or manipulate
4 the kit?
- 5 A: No, ma'am.
- 6 Q: Did you change it in any way?
- 7 A: No, ma'am.
- 8 Q: Did you tamper with it?
- 9 A: No, ma'am.
- 10 Q: Did you maintain the integrity of this kit?
- 11 A: I did.
- 12 Q: Okay. Thank you. I'm going to show you what has been
13 previously marked as State's 40, as well as State's 40-A, B,
14 C, and D. Can you identify each of those items?
- 15 A: Yes, ma'am. These were the projectiles that were
16 collected during the autopsy.
- 17 Q: And where again were those collected from?
- 18 A: From Maurice Wright.
- 19 Q: Okay. And who collected these items?
- 20 A: That would have been the pathologist during the autopsy.
- 21 Q: And after the pathologist collects them, are they handed
22 over to you?
- 23 A: Yes, ma'am.
- 24 Q: Okay. And what sort of containers are each of those in?
- 25 A: They're in small plastic containers.

DAWN CLAYCOMB - DIRECT BY MS. JONES

1 Q: Okay. Who did you -- well, did you place any markings on
2 any of those items?

3 A: I did not.

4 Q: Okay. On the outside bag? The original --

5 A: On these, no, ma'am.

6 Q: The original bag?

7 A: That would have been -- on this one here?

8 Q: Yes, ma'am.

9 A: No, ma'am. That would have been Agent Worley as well.

10 Q: Okay. Because that's who you transferred these items to?

11 A: Correct.

12 Q: Okay. You in turn were somewhat of a courier between
13 autopsy and Agent Worley?

14 A: Correct. I basically transported the evidence.

15 Q: Okay. While these items are under your control, did you
16 change them or substantially alter them?

17 A: No, ma'am.

18 Q: Did you tamper with these items?

19 A: No, ma'am.

20 Q: Did you maintain the integrity of these items?

21 A: Yes, ma'am.

22 Q: Okay. And you placed them directly -- you handed them
23 directly to Agent Worley?

24 A: Yes, ma'am.

25 Q: Thank you. Aside from attending the autopsy, did you

DAWN CLAYCOMB - CROSS BY MR. NEWMAN

1 have any other involvement in this case?

2 A: No, ma'am.

3 MS. JONES: I have no questions for you. Thank you.

4 THE COURT: Cross-examination.

5 CROSS-EXAMINATION

6 BY MR. NEWMAN:

7 Q: As part of protocol to do GSR, gunshot residue, on
8 homicide -- and I use the word homicide. That doesn't
9 necessarily mean murder. It's when one person is alleged to
10 have killed another. That is done typically now in autopsies,
11 is it not?

12 A: It depends. If the victim was on scene or at an autopsy,
13 we collect it when we're able to.

14 Q: Okay. And the reason for that is is to determine whether
15 or not the victim might have been engaged in gunfire?

16 A: If they may have fired a weapon or been in the location
17 when a weapon was fired.

18 Q: Exactly. Thank you.

19 THE COURT: Any redirect?

20 MS. JONES: No, Your Honor.

21 THE COURT: You may step down and you're free to leave.

22 THE WITNESS: Thank you, Your Honor.

23 THE COURT: You may call your next witness.

24 MS. JONES: The State calls Special Agent Sturkie.

25 (WHEREUPON, there was a pause in the proceedings until

TYLER STURKIE - DIRECT BY MS. JONES

1 the witness entered the courtroom.)

2 THE COURT: Yes, sir. Please come forward. I'm going to
3 ask you, if you could, to approach the clerk. Place your left
4 hand on the Bible and raise your right hand as the clerk
5 administers the oath.

6 THE CLERK: The testimony you are about to give the Court
7 will be the truth, the whole truth, and nothing but the truth,
8 so help you God?

9 THE WITNESS: Yes, ma'am.

10 THE COURT: Come right around and have a seat in the
11 witness chair.

12 THE WITNESS: Thank you.

13 THE COURT: I'm going to ask you, if you could, to have a
14 seat in the witness chair. Pull up real close to that
15 microphone and speak loudly, clearly, and slowly in order that
16 we can hear everything that you have to say and let's start
17 with your full name.

18 THE WITNESS: Tyler Sturkie, S-t-u-r-k-i-e.

19 THE COURT: Very good. Yes, ma'am.

20 MS. JONES: Thank you, Your Honor.

21 TYLER STURKIE, being first duly
22 sworn, testified as follows:

23 DIRECT EXAMINATION

24 BY MS. JONES:

25 Q: Special Agent Sturkie, where are you employed?

TYLER STURKIE - DIRECT BY MS. JONES

1 A: I'm employed at the South Carolina Law Enforcement
2 Division, commonly known as SLED.

3 Q: And how long have you been working at SLED?

4 A: I have been working there almost two years now.

5 Q: In what department do you work at SLED?

6 A: I work in the trace evidence department of the forensic
7 services.

8 Q: What is trace evidence?

9 A: Trace evidence is a type of physical evidence that can't
10 normally be seen with the naked eye. It often requires some
11 sort of microscope or analytical technique in order to
12 characterize the evidence. At SLED, the trace evidence that
13 we analyze consists of gunshot residue, paints, fibers, fire
14 debris, glass, and explosives.

15 Q: Okay. Did you have to have some sort of special training
16 and experience to work in the trace department at SLED?

17 A: Yes, ma'am.

18 Q: Could you please explain that?

19 A: When I was hired at SLED, I began a year-long training
20 program in the analysis of gunshot residue. This training
21 consisted of written and practical examinations for the
22 practice and theory of gunshot residue. I was assigned a
23 training officer and learned to work a case from receiving the
24 evidence to generating the final report.

25 At the end of my training, I proceeded to a mock trial in

TYLER STURKIE - DIRECT BY MS. JONES

1 which I passed in order to be competent in it. I also
2 attended training classes at the Hooke College of Applied
3 Sciences. These courses were titled Advanced Scanning
4 Electron Microscopy, Advanced X-ray Microanalysis, and Gunshot
5 Residue Identification.

6 Q: Okay. Prior to those -- those trainings and classes, did
7 you receive other forms of formal education?

8 A: I received a Bachelor of Science degree in Chemistry from
9 Newberry College.

10 Q: Okay. Have you ever testified in court before?

11 A: Twice before.

12 Q: Okay.

13 MS. JONES: Your Honor, at this time, the State moves
14 Special Agent Sturkie in as an expert in -- in gunshot
15 residue.

16 THE COURT: Any query with regard to his qualifications,
17 Mr. Newman?

18 MR. NEWMAN: I don't know if there is a specific
19 expertise in gunshot residue.

20 THE COURT: Well, there is and my question to you is do
21 you have any query with regard to his qualifications?

22 MR. NEWMAN: As to qualifications, no. As to the science
23 behind it, yes.

24 THE COURT: Okay. All right. Very good. Madam Forelady
25 and ladies and gentlemen of the jury, ordinarily witnesses can

TYLER STURKIE - DIRECT BY MS. JONES

1 only testify as to things they've heard, saw, and felt.

2 However, there is an exception to that when a person is
3 qualified as an expert in some art, science, or field. And if
4 I determine that they are qualified because of their education
5 and experience, they can render opinions in their field of
6 expertise.

7 Just by virtue of the fact that they're an expert doesn't
8 mean that you have to believe their opinion. You can
9 disbelieve their opinion even if it's uncontroverted. You are
10 to evaluate their testimony just like any other evidence, but
11 he's allowed to render his opinions in this field, and give it
12 the weight you think it deserves. Ms. Jones.

13 MS. JONES: Thank you, Your Honor.

14 BY MS. JONES:

15 Q: Can you explain to the Court what GSR or gunshot residue
16 is?

17 A: GSR stands for gunshot residue and what gunshot residue
18 is is it consists of the burned and unburned particles that
19 come from the discharge of a firearm. They may come from the
20 primer, the propellant or the projectile, as well as any
21 residual particles from the firearm itself.

22 Q: Is there a common item that you could compare it to for
23 somebody who's not familiar with these particles?

24 A: Gunshot residue is very fragile. It can be removed
25 easily. It can be obtained through multiple ways. One --

TYLER STURKIE - DIRECT BY MS. JONES

1 there are three ways in which gunshot residue -- gunshot
2 residue can be deposited onto the person's hands. One is that
3 person fired or discharged a firearm. Two is that person
4 touched an object that previously had gunshot residue on it
5 or, three, that person was in the vicinity of the discharge of
6 a firearm.

7 Q: What would the vicinity -- how big of a vicinity would
8 you be looking at?

9 A: The vicinity depends on the type of firearm used. The
10 bigger the caliber, the general idea of more potential gunshot
11 residue can be deposited. For most handguns, the general
12 vicinity is five to six feet.

13 Q: Okay. Are you asked to analyze kits from suspects as
14 well as victims?

15 A: Yes, ma'am.

16 Q: Okay. Regarding victims of gunshot wounds, would they
17 not fall in the vicinity?

18 A: With victims of gunshot wounds, we expect to find gunshot
19 residue on them. If they're in the vicinity of the discharge
20 of a firearm, being shot by the weapon, we expect to find GSR
21 where that bullet hole may be. We get submitted usually
22 hands, hand kits. These kits consist of the right palm, the
23 right back, the left palm, and the left back of a person's
24 hands. When those are submitted, we then analyze those and
25 give a results report generated from that.

TYLER STURKIE - DIRECT BY MS. JONES

1 Q: But with a gunshot victim, you expect to find GSR?

2 A: From the victim of a gunshot, yes, we do.

3 Q: Okay. Were you asked to analyze any kits in this
4 particular case?

5 A: I was asked to analyze two kits.

6 Q: Okay.

7 MS. JONES: Permission to approach, Your Honor?

8 THE COURT: Yes.

9 BY MS. JONES:

10 Q: Agent Sturkie, I'm going to hand you what has been marked
11 State's 39, as well as State's 13. Can you please identify
12 what is within each of those manila envelopes?

13 A: I have two items from Lab Number L-14-12674, Item Number
14 6 and Item Number 23.

15 Q: Those item numbers, are those SLED item numbers?

16 A: Yes, ma'am.

17 Q: Okay. And what -- what are those items?

18 A: These items are GSR kits submitted from the South
19 Carolina Law Enforcement Division.

20 Q: Okay. Are you able to see who the particular kit was
21 collected from, each of them?

22 A: For Item 6, a GSR kit from Nathaniel Wright. And from
23 Item 23, a GSR kit collected from Maurice Wright.

24 Q: Okay. And just for clarification, Item 6 is what number
25 State's exhibit?

TYLER STURKIE - DIRECT BY MS. JONES

1 A: Item 6 is State's Exhibit 13.

2 Q: Okay. And how about Item 23 is State's what number?

3 A: Item 23 is State's Exhibit 39.

4 Q: Okay. When you received those kits, did they appear to
5 be tampered with in any way?

6 A: They were not.

7 Q: Did they appear to be altered or changed in any way?

8 A: Not when I received them.

9 Q: In fact, if they had, would you have tested them?

10 A: I would not have.

11 Q: Okay. What would you have done if you noted that they
12 had been tampered with?

13 A: I would have notified my supervisor and proceeded from
14 there.

15 Q: But these kits were actually intact when you received
16 them?

17 A: Yes, ma'am.

18 MS. JONES: Your Honor, at this time, the State moves
19 State's 13 and State's 39 into evidence.

20 MR. NEWMAN: We have an objection as to -- I believe it's
21 13 previously stated under the Fourth Amendment to the
22 Constitution, Article 1, Section 10 of the South Carolina
23 Constitution in our motion to suppress.

24 THE COURT: All right.

25 MR. NEWMAN: The other one I do not have an objection to,

TYLER STURKIE - DIRECT BY MS. JONES

1 the one from the victim.

2 THE COURT: It's into evidence without -- it's into
3 evidence without objection with regard to which -- which item?

4 MR. NEWMAN: Maurice Wright I believe.

5 MS. JONES: 39.

6 THE COURT: Maurice Wright.

7 MR. NEWMAN: 39.

8 THE COURT: Very good.

9 MR. NEWMAN: And the objection is made as to 13.

10 THE COURT: All right. And that -- both of them are into
11 evidence and the latter over defense's objection.

12 (WHEREUPON, State's Exhibit Number 13, GSR kit from
13 Nathaniel Wright, and State's Exhibit Number 39, GSR kit
14 from Maurice Wright, were admitted into evidence.)

15 MS. JONES: Thank you, Your Honor.

16 BY MS. JONES:

17 Q: Agent Sturkie, can you please tell the Court your
18 findings with regard to your Item 23, State's Exhibit 39?

19 A: May I refer to my notes, please? It was Item 23?

20 Q: I believe. Yes.

21 A: For Item Number 23, results include for the right palm,
22 particles of gunshot residue and round particles consistent
23 with gunshot residue were found. On the right back, particles
24 of gunshot residue were found, as well as round particles
25 consistent with gunshot residue. On the left palm, particles

TYLER STURKIE - DIRECT BY MS. JONES

1 of gunshot residue were found, as well as round particles
2 consistent with gunshot residue. And for the left back,
3 particles of gunshot residue -- round particles consistent
4 with gunshot residue and one round particle associated with
5 gunshot residue was found.

6 Q: And those are from Maurice Wright, the gunshot victim?

7 A: These are from Item Number 23, Maurice Wright.

8 Q: Okay. Thank you. How about Item Number 6, State's
9 Exhibit 13?

10 A: The results for Item Number 6 from one GSR kit collected
11 from Nathaniel Wright. The right palm contained round
12 particles consistent with gunshot residue and one round
13 particle associated with gunshot residue. On the right back,
14 one particle of gunshot residue was found. On the left palm,
15 one particle of gunshot residue was found, as well as round
16 particles consistent with gunshot residue. And on the left
17 back, round particles consistent with gunshot residue were
18 found.

19 Q: The kits are split up into different areas of the hands;
20 correct?

21 A: Yes, ma'am.

22 Q: Okay. Is it -- if somebody -- I know you mentioned there
23 are three ways one can come into contact with gunshot residue.
24 One of those is firing a gun, one was touching something that
25 had gunshot residue on it, and one was being in the vicinity?

TYLER STURKIE - DIRECT BY MS. JONES

1 A: Yes, ma'am.

2 Q: Do any of those instances make it more common that
3 gunshot residue would be found on the back of one's hands?

4 A: I could not definitively say one of those three scenarios
5 in which the gunshot residue was deposited onto the hands. My
6 results can tell me that -- whether or not I found gunshot
7 residue particles consistent with or particles associated with
8 gunshot residue. As to how they were obtained there, I cannot
9 definitively say.

10 Q: Okay. What is the difference between consistent with and
11 associated with?

12 A: When we speak of gunshot residue, we refer to that as
13 characteristic particles. And these particles, in order to be
14 classified as gunshot residue, they must be molten or non-
15 crystalline in shape and contain the elements of lead, barium,
16 and antimony. When we get to consistent particles, think of
17 it as a rank. Consistent -- excuse me. Characteristic is the
18 first rank as GSR. Molten, lead, barium, and antimony.

19 With consistent particles, you go down a rank. That
20 usually consists of round particles that contain two of those
21 three elements, whether it be lead and barium or barium and
22 antimony.

23 The third rank would be associated particles and these
24 particles usually contain one of those three elements. So
25 they could be lead-only particles or barium-only particles.

TYLER STURKIE - DIRECT BY MS. JONES

1 The reason we classify these as consistent and associated
2 is because although these particles may be found in
3 occupational or environmental factors, since they contain the
4 elements that are also found in gunshot residue, they must be
5 reported as well.

6 Q: Okay. And you found particles of gunshot residue, as
7 well as consistent particles, on -- in the kit belonging to
8 Nathaniel Wright?

9 A: Could you repeat that, please?

10 Q: You just explained a little bit about the difference in
11 the particles and a little bit of the science behind it. In
12 the kit belonging to Nathaniel Wright, Item 6, State's 13, you
13 found particles consistent with gunshot residue, as well as
14 gunshot residue?

15 A: Yes, ma'am. For specific areas.

16 MS. JONES: I have no further questions. Thank you.

17 THE COURT: Cross-examination.

18 CROSS-EXAMINATION

19 BY MR. NEWMAN:

20 Q: Isn't it true that the FBI laboratory no longer tests for
21 gunshot residue?

22 MS. JONES: Objection.

23 THE COURT: Overruled.

24 BY MR. NEWMAN:

25 A: That is correct. Yes, sir.

TYLER STURKIE - CROSS BY MR. NEWMAN

1 Q: Okay. Because they have found it of limited use and too
2 speculative; is that correct?

3 A: I'm sorry?

4 Q: They found it of limited use and subject to speculation?

5 A: No, sir. The FBI laboratory no longer analyzes gunshot
6 residue due to reasons being that the FBI has moved their
7 specifics towards antiterrorism. The FBI had received a
8 limited number of GSR cases and the money was not being put to
9 good use for the analysis of gunshot residue. So they decided
10 to quit analyzing gunshot residue for the FBI and focus on
11 other areas.

12 Q: Okay. And in scientific terms, you have used the
13 possibility that the individual discharged a firearm, was in
14 the vicinity of a firearm -- discharge of a firearm, or came
15 into contact with a surface that had residue on it cannot be
16 eliminated?

17 A: Cannot be eliminated. Correct.

18 Q: Okay. And that's the possibility?

19 A: Yes, sir.

20 Q: Okay. And in scientific terms, you can't say
21 probability, exact match with this -- one of the three
22 scenarios happening, this is positively a substance that came
23 from a gun rather than a substance in nature or occupation?

24 A: With characteristic particles of GSR, we know for certain
25 that that molten, non-crystalline particle containing lead,

TYLER STURKIE - CROSS BY MR. NEWMAN

1 barium, and antimony is gunshot residue. How it was acquired,
2 I cannot definitively say.

3 Q: Okay. So it's equally likely Mr. Tag Wright, the
4 decedent, could have been firing a gun, could have been
5 standing next to somebody firing a gun or getting shot by a
6 gun?

7 A: He has particles of gunshot residue, so yes.

8 Q: Okay. But you can't tell me whether he was shooting a
9 gun or not; correct?

10 A: Correct. I cannot.

11 Q: Okay. The same thing, you can't say that the other
12 person, Nathaniel Wright, was shooting a gun or not, can you?

13 A: No, sir, I cannot.

14 Q: All right. Let me ask you about the GSR. A weapon that
15 has been fired -- would it be likely to have GSR on it?

16 A: Yes, sir. The firearm is likely to have gunshot residue
17 on it as well.

18 Q: If it fired eight or nine rounds say out of a -- I don't
19 know. What kind of pistols do you guys carry? Glocks?

20 A: The agents and field agents, yes, sir.

21 Q: You guys don't tote?

22 A: No. Lab personnel does not. No, sir.

23 Q: Okay. So if I fired eight or nine times, you would
24 expect to find -- expect to find GSR if you tested that
25 weapon?

TYLER STURKIE - CROSS BY MR. NEWMAN

- 1 A: If I tested that weapon, yes.
- 2 Q: Yeah. That's what I'm saying. If you tested that
- 3 weapon, you would expect to find it?
- 4 A: Yes, sir.
- 5 Q: Okay. If that weapon had been placed in a bag, are you
- 6 able to test bags?
- 7 A: We are able to test bags, yes, sir.
- 8 Q: As well as items of clothing?
- 9 A: Except for victims' clothing. We will test clothing
- 10 submitted as long as it's not the clothing of a victim of a
- 11 gunshot wound.
- 12 Q: Right. Okay. But you could -- you could test this and
- 13 determine whether or not you saw GSR from a scientific -- from
- 14 a microscopic investigatory standpoint?
- 15 A: Yes, sir.
- 16 Q: And you were not asked to examine any type of bag or
- 17 article of clothing; is that correct?
- 18 A: That is correct.
- 19 Q: Just the two kits that you've testified to here in the
- 20 court?
- 21 A: Yes, sir.
- 22 Q: All right. And you cannot say that Nathaniel Wright ever
- 23 fired a gun, can you?
- 24 A: Not from my results. No, sir.
- 25 Q: Okay.

MICHELLE EICHENMILLER - DIRECT BY MS. JONES

1 MR. NEWMAN: Thank you.

2 THE COURT: All right. Any redirect?

3 MS. JONES: No, Your Honor.

4 THE COURT: You may step down.

5 THE WITNESS: Thank you.

6 THE COURT: You may be excused. You may call your next

7 witness.

8 MS. JONES: The State calls Special Agent Michelle

9 Eichenmiller.

10 (WHEREUPON, there was a pause in the proceedings until

11 the witness entered the courtroom.)

12 THE COURT: Ms. Eichenmiller, if you could, come forward

13 and place your left hand on the Bible and raise your right

14 hand as the clerk administers the oath.

15 THE CLERK: The testimony you are about to give the Court

16 will be the truth, the whole truth, and nothing but the truth,

17 so help you God?

18 THE WITNESS: Yes, ma'am.

19 THE CLERK: Go around and have a seat.

20 THE COURT: Have a seat in the witness chair. I'm going

21 to ask you to pull up real close to that microphone and speak

22 loudly, clearly, and slowly in order that we can hear

23 everything that you have to say, and let's start with your

24 full name and let's spell that last one.

25 THE WITNESS: My name is Michelle Eichenmiller, E-i-c-h-

MICHELLE EICHENMILLER - DIRECT BY MS. JONES

1 e-n-m-i-l-l-e-r.

2 THE COURT: Very good. Ms. Jones?

3 MS. JONES: Thank you, Your Honor.

4 MICHELLE EICHENMILLER, being
5 first duly sworn, testified as follows:

6 DIRECT EXAMINATION

7 BY MS. JONES:

8 Q: Agent Eichenmiller, where do you work?

9 A: I work for the South Carolina Law Enforcement Division,
10 commonly known as SLED. I work in the forensic lab in the
11 firearms department.

12 Q: Okay. What are some of your -- your duties in the
13 firearms department?

14 A: Whenever in a case evidence comes in that is a fired
15 cartridge case, a bullet, a firearm, and a couple other things
16 that we do, it's my job to attempt to determine if the bullet
17 or cartridge case was fired by a certain firearm.

18 Q: Okay. You said a bullet and a cartridge case. What's
19 the difference?

20 A: The bullet is the item that exits the barrel of a firearm
21 and the cartridge case is what was holding it together. It
22 also exits the firearm in a semiautomatic pistol, but it exits
23 not down the barrel.

24 Q: Okay. They separate?

25 A: Yes.

MICHELLE EICHENMILLER - DIRECT BY MS. JONES

1 Q: Did you have to receive some sort of special training in
2 order to become -- work in the ballistics department?

3 A: I did. I have a Bachelor's degree in Biology. I also
4 have a Master's of Science in Forensic Science, but in order
5 to become a firearms examiner you have to go through an in-
6 house training program. So I completed the in-house training
7 program at SLED, which basically means I was learning with the
8 court-qualified examiners that are there. I was in their
9 offices learning how they do the job. I also did a lot of
10 reading, test taking, and then at the end I did a final.
11 After I passed the final, I was deemed qualified to work on my
12 own.

13 Q: Okay. And you did pass that final?

14 A: Yes.

15 Q: Okay. Have you ever testified in court before?

16 A: I have.

17 Q: About how many times?

18 A: About 40 times.

19 Q: Okay.

20 MS. JONES: Your Honor, at this time, the State moves
21 Special Agent Eichenmiller in as an expert in firearms.

22 THE COURT: Any query with regard to her qualifications?

23 MR. NEWMAN: No query. We'll so stipulate.

24 THE COURT: All right. She is indeed qualified to render
25 her opinions in the area of firearms and ballistics. Yes,

MICHELLE EICHENMILLER - DIRECT BY MS. JONES

1 ma'am.

2 MS. JONES: Thank you.

3 BY MS. JONES:

4 Q: When you're analyzing certain firearms or casings and
5 bullets, what are you looking for?

6 A: In firearms identification, we look for -- first, we look
7 at class characteristics, which are general characteristics,
8 and then in order to put -- to say that a bullet was fired by
9 a certain firearm, we look for individual characteristics that
10 could only have been made by a certain firearm.

11 Q: Do -- do specific firearms make specific characteristics
12 on the bullets and casings?

13 A: Firearms are manufactured with different general
14 characteristics and then per their manufacturing process and
15 then the use after the fact and how they're treated, then they
16 gain individual characteristics that they in turn place on the
17 items. So basically rust or dirt in the barrel will make
18 individual marks on a bullet and cartridge case.

19 Q: So you -- testing these different casings, if they came
20 out of the same firearm, the markings would be consistent with
21 each other?

22 A: Correct.

23 Q: Okay. Were you asked to analyze anything in this case?

24 A: I was.

25 (WHEREUPON, there was a pause in the proceedings as

MICHELLE EICHENMILLER - DIRECT BY MS. JONES

1 counsel conferred.)

2 MR. NEWMAN: I don't have any objections to those. If
3 they're not in evidence, I don't -- we don't object.

4 MS. JONES: Permission to approach the witness, Your
5 Honor?

6 THE COURT: Yes.

7 BY MS. JONES:

8 Q: Agent Eichenmiller, I'm showing you what's been
9 previously marked State's 40, as well as State's 38. Can you
10 please identify these items?

11 A: Whenever I accept evidence at SLED, I'll scribe on it
12 with my initials, the item number, and the lab number. These
13 are Items 1 through 5, which I examined in this case.

14 Q: And what are Items 1 through 5?

15 A: Items 1 through 4 are fired cartridge cases and then Item
16 5 is a fired bullet.

17 MS. JONES: Your Honor, at this time, the State moves
18 State's 40-A through F [sic] in evidence.

19 MR. NEWMAN: No objection.

20 THE COURT: 40-A through F are into evidence.

21 MS. JONES: Thank you.

22 THE COURT: Without objection.

23 (WHEREUPON, State's Exhibits Number 38-A, 38-B, 38-C,
24 38-D, 38-E, and 38-F, cartridges casings and bullets,
25 were admitted into evidence.)

MICHELLE EICHENMILLER - DIRECT BY MS. JONES

1 BY MS. JONES:

2 Q: And the other item I handed you, Agent Eichenmiller, what
3 is that item?

4 A: These are my Items 15, 16, 17, and 18, which were bullets
5 and jackets and fragments that I received in this case.

6 Q: Okay. Where did you receive those jackets and fragments
7 from?

8 A: I received them from the evidence log-in department --

9 Q: Okay.

10 A: -- at SLED.

11 Q: Okay. Does your notes indicate where those fragments
12 came from? Where they were originally collected from?

13 A: They were originally collected from autopsy.

14 Q: Okay. And you said those were your 5, 15, 17, and 18 --
15 or 15, 16, 17 and 18?

16 A: Yes.

17 Q: Thank you.

18 MS. JONES: Your Honor, at this time, the State moves
19 State's -- I lost my -- 40 into evidence.

20 THE COURT: Any objection?

21 MR. NEWMAN: No, sir.

22 THE COURT: 40 is into evidence without objection.

23 MS. JONES: And the previous exhibit was State's 38.

24 THE COURT: And 38. Any objection to 38?

25 MR. NEWMAN: That was the previous exhibit?

MICHELLE EICHENMILLER - DIRECT BY MS. JONES

1 MS. JONES: Yes, sir.

2 MR. NEWMAN: No objection.

3 THE COURT: 38 is into evidence.

4 MS. JONES: Okay.

5 (WHEREUPON, State's Exhibit Number 38 and State's
6 Exhibits Number 40-A, 40-B, 40-C, and 40-D, cartridge
7 casings, were admitted into evidence.)

8 BY MS. JONES:

9 Q: So did you, in fact, analyze both of these different
10 items?

11 A: Yes, all of the items.

12 Q: Okay. What were your findings in regards to the casings?

13 A: My findings -- I found matching individual identifying
14 characteristics that led me to say that they were all fired by
15 the same firearm.

16 Q: Okay. Can you say what sort of firearm that was?

17 A: A 9mm Luger caliber semiautomatic pistol.

18 Q: Okay. How about your Item Number 5, the fired
19 projectile?

20 A: It was consistent with being a bullet loaded into some
21 9mm Luger caliber cartridge.

22 Q: Okay. You're saying some because you didn't have a gun
23 to compare it to?

24 A: Correct.

25 Q: Okay. The -- so all of those items, the casings as well

MICHELLE EICHENMILLER - DIRECT BY MS. JONES

1 as the bullet, were fired from a 9mm?

2 A: Correct.

3 Q: Okay. The fragments and jacket, what were your findings
4 regarding those items?

5 A: Item 15 was a fired bullet jacket. It had marks on it so
6 I could compare it to Item 5, which also had marks on it.

7 Q: And Item 5 was what again?

8 A: The fired bullet.

9 Q: Okay. Collected from the scene?

10 A: Right.

11 Q: Okay.

12 A: And then my Item 17 was a couple fragments and a fired
13 bullet jacket and then Item 18 was a lead fragment.

14 Q: Okay. What were you able to conclude of Items 5, 15, and
15 17?

16 A: Items 5, 15, and 17 were fired by the same firearm.

17 Q: Okay. And that was the bullet and the two fragments
18 collected from autopsy?

19 A: Correct.

20 Q: Okay. What about 16 or 18?

21 A: 16 was a core. It had no marks on at that were suitable
22 for identification; so I couldn't do anything with that.

23 Q: What is a core?

24 A: It's -- if you think of an M&M, the jacket is like the
25 outer shell and the core is the inner chocolate layer. It

MICHELLE EICHENMILLER - DIRECT BY MS. JONES

1 never contacts the barrel; so it never got any individual
2 characteristics on it.

3 Q: Okay. So you couldn't compare it?

4 A: Correct.

5 Q: Okay. How about Item Number 18?

6 A: Item 18 was also a lead fragment. The same thing. It
7 had no marks on it that I could use for identification.

8 Q: Okay. But the bullet and then the fragments 15 and 17
9 were all fired from the same gun, a 9mm?

10 A: Correct.

11 Q: Okay. I'll get those from you.

12 MS. JONES: I beg the Court's indulgence.

13 BY MS. JONES:

14 Q: Is it your experience that firearms would be the first or
15 last place something would go to in the forensics testing lab?

16 A: We are generally the last place that evidence comes to.
17 It has to go to any other department first because I will --
18 if I receive something that has blood on it, I'll clean it.
19 So it has to go somewhere else before it comes to me.

20 Q: You clean it? Do you use chemicals to clean these items?

21 A: Generally, alcohol or bleach.

22 Q: And so you're wiping these items off before you test
23 them?

24 A: Right.

25 Q: And compare them?

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1 A: Correct.

2 Q: Okay. So it's not likely it would go to DNA after coming
3 into contact with your hands?

4 A: Correct. Because the DNA that would be on it would be
5 mine or anyone else in my department that would have looked at
6 it.

7 Q: Okay.

8 MS. JONES: I have no further questions. Thank you.

9 THE COURT: Cross-examination.

10 MR. NEWMAN: Thank you.

11 CROSS-EXAMINATION

12 BY MR. NEWMAN:

13 Q: I think the solicitor actually cleared that up. On the
14 shell casings, it's not uncommon for them to go for DNA and
15 latent print processing before they get to you; correct?

16 A: Correct.

17 Q: And to your knowledge and looking through the routing and
18 chains, no DNA testing was done and no fingerprinting or
19 attempts to do fingerprinting were done on the items based on
20 your chain; correct?

21 A: Correct.

22 Q: All right. And you have absolutely no idea what happened
23 in this case, do you?

24 A: No.

25 MR. NEWMAN: Thank you. I don't have any further

1 questions. Have a nice trip back to Columbia.

2 THE COURT: Any redirect?

3 MS. JONES: No, Your Honor.

4 THE COURT: You may step down. You may be excused.

5 THE WITNESS: Thank you.

6 THE COURT: You may call your next witness.

7 MS. JONES: The State calls Detective Elvin Wright.

8 (WHEREUPON, there was a pause in the proceedings until
9 the witness entered the courtroom.)

10 THE COURT: Yes, sir. If you can, come forward and
11 approach the clerk and place your left hand on the Bible and
12 raise your right hand as the clerk administers the oath.

13 THE CLERK: The testimony you are about to give the Court
14 will be the truth, the whole truth, and nothing but the truth,
15 so help you God?

16 THE WITNESS: Yes.

17 THE CLERK: Go right around and have a seat.

18 THE COURT: Just come around and have a seat in the
19 witness chair. Pull up real close to the microphone and speak
20 loudly, clearly, and slowly in order that we can hear
21 everything that you have to say and let's start with your full
22 name.

23 THE WITNESS: Elvin Wright.

24 THE COURT: Very good.

25 MS. JONES: Thank you, Your Honor.

ELVIN WRIGHT - DIRECT BY MS. JONES

1 ELVIN WRIGHT, being first duly
2 sworn, testified as follows:

3 DIRECT EXAMINATION

4 BY MS. JONES:

5 Q: Detective Wright, where do you work?

6 A: Jasper County Sheriff's Office.

7 Q: Okay. And in what capacity do you work at the Sheriff's
8 Office?

9 A: Criminal investigations.

10 Q: What are some of your duties in criminal investigations?

11 A: Investigate any criminal activity to involve break-ins,
12 burglaries, larcenies, shootings, homicides, things of that
13 sort.

14 Q: How long have you been with the Sheriff's Office?

15 A: Approximately six years.

16 Q: Okay. Were you working with the Sheriff's Office back on
17 October 1st of 2014?

18 A: Yes, I was.

19 Q: And did you respond to a call at [REDACTED] Captain Bill Road?

20 A: Yes, ma'am.

21 Q: Where is Captain Bill Road?

22 A: Captain Bill Road is in the Ridgeland area just east of
23 North Jacob Smart Boulevard. It sits between North Jacob
24 Smart and Bee's Creek Road.

25 Q: Okay. And Ridgeland -- that's here in Jasper County?

ELVIN WRIGHT - DIRECT BY MS. JONES

1 A: Yes, ma'am.

2 Q: Okay. Why did you respond to that incident location?

3 A: On this particular afternoon, I was traveling north on
4 Bee's Creek Road in the area of Busy Bee Road. I was on the
5 telephone with Deputy Brown at the time at which he advised me
6 that he was in the area of Henry Lawton and Captain Bill Road.
7 He advised me that he heard some gunshots and he saw several
8 people running and ducking and he believed somebody had been
9 shot. He also advised me that he saw a vehicle take off in a
10 hurry from the same location. At that time, I turned my
11 vehicle around and headed to that location.

12 Q: How much time did it take you to get to -- to that
13 incident location on Captain Bill Road from where you were?

14 A: Probably a minute. I would say no more than two minutes.

15 Q: Okay. So quick?

16 A: Yes.

17 Q: Okay. When you get there, what do you see?

18 A: When I got there, I saw several individuals in the yard.

19 I saw one individual laying flat on his back. As I
20 approached, I recognized that individual to be Maurice Wright,
21 and I immediately realized that he had been deceased already.
22 I noticed there were several other individuals in the yard, to
23 include his mother, his wife I believe, who was Ms. Fran.
24 Antoine Drake was there and I also observed on the outskirts
25 of the yard Belinda Wright and Johnny Brown and somewhere in

ELVIN WRIGHT - DIRECT BY MS. JONES

1 the neighborhood of two to three kids.

2 Q: Okay. You mentioned his mother. What's his mother's
3 name?

4 A: Ms. Lucille Wright.

5 Q: Okay. What was her demeanor?

6 A: She was upset. She was crying, screaming, and yelling.
7 Obviously upset because her son was -- had been shot. She was
8 just -- just raging, pretty close to being uncontrollable.
9 That's how upset she appeared to be.

10 Q: Where was she in reference to Maurice's body?

11 A: She was pretty close to him, close enough to touch it,
12 and she was just kind of back and forth. I kind of tried to
13 calm her down a little bit and tried to move her away from the
14 body, but I had sort of a rough time being that Mr. Drake was
15 also in the same condition and he was pretty close to the
16 body. Actually, he was kind of touching the body I guess in
17 the efforts to shake him to see if he was alive or dead. And
18 like I said, there were two to three kids and pretty quickly
19 other people started to walk up in the area. It kind of got
20 out of control pretty fast.

21 Q: You mentioned that Antoine's demeanor was similar to
22 Lucille's. What was he acting like?

23 A: He was crying. He was yelling, screaming. I think I
24 actually remember him saying don't let his --

25 MR. NEWMAN: Your Honor --

ELVIN WRIGHT - DIRECT BY MS. JONES

1 A: -- let his cousin die.

2 MR. NEWMAN: I object. No problems to demeanor, but not
3 to what he said.

4 THE COURT: You can't testify to what other people said.
5 The objection is sustained.

6 BY MS. JONES:

7 Q: Just his demeanor. How was he acting?

8 A: He was upset.

9 Q: Okay. You said he was crying?

10 A: Yes.

11 Q: Okay. And he was shaking the body? He was shaking
12 Maurice?

13 A: Yeah. Every now and then he would put his hand on him as
14 if he was, you know, trying to see if he was alive or dead.

15 Q: Okay. While this is happening while -- because it
16 sounded like earlier you said Lucille was kind of back and
17 forth also?

18 A: Yes.

19 Q: What are you doing?

20 A: I'm pretty much trying -- like I said, I realized that he
21 had already been deceased. I was pretty much trying to
22 preserve as much crime scene as I could being that I was by
23 myself. Basically more than anything, I wanted to kind of
24 keep everybody away from the body and the immediate area
25 around the body. That's about as much as I could handle by

ELVIN WRIGHT - DIRECT BY MS. JONES

1 myself. At the same time, I was also trying to request some
2 backup at my location so that I could, you know, have some
3 help securing as large an area as I could --

4 Q: Okay.

5 A: -- to preserve it.

6 Q: When you were trying to keep the scene controlled, do you
7 -- is it already apparent to you that Maurice is a -- is a
8 victim of gunshots?

9 A: Yes.

10 Q: Okay. What -- in a scene like this, what are you looking
11 for? Are you looking for anything?

12 A: Basically, when I walked up I wanted to see if he was
13 still breathing or not, but like I said, immediately I could
14 tell that he was deceased by his eyes and no movement. I saw
15 a few shell casings, but I didn't go into trying to count them
16 or spot them or anything. I saw the shell casings and I also
17 saw some blood. It appeared that it was coming from his head
18 or his face area because it was kind of, like, behind him on
19 the ground.

20 So that's basically, you know, what I saw. Like I said,
21 pretty much I was trying to keep the body and the direct area
22 around the body from being contaminated by anybody
23 approaching.

24 Q: When you have a scene like that and you have people
25 around, were you by yourself at this time?

ELVIN WRIGHT - DIRECT BY MS. JONES

1 A: Yes, I was.

2 Q: Unsupervised?

3 A: Yes, I was.

4 Q: Okay. Did you have a concern that a weapon could be
5 found?

6 A: Yes, I did. Like I said, it was unknown. I wasn't sure
7 what I was going to find. I didn't know if a weapon would be
8 under his body or somewhere on his person, you know, and
9 that's basically why I did not want anybody to -- at least
10 keep anybody from touching him.

11 Q: Did you find one?

12 A: No, I didn't. I actually didn't touch him myself. I
13 didn't turn him over or look under him or check anything on
14 his person. I just kind of preserved him and see what I could
15 see in a plain view manner, and at no time did I see any
16 weapon.

17 Q: Okay. Later on that night, did you ever see one?

18 A: No, I didn't.

19 Q: Okay. You mentioned you were the only law enforcement
20 officer, but you were calling for backup?

21 A: Yes, I did.

22 Q: Eventually, did more law enforcement officers arrive?

23 A: Yes. And I couldn't possibly tell you how much time it
24 took because of everything going on. Shortly thereafter,
25 Sergeant Crosby of the Sheriff's Office and Deputy Walker

ELVIN WRIGHT - DIRECT BY MS. JONES

1 arrived and at that point pretty soon we was able to get it
2 under control enough to get it roped off.

3 Q: And you do get it roped off?

4 A: Yes, we do.

5 Q: What is the purpose of roping off a crime scene?

6 A: To preserve anything that's in that yard as big a place
7 that we can safely do within reason so that if there's
8 anything that is in that immediate area that played a part, we
9 can -- we can kind of preserve it so anything wouldn't be
10 placed in it or taken away from it.

11 Q: Okay. This crime scene you believe you got to about one
12 minute -- one to two minutes?

13 A: Yes. I -- I would pretty -- say -- pretty much say it
14 was closer to a minute. But it wouldn't have been no more
15 than two minutes.

16 Q: Is a common of crime scenes to have a lapse in time
17 before law enforcement arrives?

18 A: Oh, yeah. Actually, that was a pretty -- pretty good
19 response time being that I was in the area.

20 Q: Okay. One to two minutes is pretty good?

21 A: Yes.

22 Q: Okay. Once -- once your -- once backup arrives, what
23 happens next?

24 A: We -- we got it taped off, got everybody kind of back as
25 much as we could safely do. Then we started to look around a

ELVIN WRIGHT - DIRECT BY MS. JONES

1 little bit and I remember -- I recall those people that I saw
2 in the yard when I arrived.

3 Again, Ms. Wright and Mr. Drake and the victim's wife
4 were still kind of upset. So I didn't -- I don't believe I
5 asked them anything. Really shortly after that, I kind of
6 lost a visual with them after we was trying to secure the
7 scene, but I did make contact with two of the other
8 individuals that were there, which was Belinda Wright and
9 Johnny. I can't remember what -- I think Johnny's last name
10 is Brown.

11 Q: Okay. After you were able to speak to those people, are
12 you -- do you remain on scene?

13 A: Yes, I do.

14 Q: Okay. Does the defendant have a -- does he come back to
15 the scene?

16 A: Yeah. Actually, while I'm sorting the other two people
17 is when we were radioed. We got a transmission across the
18 radio that the suspect was possibly headed back to that area
19 and it was happening kind of quick.

20 Q: Okay.

21 A: So I believe we had -- EMS was taking a look at the body
22 at the time doing assessments and we had them to kind of
23 retreat a little bit out of the immediate area. And shortly
24 thereafter, I could hear the sirens and the commotion coming
25 towards us from the Bee's Creek area, at which time we had to

ELVIN WRIGHT - DIRECT BY MS. JONES

1 kind of stop what we were doing because we didn't know what
2 was going to happen.

3 At that time, myself and Sergeant Crosby and Deputy
4 Walker was the only three law enforcement that I can remember
5 that was in the area of the house. I recall myself and
6 Sergeant Crosby started to approach the area where the vehicle⁷
7 was approaching us. Then that's when I realized that the
8 vehicle came to a complete stop sort of maybe a half a block
9 or a block from the incident location.

10 Q: Okay. What kind of vehicle was this?

11 A: It was a Honda.

12 Q: Do you remember what color it was?

13 A: I believe it was green.

14 Q: I'm going to show you what's been previously admitted as
15 State's 36.

16 MS. JONES: Permission to approach, Your Honor?

17 THE COURT: Yes.

18 BY MS. JONES:

19 Q: Detective Wright, is that the Honda that came back to the
20 scene?

21 A: Yes, ma'am, it is.

22 Q: Okay. When this Honda comes back to the scene, does
23 anybody get out of it?

24 A: Yes, he did.

25 Q: Okay. Who gets out of this Honda?

ELVIN WRIGHT - DIRECT BY MS. JONES

1 A: Nathaniel Wright.

2 Q: Do you see Nathaniel Wright in the courtroom today?

3 A: Yes, ma'am.

4 Q: Could you please point him out?

5 A: He's the defendant over to my left.

6 Q: Okay.

7 MS. JONES: May the record reflect the witness did
8 identify the defendant.

9 BY MS. JONES:

10 Q: When he gets out of the vehicle, what is his demeanor?

11 A: Pretty much what I remember is I kind of approached from
12 the driver side from the sidewalk area, at which time Deputy
13 Brown had already made contact with him. If I recall, I
14 believe he immediately placed his hands up as he was told and
15 then he was also directed to go down to the ground, which he
16 did.

17 Q: Okay.

18 A: Yes, ma'am.

19 Q: So he complied?

20 A: Yes, ma'am. As far as what I could remember.

21 Q: Okay. After that, what did you do?

22 A: I stayed with Deputy Brown until he got Mr. Wright in
23 handcuffs and he conducted a pat-down search on him for
24 weapons. At that point, he was escorted to one of the
25 deputy's vehicle and I returned to the immediate crime scene

ELVIN WRIGHT - DIRECT BY MS. JONES

1 where I continued to just kind of stand by to help secure the
2 crime scene. I did get a statement from Belinda, which I
3 turned over to SLED.

4 Q: Okay.

5 MS. JONES: I beg the Court's indulgence. Detective
6 Wright, I have no further questions for you at this time.
7 Thank you.

8 THE COURT: Cross-examination.

9 CROSS-EXAMINATION

10 BY MR. NEWMAN:

11 Q: Detective Wright, how are you doing?

12 A: All right, sir.

13 Q: Are you DE-6?

14 A: Delta 6? Yes.

15 Q: Delta 6?

16 A: Yes.

17 Q: Okay. Now, have you reviewed the dispatch log about your
18 radio transmissions in this case?

19 A: No, I didn't.

20 Q: Okay. Would you disagree that the first calls come in
21 between 1731 and 1732 to dispatch? That would be 5:31 and
22 5:32 to 5:35, man shot?

23 A: Did you say do I disagree?

24 Q: Yeah.

25 A: No, I wouldn't disagree.

ELVIN WRIGHT - CROSS BY MR. NEWMAN

1 Q: All right. If that's what the records show?

2 A: Yes.

3 Q: Okay. Then you make a radio call-in for Delta 6 status
4 change on scene at [REDACTED] Henry Lawton at 17:51:20. In other
5 words, at 5:51:20? Would that not match the records from
6 dispatch?

7 A: You said a status change?

8 Q: No. It says at scene. You called in at 17:51:20 that
9 you were at the scene, [REDACTED] Henry Lawton Road.

10 A: I wouldn't disagree because I can't honestly say that I
11 got on my radio as soon as I got there because of the chaos.

12 Q: Okay. But the dispatch record shows you getting there
13 about 20 minutes after the first call?

14 A: Yes, it does.

15 Q: Okay. Now, you had mentioned in your direct about
16 protecting crime scenes. That's because people can steal
17 things, change things, take guns, plant weapons?

18 A: Yes, sir.

19 Q: Remove weapons, alter the scene so that you would not be
20 able to re-create a picture of what really happened because of
21 people tampering with the crime scene?

22 A: Yes, sir.

23 Q: All right. And one of those people at that crime scene
24 prior to you being there was Antoine Drake?

25 A: Yes, he was.

ELVIN WRIGHT - CROSS BY MR. NEWMAN

- 1 Q: And he was around and about the body of Tag Wright?
- 2 A: Yes, he was.
- 3 Q: All right. Now, you knew Mr. Maurice Tag Wright, did you
- 4 not?
- 5 A: Yes, I did.
- 6 Q: Okay. And, in fact, on August 29th of 2013, you secured
- 7 an arrest warrant for Mr. Wright and swore that he committed
- 8 the offense of assault and battery by discharging and firing a
- 9 weapon at one Mr. Cornelius Wright by firing a weapon in his
- 10 direction attempting to do bodily harm with the present
- 11 ability to do so in a manner likely to produce death or great
- 12 bodily injury at [REDACTED] Henry Lawton Road; isn't that correct?
- 13 A: Yes, sir.
- 14 Q: Okay. Cornelius Wright would have been related to Tag
- 15 Wright, would he not?
- 16 A: I'm not sure of that.
- 17 Q: Okay. And likewise, you swore another arrest warrant for
- 18 Maurice Tag Wright for assault and battery first degree for
- 19 shooting at a baby, Baby Wright, by firing a weapon in the
- 20 direction of the victim, unlawfully attempting to injure him
- 21 with the present ability to do so by means likely to produce
- 22 death or great bodily injury at [REDACTED] Henry Lawton Road in
- 23 Ridgeland and you swore a warrant to that; correct?
- 24 A: Yes, sir.
- 25 Q: And likewise, that in Jasper County one Maurice Wright

ELVIN WRIGHT - CROSS BY MR. NEWMAN

1 did commit the offense of assault and battery first degree
2 against -- on a victim named Miranda DeLoach by firing a
3 weapon in the direction of the victim unlawfully offering or
4 attempting to injure and with the present ability to do so in
5 the act accomplished by means likely to produce death or great
6 bodily injury; is that correct?

7 A: Yes, sir.

8 MR. NEWMAN: Let me check with co-counsel. I'll be one
9 minute.

10 (WHEREUPON, there was a pause in the proceedings.)

11 MR. NEWMAN: Thank you, Your Honor.

12 THE COURT: Any redirect?

13 MS. JONES: No, Your Honor.

14 THE COURT: All right. You may step down. And you're
15 free to leave.

16 Madam Forelady and ladies and gentlemen of the jury,
17 y'all have worked hard today and paid very close attention.
18 For that, we are very appreciative.

19 We're going to reconvene at 9:30 in the morning. Once
20 again, the same rules apply. Do not look at any news accounts
21 of this event. I don't anticipate there would be, but if
22 there is, divert your attention from that. No independent
23 investigation. Don't look at the Internet and do any
24 investigation on that. Don't go and do any independent
25 investigation of the crime scene or anything such as that.

1 Do not discuss the case amongst yourselves or with anyone
2 else. We're going to start at 9:30, 9:30 sharp. We've got a
3 lot of work to do tomorrow; so let's all be on time. 9:30,
4 9:30 sharp.

5 Everyone remain seated as the jury exits the courtroom.

6 (WHEREUPON, the jury exited the courtroom at 5:01 p.m.)

7 THE COURT: Anything from the State before we recess for
8 the evening?

9 MS. JONES: No, Your Honor.

10 THE COURT: Anything from defense?

11 MR. NEWMAN: No, sir, Your Honor.

12 THE COURT: All right. We'll reconvene at nine -- nine
13 o'clock in the morning. Once again, part of the reason why we
14 need to get here at nine is, if there are any preliminary
15 matters, let's take care of that before 9:30 so we can hit the
16 ground running.

17 MR. NEWMAN: Yes, sir.

18 THE COURT: Be here at nine o'clock in the morning.

19 MR. NEWMAN: Thank you, Your Honor. Have a good evening.

20 THE COURT: All right.

21 (WHEREUPON, the proceedings recessed for the day at 5:02
22 p.m.)

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24 (WHEREUPON, the proceedings resumed at 9:19 a.m.)

25 THE COURT: I understand there's an outstanding motion at

1 this time.

2 MR. NEWMAN: We need the defendant.

3 MS. JONES: Yes, there is.

4 (WHEREUPON, there was a pause in the proceedings until
5 the defendant entered the courtroom.)

6 THE COURT: And I'll be glad to hear from the moving
7 party.

8 MS. JONES: Thank you, Your Honor. Your Honor, the State
9 intends to elicit a statement from Antoine Drake as our first
10 witness this morning. The statement was made by the victim
11 Maurice Wright, made while the shooting was happening to the
12 defendant overheard by Mr. Drake. It is to the extent that he
13 says to the defendant please don't kill me in front of my
14 kids. The defendant responds you're going to die today.

15 Mr. Drake is present. The State would contend that that
16 statement made by Maurice would fall under 804(a)(4) and
17 804(b)(2) as a dying declaration and that that would be
18 admissible under the hearsay exceptions. Mr. Drake is present
19 if Your Honor would like to hear testimony from Mr. Drake.

20 THE COURT: What is the defense's position on that?

21 MR. NEWMAN: It's anything but a dying declaration.
22 Please don't kill me today. That's not a dying declaration.
23 That's not a person that thinks that they're -- that they're
24 in extremis, the life about to drain out of their body.
25 That's not a dying declaration. That's anything but. That's

1 a plea for life. Please don't kill me today. That's not a
2 dying declaration.

3 MS. JONES: Your Honor --

4 MR. NEWMAN: I don't see how it can be perceived as such.

5 MS. JONES: Your Honor, he'd already been shot at least
6 six times when he makes the statement. He's on the ground
7 crouched down as the defendant is standing over him and he
8 fires one more -- at least one more, if not two more, shots
9 into his head.

10 MR. NEWMAN: That's not a dying declaration. It's a plea
11 for life if anything. We don't think it's admissible and it
12 comes from -- it comes from one witness of dubious reputation
13 and character.

14 THE COURT: All right. I'm going to -- we're going to
15 have to lay the proper foundation and you're going to have to
16 ask him. I'm not going to make a ruling on that until I hear
17 the circumstances of it and you'll have to elicit all that.
18 But before you elicit that statement, I would like to take up
19 the matter outside of the presence of the jury before we do
20 that.

21 MS. JONES: During his testimony, Your Honor?

22 THE COURT: You need to lay the proper foundation to set
23 forth that statement as a dying declaration and I'll make a
24 call on it at that time.

25 MS. JONES: Okay. Additionally, in Mr. Drake's statement

1 that he gives to police, he indicates that himself, as well as
2 the defendant, had been doing various drugs during the day of
3 the incident. I know earlier on in this trial Mr. Newman
4 objected to reference to drug usage by the defendant. If that
5 is still the objection, I need to be able to instruct Mr.
6 Drake not to testify to that.

7 THE COURT: What is -- what is the --

8 MR. NEWMAN: I do have that objection. That goes to the
9 character of the defendant. We do not intend to introduce any
10 testimony. The defendant is not putting his character at
11 issue, but I think that --

12 THE COURT: It doesn't really have anything to do with
13 the character. It really has to do with the events that arose
14 that evening and his state of mind.

15 MR. NEWMAN: But I don't know if it was the state of
16 mind. It was other bad acts. The witness -- I want it
17 limited solely to his drug use because his credibility, his
18 ability to relate, observe, and recall details accurately
19 would be affected by his use of Xanax, cocaine, Molly, and
20 syrup.

21 THE COURT: Right. And I -- and you certainly are going
22 to be able to ask him about what drugs he used, but if he says
23 that the defendant was using drugs with him that day, I think
24 it's admissible.

25 MR. NEWMAN: And we would just object, Your Honor,

1 because it --

2 THE COURT: All right. You can object.

3 MR. NEWMAN: It's other bad acts.

4 THE COURT: You have objected. You'll continue to
5 object, but I think it's admissible. And there's one more
6 reference in Mr. Drake's statement where he references being
7 approached by other members of the community, specifically
8 family members of Mr. Wright, to not come forward and, if he
9 does come forward, to do so halfway I guess you could say and
10 leave out some details. That is in his statement. I did not
11 plan on asking him that question because it does involve
12 hearsay, but I just wanted to make Mr. Drake aware that he
13 can't get into that.

14 THE COURT: All right. You need to instruct him there
15 will be no discussion about what was told to him. If you can
16 elicit that or prove that directly some other way, we'll
17 address that, but he can't talk about what other people have
18 told him. It's hearsay.

19 MS. JONES: Okay.

20 THE COURT: Anything else before we bring the jury out?

21 THE CLERK: Your Honor, I don't have all the jury. I
22 just brought the other ones from over there in. Do you want
23 to talk to the forelady now or do you want to --

24 THE COURT: Well, we -- I thought we were going to have
25 an extended period of time with regard to this motion, but

1 we've concluded it and we're ready to go. Who are we missing?

2 THE CLERK: I'm going back to see. It was two. I'll
3 check.

4 MR. NEWMAN: And I did need for Madam Clerk --

5 THE CLERK: We're pulling that file.

6 MR. NEWMAN: Thank you. I'll need that during my
7 examination of the witness.

8 Also over here, I have subpoenaed the probation records
9 for Mr. Drake, who is on probation as a direct result of this
10 case. I specifically asked for drug testing. There is a
11 statute, 24-21-290, which says that drug testing is
12 confidential. It may not be disclosed directly or indirectly
13 and not received as evidence in court other than if the judge
14 orders or ordered by the Court on the record. And we're
15 asking the Court to order the release of his drug testing or
16 the Court review it in camera to see if he has any positive
17 hits for drugs.

18 I spoke with Mr. Drake yesterday and in my opinion being
19 a seven-year former police officer and doing this, Mr. Drake
20 was extremely intoxicated on my estimation on at least Xanax
21 and some other substances when I attempted to speak to him
22 yesterday. So I think the Court at the very least should
23 review whether or not Mr. Drake has been in violation of his
24 probation.

25 THE COURT: I am going to order that the file be produced

1 to me, specifically the drug reports.

2 MR. NEWMAN: Thank you, Your Honor.

3 THE COURT: All right. Would the State like to be heard
4 in that regard?

5 MS. JONES: Well, Your Honor, I would object to it based
6 on relevance. I believe if Mr. Drake is able to testify
7 today, Mr. Newman can ask him about that, but prior drug usage
8 from being on probation this past year -- I believe he's been
9 on probation about a year. Your Honor, I don't see how that
10 is relevant to his testimony today. He already is going to
11 say that he was doing drugs the day of the incident and I
12 believe Mr. Newman can ask him about that.

13 MR. NEWMAN: Do you think --

14 THE COURT: Well, I'm going to look at it and we'll see
15 and I'll make a determination. I am going to order that I
16 have the opportunity to look at it and we'll see.

17 (WHEREUPON, there was a pause in the proceedings.)

18 THE CLERK: We've got the last one.

19 THE COURT: Okay. All right. We're ready for the jury.

20 (WHEREUPON, the jury entered the courtroom at 9:33 a.m.)

21 THE COURT: Madam Forelady and ladies and gentlemen of
22 the jury, good morning and thank you for being here. Ms.
23 Jones, you're recognized. You may call your next witness.

24 MS. JONES: Thank you, Your Honor. The State calls
25 Antoine Drake.

ANTOINE DRAKE - DIRECT BY MS. JONES

1 THE COURT: Mr. Drake, please come forward. I'm going to
2 ask you, if you could, to place your left hand on the Bible
3 and raise your right hand as the clerk administers the oath.

4 THE CLERK: Right hand on the Bible. Other hand. Raise
5 your right hand. The testimony you are about to give the
6 Court will be the truth, the whole truth, and nothing but the
7 truth, so help you God?

8 THE WITNESS: Yes, ma'am.

9 THE CLERK: Have a seat in the witness chair.

10 THE COURT: I'm going to ask you to have a seat in the
11 witness chair. Pull up real close to that microphone and
12 speak loudly, clearly, and slowly in order that we can hear
13 everything that you have to say and let's start with your full
14 name.

15 THE WITNESS: Antoine Terrell Drake.

16 THE COURT: Say that -- say that again?

17 THE WITNESS: Antoine Terrell Drake.

18 THE COURT: Very good. Ms. Jones?

19 MS. JONES: Thank you, Your Honor.

20 ANTOINE DRAKE, being first duly
21 sworn, testified as follows:

22 DIRECT EXAMINATION

23 BY MS. JONES:

24 Q: Good morning, Antoine. How are you?

25 A: I'm okay.

ANTOINE DRAKE - DIRECT BY MS. JONES

1 Q: Okay. I have some questions for you. Do you know a man
2 named Nathaniel Wright?

3 A: Yes.

4 Q: How do you know him?

5 A: That's my second cousin. Him and my mother's two
6 sisters' children.

7 Q: Okay. So does that mean you also know Maurice Wright?

8 A: Yes.

9 Q: Okay. Do you -- did you call Maurice by something other
10 than Maurice?

11 A: Tag.

12 Q: How about Nathaniel?

13 A: Dion.

14 Q: Okay. Do you see Dion today in the courtroom?

15 A: Yes, ma'am.

16 Q: Can you please point him out?

17 A: (Indicating.)

18 Q: Okay.

19 MS. JONES: May the record reflect that the witness did
20 point to the defendant.

21 BY MS. JONES:

22 Q: How long have you known Dion?

23 A: My whole life.

24 Q: Okay. How old are you?

25 A: 28.

ANTOINE DRAKE - DIRECT BY MS. JONES

- 1 Q: Do you remember October 1st of 2014?
- 2 A: Yes.
- 3 Q: You do? What do you remember about that day?
- 4 A: Like, some things I try to forget, but, like -- like,
- 5 what you mean by that day?
- 6 A: Well, were you with Nathaniel that day?
- 7 A: Yes, ma'am.
- 8 Q: Okay. Where were y'all?
- 9 A: We went to his house. We was at his house, we went to
- 10 Bluffton, and we came back to Ridgeland.
- 11 Q: Okay. Where did you go when y'all came back to
- 12 Ridgeland?
- 13 A: We went to my Aunt Lucille's house.
- 14 Q: Do you know about what time this was?
- 15 A: No, ma'am.
- 16 Q: No? Was it morning time or afternoon?
- 17 A: Afternoon.
- 18 Q: Okay. When you get to Lucille's house, what are y'all
- 19 doing?
- 20 A: We were just -- mainly just -- we was fixing the car. We
- 21 was about to go. I think Dion had to go to him house and get
- 22 a wrench and straighten up his tag or whatever. So we were
- 23 sitting there doing that. We was doing that.
- 24 Q: Okay. Was anybody else at Lucille's house?
- 25 A: Yeah.

ANTOINE DRAKE - DIRECT BY MS. JONES

- 1 Q: Okay. Who else was there?
- 2 A: Lucille, which is his mother, Fran, which is Tag's wife,
3 and Maurice and his kids, and a couple more other people, John
4 Lee -- I think John -- yeah, John Lee was out there and one of
5 my other cousins -- he was out there.
- 6 Q: Okay. You said kids. How many kids did Maurice have out
7 there?
- 8 A: His whole squad.
- 9 Q: How many was that?
- 10 A: Like, five -- four.
- 11 Q: Do you know how old they were?
- 12 A: I know Lily -- she be, like, 15. His littlest -- we call
13 her Chicken. She should be, like, three. He had another
14 little daughter. She'd be, like, eight. And he got -- I
15 don't know too much about numbers and ages.
- 16 Q: In between three and 15?
- 17 A: Yeah.
- 18 Q: When y'all -- when you and the -- and the defendant get
19 to Lucille's house, how do y'all get there?
- 20 A: By car.
- 21 Q: Whose car were you in?
- 22 A: I was in my cousin's car.
- 23 Q: Okay. What kind of car was that?
- 24 A: A green Honda.
- 25 Q: I'm going to show you a picture, Antoine. I'm going to

ANTOINE DRAKE - DIRECT BY MS. JONES

1 show you what's been admitted as State's 36.

2 MS. JONES: Permission to approach, Your Honor?

3 THE COURT: Yes.

4 BY MS. JONES:

5 Q: Is this the car you arrived at Lucille's in?

6 A: Yes.

7 Q: Okay. And whose car is that?

8 A: That's Dion's car.

9 Q: Okay. When y'all get to Lucille's, is Maurice already
10 there?

11 A: Yes. He was already there.

12 Q: Okay. What happens when y'all get to Lucille's?

13 A: Like I said, we got to Lucille's and Dion -- Tag just
14 kept coming up. He wanted to go get a wrench. So he got the
15 wrench from Pimp. They got the wrench from Pimp.

16 Q: Where is Pimp?

17 A: That's, like, next door. That's, like, the house next
18 door, but anyway so.

19 Q: Okay.

20 A: So he got the wrench. So they was just basically -- they
21 was arguing. Well, yeah, they was arguing, but really Tag was
22 doing more so the arguing, just like going off on him.

23 Q: Okay.

24 A: Yeah.

25 Q: What were they arguing about?

ANTOINE DRAKE - DIRECT BY MS. JONES

1 A: About bills and money.

2 Q: Okay. Any bills in particular?

3 A: Nah, nothing but like their mama's bills.

4 Q: They were arguing about their mama's bills?

5 A: Yeah.

6 Q: Okay. What was -- what was Nathaniel doing during this

7 argument?

8 A: He was really trying to get a wrench and fix his -- to

9 fix his -- to fix his tag on his car, you know, but for the

10 most part, you know, he did try to -- he did walk away. He

11 did mostly try to walk away, but, you know, just Tag followed

12 him. Dion got in the car and Tag just followed him to the car

13 and -- you know.

14 Q: Okay. Was there any cursing in this argument?

15 A: Yeah. It was a whole lot of cursing. It was a whole lot

16 of cursing going on.

17 Q: Who was -- who was doing that?

18 A: Well, Dion was cursing because Tag don't curse.

19 Q: Okay. Okay.

20 A: Yeah.

21 Q: So after -- after they walked next door to get the

22 screwdriver, what happens next?

23 A: When Dion came back with the screwdriver, you know, Tag

24 was just basically going off on him, just telling him, you

25 know, this is your mom, you should help your mom, and stuff

ANTOINE DRAKE - DIRECT BY MS. JONES

1 like that. So they just was steady going at it, steady going
2 at it arguing and, you know, Dion must be saying something
3 that Tag didn't like.

4 So, like, Dion -- Dion was getting in the car. Tag
5 approaches Dion. He approached him. Dion was getting in the
6 car. Dion was getting ready to back up. So by the time Dion
7 was getting ready to back up, Tag hit him, you know. When Tag
8 hit him, Dion just -- you know, he just blacked out.

9 Q: Where was Dion when Tag hit him?

10 A: Inside of the car.

11 Q: Was that the only physical contact between the two?

12 A: Yeah.

13 Q: Prior to that in the argument, were there any threats?

14 A: No.

15 Q: It was just an argument over paying mama's money? Paying
16 her bills?

17 A: Yeah. Something like that, yeah.

18 Q: Okay. You said Dion blacked out?

19 A: Right.

20 Q: What did he -- what did he do?

21 A: When Tag hit Dion, Dion just -- he just went into the
22 console of the car and he shot him.

23 Q: What did he get out of that console?

24 A: A gun.

25 Q: Okay. I'm going to show you a picture, Antoine.

ANTOINE DRAKE - DIRECT BY MS. JONES

1 MS. JONES: Permission to approach, Your Honor?

2 THE COURT: Yes.

3 BY MS. JONES:

4 Q: What is in this picture, Antoine?

5 A: A car, a trailer.

6 MS. JONES: This is State's Exhibit 6 for Madam Court

7 Reporter.

8 BY MS. JONES:

9 Q: Whose trailer is that?

10 A: My Aunt Lucille.

11 Q: Okay. Can you show me where Dion's car was parked?

12 A: Right here.

13 Q: Okay. In that open field?

14 A: Yes.

15 Q: And is that where Tag hit Dion?

16 A: Yes.

17 Q: Okay. Okay. Dion has the gun in his hand and he shoots

18 Tag. What happens next?

19 A: After he shot Tag, you know, me personally I was just

20 like -- nobody -- everybody was out there. Nobody wanted to

21 stop it. So I was -- I was basically trying to stop it, you

22 know, trying to stop it, you know.

23 Q: What were you doing to try to stop it?

24 A: Like, I got in-between them and tried to pull them apart.

25 Q: Okay.

ANTOINE DRAKE - DIRECT BY MS. JONES

1 A: You know.

2 Q: Did that work?

3 A: No. That didn't work.

4 Q: What happened when you got in-between them?

5 A: I got -- I got -- I got in-between them. Dion just told
6 me, cousin, get out the way. This shit ain't for you.

7 Q: Where was the gun at this time?

8 A: I don't know.

9 Q: Is he still shooting?

10 A: At that time?

11 Q: Uh-huh.

12 A: Oh, yeah. He was still shooting.

13 Q: As you were in-between the two?

14 A: Nah.. When I got in-between them, he was just like,
15 cousin, this ain't for you, and Tag was, like, behind me.

16 Q: What's Tag doing behind you?

17 A: Like, crying.

18 Q: Do you know if he had already been shot?

19 A: He probably already did.

20 Q: Where are y'all now? Because it started over here in the
21 field and that's where the hit happened?

22 A: Yeah.

23 Q: Where are y'all now?

24 A: You know, mostly Tag was just running around the yard
25 and, you know, running around the yard. Dion was just chasing

ANTOINE DRAKE - DIRECT BY MS. JONES

1 him.

2 Q: Tag was running away?

3 A: Yeah.

4 Q: Okay. When -- when you get in the middle, what happens?

5 A: Basically when I got in the middle, Dion just told me

6 just, like, you know, cousin, this shit ain't for you. Get

7 out the way. So I got out the way because Tag was just, like,

8 grabbing on my shirt and pulling on me.

9 Q: Trying to hide?

10 A: Yeah.

11 Q: What do you do at that point?

12 A: I'm -- I'm crying myself and trying to -- I'm trying to

13 stop it because, you know, both of these are my cousins. Both

14 of these are my people. Like, I look up to both of them. So

15 if the same shooting would have happened to Tag, I would have

16 been up here for Dion if it would have happened to Dion. You

17 know, so, like, I don't love nobody -- I don't love nobody

18 else no less.

19 Q: Okay. At this point when Maurice -- Tag is behind you,

20 do you remember how many shots you had heard up until then?

21 A: It was quite a few shots. I was -- I was trying to get

22 out the way so I wouldn't get shot.

23 Q: Okay. Do you get out of the way?

24 A: Yeah. I get out of the way.

25 Q: Where do you go?

ANTOINE DRAKE - DIRECT BY MS. JONES

1 A: I watched from the step.

2 Q: Okay. The step? Are y'all now right in this area?

3 A: Yeah.

4 Q: Okay. Near the front of Ms. Lucille's home?

5 A: Uh-huh.

6 Q: What is Dion doing now?

7 A: Huh?

8 Q: You're out of the way and now what's happening between

9 Dion and Tag?

10 A: Basically, Dion just was running after him.

11 Q: Is he still shooting?

12 A: Yes.

13 Q: Okay. After that, what happens with Tag?

14 A: After that, Tag was on the ground, like, basically.

15 Q: Okay.

16 A: You know.

17 Q: Tag was on the ground?

18 A: Yes. Like, after that, he didn't get up.

19 Q: Okay.

20 MS. JONES: Your Honor, at this time we would ask to

21 approach.

22 THE COURT: Yes.

23 (WHEREUPON, a bench conference was held off the record.)

24 BY MS. JONES:

25 Q: Antoine, when Tag is on the ground, what does Dion say to

ANTOINE DRAKE - DIRECT BY MS. JONES

1 him?

2 A: What does Dion say?

3 Q: Yeah. What does just Dion say?

4 A: Well, at what point in time?

5 MS. JONES: Your Honor, may we -- may we approach one
6 more time?

7 THE COURT: Yes.

8 (WHEREUPON, a bench conference was held off the record.)

9 THE COURT: Madam Forelady and ladies and gentlemen of
10 the jury, I'm going to ask that you retire to the jury room,
11 but do not discuss the case in any way, shape or form. Madam
12 Forelady, you enforce that rule.

13 (WHEREUPON, the jury exited the courtroom at 9:50 a.m.)

14 THE COURT: Yes, ma'am.

15 PROFFERED DIRECT EXAMINATION

16 BY MS. JONES:

17 Q: Antoine, the next question I'm going to ask you is what
18 did Dion say while Maurice was on the ground. You can't say
19 what Maurice said. Okay? Do you remember -- do you remember
20 what -- what you overheard Maurice say?

21 A: Yeah. Yeah.

22 Q: Okay. You can't say that. You can just say what
23 Antoine's -- what Dion's response was. Okay? Do you remember
24 that?

25 A: Yeah.

ANTOINE DRAKE - DIRECT BY MS. JONES

1 Q: Okay. So just make sure you don't say what Maurice said.
2 Okay? Okay.

3 THE COURT: Do you understand that?

4 THE WITNESS: Yes, sir.

5 THE COURT: All right. And I think the statement was
6 don't kill me in front of my children. That statement -- you
7 can't say that or you'll be held in contempt of court if you
8 say it. Do you understand that?

9 THE WITNESS: Yes, sir.

10 THE COURT: Very good.

11 MR. NEWMAN: Judge, I think while the jury is out --
12 because I anticipate that I'm going to be examining Antoine
13 shortly, I would ask that they provide you with his drug
14 testing.

15 THE COURT: All right. Might -- might the probation --
16 y'all can come up and listen to this. Might probation come up
17 here?

18 (WHEREUPON, a bench conference was held off the record.)

19 THE COURT: For the record, I have spoken with a
20 probation agent. We've made the determination that when he
21 was first put on probation, he tested positive for marijuana.
22 Thereafter, he applied for a job and was tested for a number
23 of different drugs and tested negative.

24 The defense, having been -- having been made privy to
25 that information, has elected not to get into any drug use at

ANTOINE DRAKE - DIRECT BY MS. JONES

1 this time. Is that correct, Mr. Newman?

2 MR. NEWMAN: As to that particular date. I do intend to
3 examine them about the drug use --

4 THE COURT: Right.

5 MR. NEWMAN: -- that he made in his statement.

6 THE COURT: With regard to the probation records, you
7 don't intend to get into that?

8 MR. NEWMAN: No, sir. As I've told the Court and for the
9 record, I thought on our part it was due diligence if we check
10 into that information. We checked into it and nothing came of
11 it, but we did cover that base.

12 THE COURT: Very good. All right. Anything else?

13 MS. JONES: Not from the State.

14 THE COURT: All right. Very good.

15 (WHEREUPON, the jury entered the courtroom at 9:53 a.m.)

16 CONTINUED DIRECT EXAMINATION

17 BY MS. JONES:

18 Q: Okay. Antoine, let's go back a little bit. Dion is
19 shooting. Maurice is on the ground. Where are you when Tag
20 is on the ground?

21 A: Like, right by him.

22 Q: And where on the ground is he in relation to Ms.
23 Lucille's home?

24 A: Like, almost, like, by the step, like, right by -- like,
25 by the step.

ANTOINE DRAKE - DIRECT BY MS. JONES

1 Q: Okay. Where is Dion?

2 A: By him.

3 Q: Okay. Is he standing? Dion?

4 A: Yeah.

5 Q: Does he still have a gun in his hand?

6 A: Yes.

7 Q: What does he say as Maurice, his brother, is on the

8 ground?

9 A: You're going to die today.

10 Q: He says you're going to die today?

11 A: You're going to die today.

12 Q: What does he do after he says that?

13 A: Shoot him.

14 Q: How many more times?

15 A: Probably, like, one time.

16 Q: Okay. After that, what happens?

17 A: Dion got in his car and he left.

18 Q: Did he take the gun with him?

19 A: I'm pretty sure he did.

20 Q: Okay.

21 A: Yes.

22 Q: But you didn't see it?

23 A: No. I mean -- no.

24 Q: Okay. Did he -- how long after that final shot when Tag

25 is on the ground did Dion leave?

ANTOINE DRAKE - DIRECT BY MS. JONES

1 A: Like, after that -- after that last shot, he left right
2 after it.

3 Q: Okay. How many times did you think you heard the shots
4 ring out?

5 A: It was a lot of shots. It was -- it was -- like, I could
6 have sworn I counted -- I could've sworn it was like probably
7 ten shots or so.

8 Q: Okay.

9 A: I may be exaggerating a little, but I know it was a lot
10 of shots.

11 Q: Okay. After Dion leaves, what happens?

12 A: The police come. Detective Elvin. I think that's his
13 name. Mr. Wright.

14 Q: Okay.

15 A: He came up there. You know, he was just basically
16 telling us, you know, to get back from the body and stuff like
17 that.

18 Q: Okay. What are you -- what's going on in your mind at
19 this point?

20 A: What was going on at that point in my mind I was just,
21 like, hoping, like, you know, that, you know, like, he wasn't
22 dead. You understand what I'm saying? I was just, like,
23 hoping, like -- you know what I mean? Maybe we could --
24 things could be better, like, two months from now or whatever.
25 I mean it was us and our family. That ain't the case.

ANTOINE DRAKE - DIRECT BY MS. JONES

1 That wasn't the case. And I was just mainly trying to, you
2 know, stop the blood from, like, you know, pouring out of his
3 side -- on his side right here, and I was holding, like, his
4 side, but after I seen, like, he was dead and he ain't moved,
5 you know, what you going to do?

6 Q: So that's what you were doing when Detective Wright got
7 there? You were trying to stop the bleeding?

8 A: Yeah. I was trying to -- yeah, I was trying. I was
9 trying to stop the bleeding.

10 Q: Okay. So you were pretty -- you were right there on
11 Maurice when it was over with?

12 A: Yeah.

13 Q: Okay. Did Maurice have a gun on him?

14 A: No. No, ma'am.

15 Q: Any weapon?

16 A: He usually carry a knife, but not -- not that day.

17 Q: He didn't even have --

18 A: He didn't even have his knife on him.

19 Q: Okay. So you didn't take a gun and hide it?

20 A: No. Why would I do that?

21 Q: I'm just asking..

22 A: No, ma'am.

23 Q: I want to go back a little bit, back to -- well, that
24 night. You were there that night. You said you were there
25 when Detective Wright got there?

ANTOINE DRAKE - DIRECT BY MS. JONES

1 A: Uh-huh.

2 Q: Why didn't you talk to the police that night?

3 A: I didn't talk to the police because, you know, I was
4 emotional really. I was real, like, emotional, like crying.
5 Like, I was too emotional. And then to see -- to see
6 something like that happen -- you know, you're close to both
7 people. Like, I sleep on Dion's couch. I slept on Tag's
8 couch.

9 Q: Okay.

10 A: Both of them -- both of them looked out for me. Like,
11 they really looked out for me. I just -- you know, I'm pretty
12 sure that, you know, it really hurts, you know, because you're
13 kin to your family, you know. If it was somebody else, I
14 wouldn't care. Like, I don't care.

15 You know, but it bothers me. It bothers me, you know,
16 real bad. It bothers me because if something like that can
17 happen to us, that means to tell me, you know, love ain't no
18 unity if you could do that to your own brother and, you know,
19 I'm not judging him or nothing. This is how the way I feel.
20 If this is Tag would have killed him and Tag would have been
21 here, I would have been right here for Dion.

22 Q: Antoine, I want to ask you a couple more questions. Back
23 in February of 2015, you are in court, weren't you?

24 A: Uh-huh.

25 Q: Why were you in court that day?

ANTOINE DRAKE - DIRECT BY MS. JONES

- 1 A: What was the day?
- 2 Q: Were you picked up on a -- on a warrant and then you had
- 3 to come before a judge?
- 4 A: Oh, yeah. I think I had a coke charge.
- 5 Q: A coke charge?
- 6 A: Yeah.
- 7 Q: Would that be cocaine?
- 8 A: Yeah. Cocaine.
- 9 Q: Okay.
- 10 A: Yeah.
- 11 Q: Okay. Possession of cocaine?
- 12 A: Uh-huh.
- 13 Q: Okay. You were convicted of that, weren't you?
- 14 A: Yes.
- 15 Q: You had a trial and you didn't show up?
- 16 A: Yes.
- 17 Q: So they arrested you and you came before the judge?
- 18 A: Yes.
- 19 Q: And what sentence did you receive?
- 20 A: With the judge? I think I had got, like -- for the --
- 21 for the -- for the cocaine charge?
- 22 Q: Yes.
- 23 A: I think it was like a -- I think it was like five --
- 24 three to five years or something like that.
- 25 Q: On probation?

ANTOINE DRAKE - DIRECT BY MS. JONES

1 A: Oh, on probation. I got like a -- I got three years'
2 probation.

3 Q: Are you currently on that probation sentence?

4 A: Yes.

5 Q: Okay. You're still on that probation sentence from
6 February of 2015?

7 A: Yes.

8 Q: Okay. Was a condition of that probation that you
9 cooperate in this case?

10 A: Yes.

11 Q: Okay. Is that why you're testifying?

12 A: No. That's part of the reason why probably, yeah.

13 Q: Okay. Because if you didn't, they could potentially
14 violate your probation?

15 A: Yeah.

16 Q: Well, you said that's part of the reason?

17 A: Yeah.

18 Q: What's the other part of the reason you're testifying?

19 A: I mean the other part is because, like -- like, all my
20 family members, like, they're taking his side. You see what
21 I'm saying? Nobody don't care what happened to Tag. You feel
22 me? Like, nobody. Like, all my family members, like, are
23 just worried about, like -- okay -- Dion. You know what I'm
24 saying?

25 Sure they're saying, like, Lucille don't have to lose

ANTOINE DRAKE - DIRECT BY MS. JONES

- 1 both sons. You see what I'm saying? So, like, everybody's
2 just, like, for him. So I wanted to be the opposite side and
3 stand up for Tag because ain't nobody -- ain't nobody holding
4 him down. Ain't nobody care. Ain't nobody care. He's
5 already dead. Most people -- you know what I'm saying? But I
6 do because he got killed and he's somebody, just as well as a
7 lot of people here get shot down. I want somebody to bring my
8 shooter to justice.
- 9 Q: So you're here for Tag today?
- 10 A: Yes.
- 11 Q: And everything you've told me today, everything you've
12 told this Court has been the truth?
- 13 A: Yeah.
- 14 Q: And not because you had to cooperate, but because you're
15 here for Tag?
- 16 A: Yeah.
- 17 Q: Antoine, you gave a statement to police a couple months
18 after this happened and you talk about doing some drugs that
19 day?
- 20 A: Yeah.
- 21 Q: Who -- who were you with?
- 22 A: I was with my cousin, Dion.
- 23 Q: You were with Dion?
- 24 A: Yeah.
- 25 Q: Even though you have been doing drugs, did that affect

ANTOINE DRAKE - DIRECT BY MS. JONES

1 your memory in any way?

2 A: Oh, no, ma'am.

3 Q: No?

4 A: No, ma'am.

5 Q: You knew what was happening?

6 A: Yes.

7 Q: Okay.

8 A: We wasn't on that many drugs not for me not to know
9 what's going on.

10 Q: Okay. Okay. Okay. And again, even though you are
11 cooperating, you're here for Tag?

12 A: Yes.

13 Q: Okay.

14 MS. JONES: I beg the Court's indulgence.

15 BY MS. JONES:

16 Q: One more question, Antoine. Can you identify in the
17 courtroom today the man who shot Tag?

18 A: Yes, I could.

19 Q: Okay. Could you point him out, please? What's he
20 wearing?

21 A: Like, some kind of a tan khaki shirt or whatever. Oh,
22 that's -- what? Red or burgundy?

23 Q: Red and burgundy? Okay.

24 MS. JONES: May the record reflect that he did identify
25 the defendant. Antoine, I have no further questions for you.

ANTOINE DRAKE - CROSS BY MR. NEWMAN

1 Thank you.

2 THE COURT: Cross-examination.

3 CROSS-EXAMINATION

4 BY MR. NEWMAN:

5 Q: Now, you first went to jail in December when you were
6 arrested on unlawful possession of a pistol at the Club Pluto;
7 is that correct?

8 A: Yeah.

9 MS. JONES: Objection.

10 Q: And they also dropped that charge --

11 THE COURT: Hold on.

12 Q: -- as part of your deal --

13 THE COURT: Hold on a minute.

14 (WHEREUPON, a bench conference was held off the record.)

15 BY MR. NEWMAN:

16 Q: All right. So you were arrested on that gun charge, put
17 in jail, and you also found out that there was a bench warrant
18 for you because you had been tried in your absence on a
19 cocaine charge where you failed to show up to court; isn't
20 that correct?

21 A: Yes, sir.

22 Q: Okay. And on that charge, you had been sentenced to two
23 years in prison; isn't that correct?

24 A: Yes, sir.

25 Q: Okay. And you had a lawyer named Steve Plexico cut you a

ANTOINE DRAKE - CROSS BY MR. NEWMAN

1 deal to get you out of prison if you gave a statement;
2 correct?

3 A: Yes, sir.

4 Q: Okay. And Mr. Plexico is, in fact, Ms. Smart's
5 supervisor. Did you know that?

6 A: No.

7 Q: Okay. So you make a deal and because you were foggy on
8 the details, the SLED agent actually wrote out your statement
9 for you, didn't he?

10 A: No, not really because the reason why he wrote it out for
11 me is because me personally I can't read and neither right; so
12 that's why he wrote it.

13 Q: Okay. And as a result of your deal, your prison sentence
14 went down to probation and required to cooperate?

15 A: Yes.

16 Q: Okay. And you've added details here today that are not
17 in your statement, isn't that correct?

18 A: Like what?

19 Q: Well, you talked about a wrench. That wasn't in your
20 statement.

21 A: He went to go get a screwdriver, yes.

22 Q: Okay. A screwdriver?

23 A: Yeah.

24 Q: All right. And isn't it a fact that Maurice Tag Wright
25 had a habit of carrying a pistol?

ANTOINE DRAKE - CROSS BY MR. NEWMAN

- 1 A: No, sir. He did not carry pistols. He carried knives.
2 He was scared -- he was scared -- really scared of pistols
3 like that because he didn't want to go back.
- 4 Q: And you're saying he didn't have a pistol on him or in
5 his car?
- 6 A: No.
- 7 Q: Did you look in his car?
- 8 A: No.
- 9 Q: So you don't know whether he had a pistol in his car or
10 not then, do you?
- 11 A: No.
- 12 Q: Now, you gave a statement that Lucille, his mother, took
13 crack out of Tag's pockets?
- 14 A: Yes.
- 15 Q: Wasn't that, in fact, you that took the crack and the gun
16 out of Tag's pockets?
- 17 A: No, sir. I took the cell phone.
- 18 Q: You took his cell phone?
- 19 A: Yes, sir. And the only reason why I took the cell phone
20 was because his mother told me to go in his pockets and get
21 that.
- 22 Q: Well, did you make a statement that his mother took crack
23 out of his pockets?
- 24 A: She did.
- 25 Q: Did she take the gun out of his pockets?

ANTOINE DRAKE - CROSS BY MR. NEWMAN

- 1 A: He didn't have a gun. He had money.
- 2 Q: So you went through his pockets?
- 3 A: No, she did.
- 4 Q: And over their relationship, Tag has been abusive and
- 5 aggressive to his younger brother, has he not?
- 6 A: Yes.
- 7 Q: And Dion was fearful of his older brother, was he not?
- 8 A: I wouldn't say fearful, but I won't say he feared him,
- 9 no.
- 10 Q: Okay. But Tag has been very aggressive toward him?
- 11 A: Yes.
- 12 Q: All right.
- 13 A: Tag was aggressive with everybody.
- 14 Q: Right. In fact, he shot at three of his relatives,
- 15 didn't he?
- 16 A: Not to my knowledge. Not that -- I didn't know he did it
- 17 or not.
- 18 Q: Okay. And you didn't make any type of statement until
- 19 after you were put in jail on a pistol charge and that's still
- 20 pending?
- 21 A: Uh-huh.
- 22 Q: Were you not, in fact, passed out at that scene sleeping?
- 23 A: Sleeping?
- 24 Q: Uh-huh.
- 25 A: Sir, I ain't slept in the last year..

ANTOINE DRAKE - CROSS BY MR. NEWMAN

- 1 Q: You've not slept once in an entire year?
- 2 A: Well, I slept, but not like that.
- 3 Q: Well, you said you were at Dion's house, but you went to
- 4 Bluffton, did you not?
- 5 A: Yes.
- 6 Q: And you got high with Molly, Xanax, cocaine, and syrup?
- 7 A: Yes.
- 8 Q: All right. And what is Molly?
- 9 A: It's Molly.
- 10 Q: Well, I'm sorry. I don't take drugs. I don't know what
- 11 it is.
- 12 A: You don't take --
- 13 Q: Tell me what it is.
- 14 A: It's like -- it's like little pieces of rocks.
- 15 Q: Little pieces of crack?
- 16 A: No, not crack. Rocks.
- 17 Q: Like methamphetamine?
- 18 A: Yeah, something like that.
- 19 Q: Okay. So it's meth?
- 20 A: Yeah.
- 21 Q: All right. So you were doing -- you were doing
- 22 methamphetamine?
- 23 A: No, I wasn't doing that now. I was just on the cocaine
- 24 and the -- and the -- and the Xanax.
- 25 Q: Well, you made a statement that says --

ANTOINE DRAKE - CROSS BY MR. NEWMAN

- 1 A: I mean when I --
- 2 Q: -- I was getting high with Molly, Xanax, cocaine, and
- 3 syrup.
- 4 A: Yeah. Like, it was a group of people. Like, we was all
- 5 like that right there, like those was the drugs that was in
- 6 the equation that we was using.
- 7 Q: What is syrup?
- 8 A: Syrup is cough medicine.
- 9 Q: Is it cough medicine that has the codeine in it?
- 10 A: Yes.
- 11 Q: You mix it up with Sprite?
- 12 A: Yeah.
- 13 Q: All right. And codeine makes you sleepy?
- 14 A: Yeah.
- 15 Q: All right. You, in fact, didn't witness any of this, did
- 16 you?
- 17 A: Witness what?
- 18 Q: Witness what you came in here and testified to?
- 19 A: Oh, yeah, I did. I witnessed that.
- 20 Q: And then the previous April, that's when you possessed
- 21 the cocaine that you were convicted of; correct?
- 22 A: Huh?
- 23 Q: Convicted of in October?
- 24 A: Uh-huh.
- 25 MR. NEWMAN: I believe I'm about done, Your Honor. Let

ANTOINE DRAKE - CROSS BY MR. NEWMAN

1 me check.

2 BY MR. NEWMAN:

3 Q: And throughout this exchange, Dion was trying to get away
4 initially from Tag; isn't that correct?

5 A: Yes, he was.

6 Q: He walked away from him, even to the point of getting in
7 his car?

8 A: Yes.

9 Q: Tag pursued him? Tag hit him?

10 A: Yes.

11 Q: Okay.

12 MR. NEWMAN: Thank you.

13 THE COURT: Any redirect?

14 MS. JONES: Briefly, Your Honor.

15 REDIRECT EXAMINATION

16 BY MS. JONES:

17 Q: Antoine, the only gun that day was in Dion's hands?

18 A: Yes.

19 Q: And it was after this one single hit by Tag that Dion
20 opened fire?

21 A: Yes.

22 Q: And continued to shoot at least what you believe is about
23 ten times?

24 MR. NEWMAN: Your Honor, this is --

25 A: Yes.

1 MR. NEWMAN: This is not cross-examination. It's
2 redirect.

3 THE COURT: It's redirect and you have to ask direct
4 questions, not leading questions.

5 MS. JONES: I'll withdraw the question.

6 THE COURT: Very good. All right. You may step down.
7 You may call your next witness.

8 MS. JONES: The State calls Martin Sauls. Your Honor,
9 may Mr. -- may Mr. Drake be released from his subpoena?

10 THE COURT: Any objection?

11 MR. NEWMAN: I do have an objection to him being
12 released. I may -- after the witnesses we put up, I may seek
13 to recall Mr. Drake.

14 THE COURT: Okay. We'll ask that he remain in the
15 courthouse.

16 (WHEREUPON, there was a pause in the proceedings as
17 counsel conferred.)

18 THE COURT: First of all, we don't need to have
19 discussions amongst counsel. If you have a motion or a
20 question, you need to direct it to the Court.

21 MR. NEWMAN: Based on the questioning of Mr. Drake --

22 THE COURT: Whoa, whoa, whoa, whoa. Wait a minute.
23 Let's --

24 (WHEREUPON, a bench conference was held off the record.)

25 THE COURT: Ladies -- ladies and gentlemen of the jury,

1 the parties have agreed to the introduction of the --
2 introduction of the sentencing sheets. They'll be denominated
3 as?

4 MR. NEWMAN: The original sentencing sheet will be
5 Defendant's 1 and the amended sentencing sheet will be
6 Defendant's 2.

7 THE CLERK: Can I make two certified copies of those,
8 Your Honor?

9 MR. NEWMAN: I have no objection to that. These are the
10 original documents.

11 THE COURT: Very good. We'll make copies and substitute
12 the copies.

13 MR. NEWMAN: Thank you, Your Honor.

14 (WHEREUPON, Defendant's Exhibit Number 1, sentencing
15 sheet, and Defendant's Exhibit Number 2, amended
16 sentencing sheet, were admitted into evidence.)

17 MS. JONES: My apologies, Your Honor. He is walking in
18 the building.

19 (WHEREUPON, there was a pause in the proceedings.)

20 MS. JONES: Your Honor, it appears Mr. Sauls has stepped
21 out. We will be moving forward with the pathologist.

22 THE COURT: Okay. Very good.

23 MS. JONES: The State calls Dr. Presnell.

24 (WHEREUPON, there was a pause in the proceedings until
25 the witness entered the courtroom.)

DR. ERIN PRESNELL - DIRECT BY MS. JONES

1 THE COURT: Yes, ma'am. Please come forward. I'm going
2 to ask you, if you could, to approach the clerk over here to
3 your left. Place your left hand on the Bible and raise your
4 right hand as the clerk administers the oath. You've got a
5 handful there. Very good.

6 THE CLERK: The testimony you are about to give the Court
7 will be the truth, the whole truth, and nothing but the truth,
8 so help you God?

9 THE WITNESS: Yes, ma'am.

10 THE COURT: I'm going to ask you, if you could, to have a
11 seat in the witness chair.

12 THE WITNESS: Yes, sir.

13 THE COURT: Pull up real close to that microphone and
14 speak loudly, clearly, and slowly in order that we can hear
15 everything that you have to say and let's start with your full
16 name, please, ma'am.

17 THE WITNESS: All right. My name is Susan Erin Presnell,
18 P-r-e-s-n-e-l-l.

19 THE COURT: Very good. Yes, ma'am.

20 MS. JONES: Thank you, Your Honor.

21 DR. ERIN PRESNELL, being first
22 duly sworn, testified as follows:

23 DIRECT EXAMINATION

24 BY MS. JONES:

25 Q: Good morning, Dr. Presnell.

DR. ERIN PRESNELL - DIRECT BY MS. JONES

1 A: Good morning.

2 Q: Where do you work?

3 A: I'm a forensic pathologist at MUSC in Charleston, the
4 Medical University of South Carolina.

5 Q: Okay. What is a forensic pathologist?

6 A: Well, most people are kind of getting familiar with the
7 term forensic pathology just with all the media and all, but
8 I'll back up a moment and explain that. Forensic pathology is
9 a subspecialty of the medical field pathology.

10 And so pathologists are doctors that -- if you go to the
11 doctor and let's say your primary care doctor and you get a
12 biopsy or blood drawn or if you get surgery and something is
13 taken out, that tissue goes to the pathologist and they look
14 at it, look at it under the microscope, and come up with a
15 diagnosis, like if it's cancer or if it's an infection or
16 something like that.

17 So I'm trained in the general field of pathology, but
18 then I also did training in forensic pathology, which is again
19 a subspecialty of that where instead of looking at a piece of
20 tissue or, you know, one particular organ, we would look at
21 the whole entire body of somebody that's passed away. We
22 would look for disease processes and all, but we're also
23 evaluating trauma. And through that process, the autopsy
24 where we look at all of the outside and all the inside, we put
25 together a report that will conclude what we think the cause

DR. ERIN PRESNELL - DIRECT BY MS. JONES

1 and manner of death is.

2 Q: Did you have to receive some sort of special education or
3 trainings or experience in order to be a forensic pathologist?

4 A: Well, to be a forensic pathologist -- well, so my course
5 to be a forensic pathologist was four years at Clemson where I
6 was a Microbiology major, and then four years of medical
7 school at MUSC, and then I stayed there. After medical
8 school, you pick what field you want to go into, like
9 pediatrics or family medicine. I chose pathology.

10 So after medical school, I did five years of trading in
11 pathology and then one additional year for the forensic
12 pathology. And then after that -- well, during that process
13 you take boards and your exams and all. So I am board-
14 certified in pathology and forensic pathology.

15 Q: How long have you been a forensic pathologist?

16 A: I became board-certified in 1999.

17 Q: Have you ever testified in court before?

18 A: Yes. And just an estimate around a hundred.

19 Q: Okay.

20 MS. JONES: Your Honor, at this time, the State moves Dr.
21 Presnell as an expert in forensic pathology.

22 THE COURT: Any query with regard to her qualifications?

23 MR. NEWMAN: No. We'd stipulate to her qualifications
24 and stipulate the decedent died of multiple gunshot wounds.
25 We basically stipulate to her testimony.

DR. ERIN PRESNELL - DIRECT BY MS. JONES

1 THE COURT: Well, my question was --

2 MR. NEWMAN: No, sir, I don't. She's --

3 THE COURT: We don't need any unsolicited response. The
4 question is do you have any questions about her
5 qualifications. So the answer is no?

6 MR. NEWMAN: We stipulate to it.

7 THE COURT: All right. Very good. She is indeed
8 qualified to testify in the area of forensic pathology. She
9 is allowed to testify as to the things she saw, heard, and
10 felt, but also allowed to testify with regard to her opinions
11 in this field of study.

12 I've talked with you previously about what an expert
13 witness is and I'll charge you in more detail at the
14 conclusion of the case. But pay very close attention to her
15 testimony and give it the weight you think it deserves. Yes,
16 ma'am.

17 MS. JONES: Thank you, Your Honor.

18 BY MS. JONES:

19 Q: Dr. Presnell, did you have an opportunity to perform an
20 autopsy on Maurice Wright?

21 A: Yes. I performed an autopsy after the coroner referred
22 us the case October 2nd, 2014.

23 Q: Okay. And where did this autopsy occur?

24 A: It's at MUSC where I work.

25 Q: Okay. Were you able to -- to determine general

DR. ERIN PRESNELL - DIRECT BY MS. JONES

1 characteristics of Maurice, age, height, weight?

2 A: Well, the age is based on the information that we
3 received from the coroner and -- let's see. At that time, he
4 was 36 years old. He weighed 317 pounds and was 69.5 inches,
5 which is 5'9½". Five feet 9½ inches.

6 Q: Thank you. And you did, in fact, perform an autopsy that
7 afternoon?

8 A: Yes. We did an autopsy.

9 Q: Okay. The first question, how many entrance wounds did
10 you see on Mr. Wright?

11 A: Well, do you want me to back up just a minute in general
12 what I found at autopsy, including multiple gunshot wounds?
13 Well, he had a total of at least eight gunshot wounds.

14 Q: Okay. During your autopsy or soon after, do you take
15 notes or make some sort of diagram?

16 A: Yes. During -- so during the process of the autopsy, we
17 do photographs, x-rays, and in cases of gunshot wounds
18 diagrams, and then we use all that information to help put the
19 report together at the end.

20 Q: And you did that in this case?

21 A: Yes.

22 Q: Dr. Presnell, I'm going to show you what's been marked
23 State's 42 and 43. Can you identify these?

24 A: That is a blown-up copy of one of the diagrams I did at
25 the time of autopsy.

DR. ERIN PRESNELL - DIRECT BY MS. JONES

1 Q: Okay. They don't start off this big?

2 A: No.

3 Q: Okay.

4 A: No. They're regular paper size.

5 Q: Okay. And State's 43?

6 A: . That is another -- a copy of another one of the diagrams
7 that I did.

8 Q: Okay. And these are copies of the actual diagrams you
9 conducted in this autopsy?

10 A: Yes.

11 Q: Do they appear to be altered or changed aside from --

12 A: Enlargement.

13 Q: -- being enlarged?

14 A: That's it.

15 Q: Okay.

16 MS. JONES: Your Honor, at this time, the State moves
17 State's 42 and 43 into evidence.

18 THE COURT: Any objection?

19 MR. NEWMAN: No, sir.

20 THE COURT: All right. They're into evidence without
21 objection. They're denominated as State's exhibit?

22 MS. JONES: 42 and 43.

23 THE COURT: Are into evidence.

24 (WHEREUPON, State's Exhibit Number 42 and State's Exhibit
25 Number 43, autopsy diagrams, were admitted into

DR. ERIN PRESNELL - DIRECT BY MS. JONES

1 evidence.)

2 MS. JONES: Your Honor, permission for Dr. Presnell to
3 step down from the witness stand?

4 THE COURT: Yes.

5 (WHEREUPON, the witness complied.)

6 BY MS. JONES:

7 Q: You mentioned eight gunshot wounds. If we could now go
8 wound by wound and if we could start with what you have
9 denominated as A?

10 A: All right. So there's a lot more on this diagram than
11 just the entrance gunshot wounds. We also label our gunshot
12 wounds as A, B, C, D, E, and then we match them up later. So,
13 like, we might have an entrance at A and an exit at Q. So
14 that's what some of these letter designations are.

15 Also, we've got marks of where tattoos are and scars. So
16 it's kind of a complicated diagram, but if you'd like I would
17 go ahead and color in the entrance gunshot wounds with the
18 color pink. All right?

19 All right. So we have -- actually, it might be helpful
20 if I could just go ahead and circle them and then we'll talk
21 -- or color them and then we'll talk about each one.

22 (WHEREUPON, there was a pause in the proceedings.)

23 A: Okay. I know it is still small despite it being
24 enlarged, but I'll just go through. We'll start with -- we'll
25 leave the head for last.

DR. ERIN PRESNELL - DIRECT BY MS. JONES

1 Basically, he has an entrance gunshot wound here, and
2 this diagram is somebody that is not 300-plus pounds. So
3 trying to draw the holes on it sometimes doesn't necessarily
4 correspond with his body dimensions. For instance, gunshot
5 wound A goes into the top of his right chest, it goes through
6 soft tissue, and exits right here at his right-hip area, which
7 is over in this area. I did not color that one.

8 So it does not actually go into a body cavity. So in
9 through the right chest and out the right-hip area.

10 Q: What is the direction of travel of that?

11 A: If you can just imagine on your own body, it's from the
12 front towards the back, down, and to the right -- to his
13 right.

14 Q: Thank you.

15 A: Okay.

16 Q: Would this wound have been fatal?

17 A: No. No. All of the gunshot wounds below his head only
18 hit soft tissue. One of them hit bone too and we'll talk
19 about that, but these are all nonfatal injuries below the
20 head.

21 All right. So we have the one to the chest that exits to
22 the right hip.

23 Then we have three across the buttocks area. The one
24 that goes into the -- kind of the left buttock -- the back of
25 the left buttock area goes through the body and exits right

DR. ERIN PRESNELL - DIRECT BY MS. JONES

1 here. That actual exit is right here. I did not color it.

2 So the one that is right here is going through soft tissue and
3 exiting right here.

4 The one that's to the kind of the middle of the right
5 buttock goes in through the buttock soft tissue, exits the
6 scrotum, reenters the right thigh right there, and then exits
7 the thigh down here. Again, all soft tissue.

8 The P here that's on kind of the right buttock/hip area
9 goes into the soft tissue and exits the leg right here at G.
10 And then as far as the others on the body or below the head,
11 we have one to the hand, the right hand, which goes in through
12 and this is the one that hits a bone. It breaks the bone in
13 the right hand and exits the palm.

14 And then we have one more below the head which is to the
15 left arm area. This is just a fragment of a bullet that goes
16 into the soft tissue and we get the bullet down in this area.

17 So let's see. One, two, three, four, five, six. So
18 that's six below the head. This right here is considered a
19 re-entrance from that one to the back of the buttock.

20 Q: So those first six wounds, A, C, D, N, O, P, were not
21 fatal?

22 A: Correct.

23 Q: They just traveled through soft tissue?

24 A: Correct.

25 Q: Except the hand?

DR. ERIN PRESNELL - DIRECT BY MS. JONES

1 A: And the hand and the buttocks. So we have a hand, an
2 upper arm, one to the chest that comes out here, and then
3 three to the back that go through soft tissue and exit.

4 Q: Okay. And those are all the entrance wounds?

5 A: Below the head, correct.

6 Q: Okay.

7 A: That we have two -- at least two to the head. There's
8 one that's a little bit to the left of midline that goes into
9 the skull, in through the brain, and the bullet is recovered
10 in the front of the brain.

11 This other one, which I penciled in here, is really on
12 the side of the head and it's kind of -- it's a complex
13 gunshot wound. It has an entrance, a laceration, a partial
14 exit, and bullet fragments all in this area. There's an
15 underlying skull fracture, but the bullet doesn't actually go
16 into the head.

17 Q: Would those two -- would the one on the side of the head
18 -- would that have been fatal?

19 A: It potentially could have. There was underlying skull
20 fracture and that could have caused damage, but certainly the
21 gunshot wound to the back -- to the back left of the head
22 would be fatal.

23 Q: Okay. And that one you actually retrieved fragments in
24 the head?

25 A: We retrieved -- well, we called them bullet one, two,

DR. ERIN PRESNELL - DIRECT BY MS. JONES

1 three, and four, but we retrieved the one bullet associated
2 with the one that went into the head and we got in the front
3 of the brain. Two, it looked like the bullet had broken apart
4 and so we were able to pull bullet two and three from the one
5 to the side of the head. And then this fragment of a bullet
6 from the one to the left upper arm.

7 Q: Okay. You can have a seat.

8 (WHEREUPON, the witness complied.)

9 Q: Was a toxicology done on Mr. Wright?

10 A: Yes. We -- it's typical -- it's normal for us to draw
11 blood and do -- send it off for toxicology. In this case, it
12 was negative for drugs and alcohol.

13 Q: Were you able to determine a cause of death for Mr.
14 Wright?

15 A: Yes.. So we -- the terminology that we use or that I use
16 for cause of death was the two -- the cerebral disruption or
17 brain disruption due to the two gunshot wounds to the head and
18 then contributory we did the six gunshot wounds to the rest of
19 the body.

20 Q: Were you able to determine a manner of death?

21 A: So manner of death for us in the medical sense was
22 homicide, meaning death caused at the hands of another.

23 Q: Dr. Presnell, I have no further questions for you. Thank
24 you.

25 THE COURT: Cross-examination.

DR. ERIN PRESNELL - CROSS BY MR. NEWMAN

CROSS-EXAMINATION

1
2 BY MR. NEWMAN:

3 Q: Just a couple. Part of what you do on identification is
4 you note tattoos; is that correct?

5 A: Yes.

6 Q: Okay. And Mr. Wright had a large tattoo with a gun on
7 his chest, did he not?

8 A: Probably. Let's see. Yes. He had a tattoo of a gun
9 with some writing -- I didn't note exactly what it said -- on
10 the right upper chest.

11 Q: Okay. So he did have a tattoo of a gun on his chest?

12 A: Yes.

13 Q: Okay. Now, I'm glad you mentioned I guess the CSI effect
14 with all the kind of shows about your -- about your chosen
15 profession now, and it's important to use terminology
16 correctly. Now, you've classified this as a homicide, and a
17 homicide is a death where another human is responsible for
18 that death or involved in that death; is that correct?

19 A: Well, that is cause of death, yes.

20 Q: Okay. Now, that doesn't mean -- I noticed you didn't use
21 the term murder?

22 A: Correct. That is legal. That would be the jury's
23 decision.

24 Q: Right. Because that's not a determination you can make
25 in forensic. In other words, if it's a justifiable homicide,

DR. ERIN PRESNELL - CROSS BY MR. NEWMAN

1 it's still a homicide even though a person acted in self-
2 defense; correct?

3 A: Correct.

4 Q: Such as the State executes somebody that that's an
5 intentional willful death, but it's a justified death because
6 it was ordered by the government?

7 A: And we would have called that a homicide, yes.

8 Q: A homicide as well? Okay. So I just want to make sure
9 to the jury you're not here saying anybody was murdered in
10 this case. You don't know whether it's self-defense, whether
11 it's some lesser degree of culpability. You can just say that
12 it's obvious that one person killed another person?

13 A: Correct.

14 Q: Okay.

15 MR. NEWMAN: Thank you.

16 THE COURT: Any redirect?

17 MS. JONES: No, Your Honor.

18 THE COURT: You may step down and you may be excused.

19 Thank you, ma'am.

20 THE WITNESS: Thank you.

21 THE COURT: Take your jacket.

22 THE WITNESS: I wouldn't get far.

23 THE CLEERK: No, you wouldn't. Not today.

24 THE COURT: You may call your next witness.

25 MS. JONES: The State calls Martin Sauls.

MARTIN SAULS - DIRECT BY MS. JONES

1 (WHEREUPON, there was a pause in the proceedings until
2 the witness entered the courtroom.)

3 THE COURT: Is this Mr. Sauls?

4 THE CLERK: Yes, sir.

5 THE COURT: If you could, come forward and place your
6 left hand on the Bible and raise your right hand as the clerk
7 administers the oath.

8 THE CLERK: Left hand on the Bible.

9 THE COURT: Left hand on the Bible and raise your right
10 hand.

11 THE CLERK: The testimony you are about to give the Court
12 will be the truth, the whole truth, and nothing but the truth,
13 so help you God?

14 THE WITNESS: I do.

15 THE CLERK: Come right around and have a seat in the
16 witness chair.

17 THE WITNESS: Thank you.

18 THE COURT: Have a seat in the witness chair. Pull up
19 real close to that microphone and speak loudly, clearly, and
20 slowly in order that we can hear everything that you have to
21 say and let's start with your full name.

22 THE WITNESS: Martin Sauls.

23 THE COURT: Okay. Very good. Very loud. Very good.

24 MS. JONES: Thank you, Your Honor.

25 THE WITNESS: Too loud?

MARTIN SAULS - DIRECT BY MS. JONES

1 MARTIN SAULS, being first duly
2 sworn, testified as follows:

3 DIRECT EXAMINATION

4 BY MS. JONES:

5 Q: Good morning. Mr. Sauls, what do you do here in Jasper
6 County?

7 A: I'm a funeral director.

8 Q: Okay. Do you have another job as well?

9 A: Yes, ma'am.

10 Q: And what is that?

11 A: I'm the county coroner.

12 Q: Okay. And what are some of your duties as the county
13 coroner?

14 A: Investigate all deaths that happen outside of, like, a
15 hospital or outside of the supervision of a medical doctor.

16 Q: Okay. Is it part of your duty to declare somebody dead?

17 A: Yes, ma'am.

18 Q: Okay. Were you -- were you called out on October 1st of
19 2014?

20 A: Yes, ma'am.

21 Q: And where did you respond?

22 A: Where?

23 Q: Uh-huh.

24 A: Captain Bill's Branch.

25 Q: Okay. Could it have been Captain Bill Road?

MARTIN SAULS - DIRECT BY MS. JONES

- 1 A: Yes, ma'am. Same place.
- 2 Q: Okay. Thank you. Why were you called out there?
- 3 A: Homicide.
- 4 Q: Okay. And you, in fact, responded to that location?
- 5 A: Yes, ma'am.
- 6 Q: And what did you do when you got there?
- 7 A: Oh, I proceeded to pronounce Mr. Wright deceased.
- 8 Q: Okay. Mr. Wright? Would you remember what his first
9 name was?
- 10 A: Yes, ma'am. Maurice.
- 11 Q: Okay. So you pronounced him deceased that -- that
12 evening?
- 13 A: Yes, ma'am.
- 14 Q: On Captain Bill Road?
- 15 A: Yes, ma'am.
- 16 Q: Is that here in Jasper County?
- 17 A: Yes, ma'am. That's in the crossroads of Jasper County.
- 18 Q: Okay. After that, did you request an autopsy to be
19 performed?
- 20 A: Yes, ma'am.
- 21 Q: Okay. Did you do anything else relating to this case?
- 22 A: No, ma'am.
- 23 Q: Okay.
- 24 MS. JONES: I have no further questions. Thank you.
- 25 THE COURT: Any cross-examination?

MARTIN SAULS - CROSS BY MR. NEWMAN

CROSS-EXAMINATION

1

2 BY MR. NEWMAN:

3 Q: Hey, Mr. Sauls. How are you doing, sir?

4 A: I'm good. Thank you, sir. How are you?

5 Q: Nice to see you again.

6 A: Good to see you. Thank you.

7 Q: I just wanted to make clear you don't make a
8 determination, much like the pathologist did, when death is
9 classified as a homicide, that doesn't mean it's a murder
10 necessarily. It could be a self-defense case. It could be a
11 lesser degree of manslaughter. You don't make those
12 determinations?

13 A: I do not. No, sir. I pretty much just determined that
14 he was, in fact, 10-7, out of service.

15 Q: 10-7?

16 A: Deceased.

17 Q: Yes, sir. All right. Did your son win his election?

18 A: Say it again?

19 Q: Did your son win his election?

20 A: Yes, sir. He did.

21 Q: Nice to see you, coroner.

22 A: Thank you.

23 THE COURT: All right. Any redirect?

24 MS. JONES: No redirect.

25 THE COURT: You may step down.

1 THE WITNESS: Thank you, Your Honor.

2 THE COURT: You may be excused. You may call your next
3 witness.

4 MS. JONES: Your Honor, at this time, the State rests.

5 THE COURT: Madam Forelady and ladies and gentlemen of
6 the jury, at this time we have to take up matters of law
7 outside of your presence. We would ask that you return to the
8 jury room, but do not discuss the case in any way, shape or
9 form. And I'll ask that everyone remain seated as the jury
10 exits the courtroom.

11 (WHEREUPON, the jury exited the courtroom at 10:45 a.m.)

12 THE COURT: I'd be happy to entertain motions at this
13 time.

14 MR. NEWMAN: If it pleases the Court, Your Honor, as to
15 the charge of murder, the defendant makes a motion for a
16 directed verdict. The State has failed to produce sufficient
17 evidence, even by its own witnesses, that this homicide was,
18 in fact, a murder and we'd move for a directed verdict on the
19 charge of murder.

20 We believe that the State has not presented any evidence
21 of premeditation or intent. In fact, the State has gone out
22 of its way to basically show evidence that at best the State
23 has proven some manner of degree of manslaughter and we would
24 therefore move for a directed verdict on those grounds.

25 THE COURT: I'll be glad to hear from the State.

1 MS. JONES: Thank you, Your Honor. Respectfully, I
2 disagree with Mr. Newman. I feel that we have met our burden.
3 We have presented evidence, both direct and circumstantial,
4 that this was a murder, in fact, committed by the defendant to
5 the deceased, Maurice Wright.

6 Antoine Drake took the stand and said that it was an
7 argument over money. There were no threats. There was no
8 other weapon involved in this argument. And as a result of
9 one hit, the defendant went for his gun, went to his car and
10 retrieved a gun, and shot the victim in this case.

11 Dr. Presnell testified that he was shot ultimately eight
12 times. Mr. Drake stated that the shooting continued all over
13 the yard. Statements were made between the shooting. Even
14 after -- even after Mr. Drake attempted to get the shooting to
15 stop, the defendant would not stop shooting. And as a result,
16 Mr. Wright -- Mr. Maurice Wright did die as a result of those
17 multiple gunshot wounds.

18 THE COURT: All right. Mr. Newman, of course, you've
19 indicated that certainly there was some altercation that led
20 up to this ultimate death of the deceased and you maintain
21 that the facts -- the uncontroverted facts amount to
22 manslaughter, not murder. Wouldn't you agree that the law
23 says that if a deadly weapon is used, you can infer malice,
24 and that's the difference between the two?

25 MR. NEWMAN: Well --

1 THE COURT: And we do agree that the deceased was shot,
2 don't we?

3 MR. NEWMAN: I believe that under *Belcher* you can't infer
4 malice in situations where there has been some evidence
5 presented of self-defense, some evidence presented of a
6 defense from the decedent being the aggressor. I believe
7 under *Belcher*, *Belcher* eradicates that inference in those type
8 of cases where there is lesser charges or justifications
9 available to the defendant. So I think that would go to --

10 THE COURT: Are you saying that if you allege self-
11 defense, you can't charge them with murder?

12 MR. NEWMAN: Not only alleging, but if there's any
13 evidence of self-defense or any evidence of a diminished
14 charge for murder, such as a manslaughter, *Belcher* says that
15 it is improper to charge that you may infer malice from the
16 use of a deadly weapon.

17 THE COURT: What do you have to say about that?

18 MS. JONES: Well, I disagree, Your Honor. I would have
19 to read *Belcher*, but I would disagree with that. I think that
20 the lesser-included charge would be a jury question I think
21 regardless.

22 THE COURT: I think it is. It's always been my
23 understanding of the law. Do you have the *Belcher* case with
24 you?

25 MR. NEWMAN: I do not. I would have to look that up,

1 Your Honor.

2 THE COURT: Okay. Well, if you want me to consider it,
3 you need to get it for me.

4 All right. I'm going to ask Mr. Wright if he could stand
5 and raise his right hand as the clerk administers the oath.

6 (WHEREUPON, the defendant complied.)

7 THE CLERK: The testimony you are about to give the Court
8 will be the truth, the whole truth, and nothing but the truth,
9 so help you God?

10 THE DEFENDANT: Yes, ma'am.

11 THE CLERK: Thank you.

12 THE COURT: Mr. Wright, you can stand right where you
13 are. At this time, I'm going to explain to you certain of
14 your rights. If you do not understand anything I say, please
15 let me know. If you want me to explain anything in more
16 detail, please let me know. Do you understand what I'm
17 telling you?

18 THE DEFENDANT: (No verbal response.)

19 THE COURT: Is that a yes?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: All right. We have now reached the stage of
22 the trial where you may present your defense. You have the
23 right to claim the protections given to you by the Fifth
24 Amendment to the Constitution of the United States.

25 This amendment provides in relevant part no person shall

1 be compelled in any criminal case to be a witness against
2 himself. This means that you cannot be required to testify in
3 this case.

4 You have the right to testify on your own behalf.
5 However, no one can make you testify. This is a personal
6 right. No one can waive this right except you. If you decide
7 to testify, you'll be subject to the same rules that govern
8 other witnesses and you may be examined and cross-examined on
9 any relevant issue in this case.

10 In addition, if you have any convictions involving
11 dishonesty or false statements or crimes punishable by
12 imprisonment for more than one year and this Court determines
13 that the probative value of admitting the evidence outweighs
14 its prejudicial effect to you, the solicitor will be able to
15 introduce your record to attack your credibility.

16 If you decide to testify, this decision on your part must
17 be freely, voluntarily, and intelligently made with the
18 knowledge of the protections given to you by the Fifth
19 Amendment and the consequences of your decision to testify.

20 If you decide not to testify, I will instruct the jurors
21 that they cannot give the fact that you did not testify any
22 consideration whatsoever and that there is to be absolutely no
23 prejudice to you because you did not testify.

24 It is left entirely up to you whether or not to testify.
25 You may talk with your attorney, your family and friends or

1 anyone else, but the final decision will be left entirely up
2 to you.

3 Do you understand what I've explained to you?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Do you have any questions about what I've
6 explained to you?

7 THE DEFENDANT: No, sir.

8 THE COURT: All right. Have you discussed these matters
9 with your lawyer?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: You have?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: All right. Do you wish to talk to your
14 lawyer in any more detail about this?

15 MR. NEWMAN: He indicates that he would like to have a
16 moment to talk to counsel.

17 THE COURT: All right. Talk with your lawyer and I'm
18 going to ask you on the record whether or not you have made
19 the decision to testify or not and that has to be your
20 decision. And you can sit down and talk with your lawyer
21 right there. Very good.

22 (WHEREUPON, there was a pause in the proceedings.)

23 MR. NEWMAN: He's made a decision, Your Honor.

24 THE COURT: Yes, sir?

25 MR. NEWMAN: Mr. Wright indicates to me that he does not

1 wish to testify in this case.

2 THE COURT: All right. Mr. Wright, is that your
3 decision?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Is it freely, voluntarily, and intelligently
6 made with the knowledge of your Fifth Amendment rights?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Has anybody promised you anything, threatened
9 you, pressured you in any way, shape or form to make this
10 decision?

11 THE DEFENDANT: No, sir.

12 THE COURT: Is it your decision?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Very good. Mr. Newman, do you intend on
15 offering any other testimony?

16 MR. NEWMAN: We have two witnesses that we intend to
17 call, Your Honor.

18 THE COURT: Very good. All right.

19 MR. NEWMAN: And I would like a moment to be able to talk
20 to those witnesses. They are here.

21 THE COURT: All right. We'll stand at ease ten minutes.

22 MR. NEWMAN: Thank you, Your Honor.

23 MS. JONES: Your Honor, Mr. Newman didn't provide a
24 witness list; so I would just like to know who these witnesses
25 are.

1 MR. NEWMAN: They're on your list.

2 MS. JONES: Are you going to tell me who they are so I
3 make sure they're on my list?

4 MR. NEWMAN: Yeah. There's a fellow named White and Baby
5 Doll.

6 THE COURT: All right. We'll stand at ease for ten
7 minutes.

8 (WHEREUPON, there was a break in the proceedings from
9 10:54 a.m. until 11:28 a.m.)

10 THE COURT: We're ready for the jury.

11 (WHEREUPON, the jury entered the courtroom at 11:29 a.m.)

12 THE COURT: Madam Forelady and ladies and gentlemen of
13 the jury, thank you for your patience. We had to attend to
14 legal matters that were quite lengthy. Thank you for your
15 patience, but we were out here working while y'all were in the
16 jury room. So thank you for your patience.

17 Mr. Newman, you're recognized.

18 MR. NEWMAN: Thank you, Your Honor. Mr. Wright calls
19 Sadie Robinson-Jackson.

20 (WHEREUPON, there was a pause in the proceedings until
21 the witness entered the courtroom.)

22 THE COURT: Ms. Jackson, please come forward. I'm going
23 to ask you, if you could, to place your left hand on the Bible
24 and raise your right hand as the clerk administers the oath.

25 THE CLERK: The testimony you are about to give the Court

SADIE ROBINSON-JACKSON - DIRECT BY MR. NEWMAN

1 will be the truth, the whole truth, and nothing but the truth,
2 so help you God?

3 THE WITNESS: Yes, ma'am.

4 THE CLERK: Go right around and have a seat in the
5 witness chair.

6 THE COURT: I'm going to ask you, if you could, to come
7 forward and have a seat in the witness chair. I'm going to
8 ask you to pull up real close to that microphone and speak
9 loudly, clearly, and slowly in order that we can hear
10 everything that you have to say and let's start with your full
11 name.

12 THE WITNESS: Sadie Robinson-Jackson.

13 THE COURT: Very good. Mr. Newman?

14 MR. NEWMAN: Thank you.

15 SADIE ROBINSON-JACKSON, being
16 first duly sworn, testified as follow:

17 DIRECT EXAMINATION

18 BY MR. NEWMAN:

19 Q: Ms. Jackson, how long have you lived in Jasper County?

20 A: I went to school here. Mostly all my life.

21 Q: Okay. You pretty much grew up here; correct?

22 A: Yes, sir.

23 Q: All right. And are you the sister of Lucille Wright?

24 A: No, sir.

25 Q: Okay. How are you related to Lucille Wright?

SADIE ROBINSON-JACKSON - DIRECT BY MR. NEWMAN

- 1 A: I'm Nathaniel's brother's sister.
- 2 Q: Okay.
- 3 A: I meant Nathaniel's father's sister.
- 4 Q: Okay. And how are you related to Dion Wright?
- 5 A: I'm his aunt.
- 6 Q: Okay. And that necessarily means you were also Tag's
- 7 aunt; is that correct?
- 8 A: My brother raised Tag from -- Maurice from a newborn; so
- 9 pretty much yes, sir.
- 10 Q: Okay. And throughout their lives, you witnessed the
- 11 interaction between Tag, the older brother, and Dion, the
- 12 younger brother; is that correct?
- 13 A: Yes, sir.
- 14 Q: All right. Do you have an opinion of whether or not Tag
- 15 was aggressive towards Dion?
- 16 A: Yes, sir.
- 17 MS. JONES: Objection.
- 18 THE COURT: Sustained. It's an inappropriate question.
- 19 BY MR. NEWMAN:
- 20 Q: How did Tag treat Dion generally?
- 21 MS. JONES: Objection.
- 22 THE COURT: Sustained. Might counsel approach the bench?
- 23 (WHEREUPON, a bench conference was held off the record.)
- 24 BY MR. NEWMAN:
- 25 Q: You've known Tag, as you said, pretty much all his life?

SADIE ROBINSON-JACKSON - DIRECT BY MR. NEWMAN

1 A: All his life.

2 Q: All right. Do you know of his reputation in the
3 community for peacefulness or for violence?

4 A: The violence.

5 Q: Okay. And are you familiar enough with Tag to know
6 whether or not he carries a handgun?

7 A: Yes, sir. He approached me with one before.

8 MS. JONES: Objection.

9 THE COURT: Overruled.

10 MR. NEWMAN: Okay.

11 BY MR. NEWMAN:

12 Q: Does he make it a habit, routine, and practice to carry a
13 handgun?

14 A: Yes, sir.

15 Q: All right. And are you aware of any threats he's made
16 with his handgun?

17 A: Yes, sir.

18 MS. JONES: Objection.

19 THE COURT: Sustained.

20 BY MR. NEWMAN:

21 Q: Now, you spoke to Antoine Drake; is that correct?

22 A: Yes, sir.

23 Q: Or he spoke to you rather?

24 A: I spoke to him.

25 Q: Okay. And what did Mr. Drake tell you? Apparently, he

SADIE ROBINSON-JACKSON - DIRECT BY MR. NEWMAN

1 did not make a statement to the police until after he was
2 arrested. What did he tell you?

3 A: He told me -- when I spoke with --

4 THE COURT: Might counsel approach the bench?

5 (WHEREUPON, a bench conference was held off the record.)

6 BY MR. NEWMAN:

7 Q: Did Mr. Drake discuss this incident with you?

8 A: Yes, sir.

9 Q: All right. And what did he tell you happened?

10 A: This happened on October the 1st; so October the 2nd is
11 when I spoke to him. And he said that -- I asked him did
12 anybody tell him that SLED was looking for him and he was,
13 like, why. I said because they need your testament so that
14 they can get this investigation on the road and he was, like,
15 so what am I supposed to tell them? I was high on drugs and
16 alcohol; I was passed out. When I got woke up, everything was
17 over with. And that's what -- I said, well, that's what you
18 need to tell them if that's the truth. I said so, you know,
19 but you need to go talk to these people.

20 Q: All right. Did you encourage him to talk to the police?

21 A: Yes, sir.

22 Q: Okay. Did you at any time encourage him to lie to the
23 police or to leave out facts or details?

24 A: No, sir.

25 Q: All right. And you thought it was important that he talk

SADIE ROBINSON-JACKSON - DIRECT BY MR. NEWMAN

1 to the police?

2 A: Yes, sir. Because he told me that he got woke up after
3 the fact. Everything was over with when he woke up -- when
4 they woke him up. He didn't say who woke him up.

5 Q: All right. It's my understanding you did not witness
6 this incident?

7 A: No, sir. I wasn't there.

8 Q: Okay. Did you have conversations with Dion, Mr. Wright
9 the defendant, afterwards?

10 A: During visitation.

11 Q: Okay.

12 MR. NEWMAN: Your Honor, I don't know if we need to
13 approach on the next question I'm going to ask her.

14 THE COURT: You might as well.

15 (WHEREUPON, a bench conference was held off the record.)

16 MR. NEWMAN: All right. I think I'm about finished, Ms.
17 Robinson.

18 THE WITNESS: Do you want me to step down?

19 MR. NEWMAN: Ma'am?

20 THE WITNESS: You was talking to me?

21 MR. NEWMAN: No. I'm sorry, Ms. Jackson.

22 THE COURT: He said he's about finished.

23 THE WITNESS: Oh, okay.

24 MR. NEWMAN: Yeah. I was looking at Robinson, not
25 Robinson-Jackson.

SADIE ROBINSON-JACKSON - DIRECT BY MR. NEWMAN

1 THE WITNESS: Yes, sir.

2 MR. NEWMAN: All right.

3 BY MR. NEWMAN:

4 Q: And you are aware of Tag's reputation in the community?

5 A: Yes, sir.

6 Q: And what was that reputation?

7 A: A violent person.

8 MR. NEWMAN: Thank you.

9 THE COURT: Cross-examination.

10 MS. JONES: Thank you, Your Honor.

11 CROSS-EXAMINATION

12 BY MS. JONES:

13 Q: Ms. Robinson-Jackson, you're Nathaniel's aunt?

14 A: Yes, ma'am.

15 Q: You were actually more like a mother to him, weren't you?

16 A: Pretty much.

17 Q: Because his mother wasn't there for him?

18 A: Pretty much.

19 Q: Okay. So you really raised him?

20 A: No. He lived with his mother.

21 Q: Okay. But you were the motherly figure?

22 A: Yes, ma'am.

23 Q: You love him?

24 A: Yes, ma'am.

25 Q: You still love him?

SADIE ROBINSON-JACKSON - CROSS BY MS. JONES

1 A: Yes, ma'am.

2 Q: You would do anything for him?

3 A: Just about.

4 Q: Okay. You actually told Antoine that if he was going to
5 talk to the police to leave some details out?

6 A: Never.

7 Q: You never told him that?

8 A: No, ma'am.

9 Q: Okay.

10 MS. JONES: I have no further questions of this witness.

11 THE COURT: Any redirect?

12 MR. NEWMAN: I do.

13 REDIRECT EXAMINATION

14 BY MR. NEWMAN:

15 Q: Ms. Jackson, what the solicitor was trying to politely
16 get out of you is that you love your son and you'd pretty much
17 do anything for him, like most parents do with children.

18 Would you get in this courtroom and put your hand on the Holy
19 Bible and lie for him?

20 A: No, sir.

21 Q: Okay.

22 A: No, no, no, no.

23 Q: That's what she was asking you.

24 A: Yes, sir. No.

25 THE COURT: You may step down. All right. You may call

LANCE WHITE - DIRECT BY MR. NEWMAN

1 your next witness.

2 MR. NEWMAN: Lance White.

3 MS. JONES: Your Honor, if we could approach while we're
4 waiting?

5 (WHEREUPON, the witness entered the courtroom.)

6 THE COURT: Mr. White, please come forward. I'm going to
7 ask, if you could, to approach the clerk, place your left hand
8 on the Bible and raise your right hand as the clerk
9 administers the oath.

10 THE CLERK: The testimony you are about to give the Court
11 will be the truth, the whole truth, and nothing but the truth,
12 so help you God?

13 THE WITNESS: Yes.

14 THE CLERK: All right. Have a seat in the witness chair.

15 THE COURT: I'm going to ask you, if you could, to have a
16 seat in the witness chair. Pull up real close to that
17 microphone and speak loudly, clearly, and slowly in order that
18 we can hear everything that you have to say and let's start
19 with your full name.

20 THE WITNESS: Lance Jamar White.

21 THE COURT: Very good.

22 (WHEREUPON, a bench conference was held off the record.)

23 THE COURT: Madam Forelady and ladies and gentlemen of
24 the jury, I'm going to ask that you retire to the jury room,
25 but do not discuss the case.

LANCE WHITE - DIRECT BY MR. NEWMAN

1 (WHEREUPON, the jury exited the courtroom at 11:45 a.m.)

2 THE COURT: Mr. Newman, you can proffer the testimony
3 that you intend to elicit.

4 LANCE WHITE, being first duly
5 sworn, testified as follows:

6 PROFFERED DIRECT EXAMINATION

7 BY MR. NEWMAN:

8 Q: Mr. White, did you witness the actual shooting incident
9 itself?

10 A: No, sir.

11 Q: Okay. Do you -- did you live next door?

12 A: Yes, sir.

13 Q: At some point prior to the incident that you didn't
14 witness, did Mr. Nathaniel Wright come over to your house?

15 A: Yes, sir.

16 Q: Why did he come over to your house?

17 A: He came to my house to borrow a Phillips screwdriver.

18 Q: Okay. Was he working on a four-wheeler or something?

19 A: Yes, sir.

20 Q: Okay. And did he -- did anybody follow him over to your
21 house?

22 A: Follow him? Maurice was right behind him.

23 Q: Okay. Describe Maurice's actions toward Dion when he was
24 right behind him.

25 A: He was so aggressive and he was, like -- he was, like,

LANCE WHITE - DIRECT BY MR. NEWMAN

1 over some money or something. He was like you're going to pay
2 me my money and then he was like you're going to pay me my
3 money or I'm going to get it in blood.

4 Q: That's what Maurice was telling --

5 A: Yes.

6 Q: -- Dion? Did he make any threatening movements or
7 gestures?

8 A: Yes. When he was saying it, he was pulling on his side.
9 I seen him. It was like -- he didn't pull nothing. It was
10 like he pulled -- pulled his pants up like don't worry, you're
11 going to pay me or I'm going to get my money in blood.

12 Q: Okay. And did you form an impression that he may have
13 been armed?

14 A: Yes.

15 Q: Okay. Do you know Maurice Wright?

16 A: Yes.

17 Q: How long had you known him?

18 A: I've known him for almost close to 20 years.

19 Q: Do you know whether or not he has a habit, routine or
20 practice of carrying a pistol?

21 A: Oh, yes. He is well known for toting a gun.

22 Q: Okay. Do you know his reputation in the community for
23 peacefulness or for violence?

24 A: Oh, yes. He's a really aggressive dude. He always
25 thought he was bigger and bigger than everybody -- badder than

LANCE WHITE - DIRECT BY MR. NEWMAN

1 everybody.

2 Q: All right. And that's his reputation in your community?

3 A: Yes, sir.

4 Q: All right.

5 THE COURT: I'll be glad to hear your objection from the
6 State.

7 MS. JONES: Your Honor, I feel like the statement that
8 Mr. Newman is trying to elicit that was said by Maurice is
9 hearsay and is inadmissible and I don't feel that it falls
10 under any of the hearsay exceptions. Mr. Newman may say it's
11 not being offered for the truth of the matter asserted; it's
12 being offered for its effect on the listener.

13 He can disagree. He can say those words, but I still
14 feel that the statement itself is being offered for the truth
15 of the matter asserted, especially in combination with the
16 gesture that Mr. White made towards his pants. He actually
17 said he was pulling up his pants and Mr. Newman inferred that
18 as having a weapon on his body.

19 THE COURT: Okay. All of those are factual issues and I
20 think it does go to the state of mind and it's a factual
21 question and you can argue that any way you want to. I'm
22 going to allow the testimony.

23 MR. NEWMAN: Thank you, Your Honor.

24 THE COURT: We'll have the jury.

25 (WHEREUPON, the jury entered the courtroom at 11:47 a.m.)

LANCE WHITE - DIRECT BY MR. NEWMAN

1 THE COURT: Mr. Newman, you're recognized.

2 MR. NEWMAN: Thank you.

3 DIRECT EXAMINATION

4 BY MR. NEWMAN:

5 Q: Mr. White, I believe I was to the part -- you lived
6 basically next door to Lucille Wright?

7 A: Yes, sir.

8 Q: And -- okay. And on this day back in October, October
9 the 1st I believe it was, were you at home?

10 A: Yes. I just had got home.

11 Q: Okay.

12 A: From work.

13 Q: And I believe this occurred somewhere around 5:30 in the
14 afternoon or something like that?

15 A: Yes, sir.

16 Q: And where do you work, sir?

17 A: I work at Bluffton Landscaping.

18 Q: Okay. And the solicitor is going to ask you this; so
19 I'll go ahead and ask you. Did you plead guilty to two counts
20 of possession with intent to distribute cocaine or crack
21 cocaine six years ago in 2009?

22 A: Yes, sir.

23 Q: Okay. And have you taken your punishment for that?

24 A: Yes, sir. I did my time.

25 Q: Okay.

LANCE WHITE - DIRECT BY MR. NEWMAN

1 A: That was it.

2 Q: And you're fully employed now?

3 A: Yes, sir.. I have two jobs.

4 Q: Okay. Now, I think I'll get to the point. Did Dion

5 Wright come to your house?

6 A: Yes, sir.

7 Q: All right. And do you know why he came to your house?

8 A: He came to my house because he just bought a battery for

9 the kids' four-wheeler and he was trying to attach it down.

10 Q: All right. Let me show you a picture. This is State's

11 6.

12 MR. NEWMAN: May I approach the witness?

13 THE COURT: Yes.

14 BY MR. NEWMAN:

15 Q: Is that the four-wheeler there in the picture?

16 A: Yes, sir.

17 Q: Okay. Was he followed over to your house by anybody?

18 A: Yes. Maurice was right behind him.

19 Q: All right. Tell me -- tell me what Maurice was doing.

20 Dion was walking toward you?

21 A: Yeah. He was walking toward me. He was just steady

22 arguing and arguing about some money or something and then he

23 was like don't worry, don't worry, you're going to -- he

24 pulled up -- he pulled his pants up like he had something on

25 the side of him. He said don't worry, you're going to pay me

LANCE WHITE - DIRECT BY MR. NEWMAN

1 or you're going to pay me in blood.

2 Q: All right. And do you know as a habit, routine or
3 practice whether or not Maurice carries a pistol?

4 A: Oh, yes.

5 Q: And do you know his -- Maurice's reputation in the
6 community for peacefulness or for violence?

7 A: He's always known for bullying people. He always thought
8 he was bigger and badder than everybody.

9 Q: All right. If he told you he was going to get money out
10 of you in blood, would you believe him?

11 A: Oh, yes.

12 Q: All right.

13 A: I would have felt threatened too.

14 MR. NEWMAN: Thank you, Mr. White.

15 THE COURT: Cross-examination.

16 MS. JONES: Thank you, Your Honor.

17 THE COURT: Ms. Jones.

18 CROSS-EXAMINATION

19 BY MS. JONES:

20 Q: Mr. White, do you remember talking to this man right
21 here, Special Agent Shealy?

22 A: Yes.

23 Q: On October 7th, 2014?

24 A: Yes.

25 Q: Okay. And that's when you told him the statement that

LANCE WHITE - CROSS BY MS. JONES

1 Mr. Newman just asked you about?

2 A: Yes.

3 Q: Okay. That's not the whole statement though, is it?

4 A: That's what -- that's the whole statement.

5 Q: Okay.

6 MS. JONES: Permission to approach the witness, Your
7 Honor?

8 THE COURT: Yes.

9 BY MS. JONES:

10 Q: Do you recognize that?

11 A: Yes.

12 Q: What is that?

13 A: That's my statement.

14 Q: Okay. I'm going to ask you to read from right here.

15 Let's see. Okay. Starting with I'm and ending with that
16 word. Does that refresh your recollection about that
17 statement?

18 A: I'm going to get my money in blood. He grabbed something
19 on his side.

20 Q: Okay. You're not reading everything.

21 A: Oh, yes. And he said I'm going to get it when you're
22 drunk -- drunk and I'm going to go in your pockets.

23 Q: Okay. So he didn't just say I'm going to get it in
24 blood. He said I'm going to get it when you're drunk and go
25 in your pockets?

LANCE WHITE - CROSS BY MS. JONES

1 A: Yes. He said I'm going to get it in blood or I'm going
2 to catch you when you're drunk and down bad and I'm going to
3 go in your pockets.

4 Q: It doesn't really go that far. He just says I'm going to
5 get it when you're drunk and go in your pockets?

6 A: Yes.

7 Q: Not I'm going to kill you. I'm going to go in your
8 pockets and take the money you owe me?

9 A: He said that after he said I'm going to get it in blood.

10 Q: Okay. He's talking about the money that he was owed?

11 A: Yes.

12 MS. JONES: I have no further questions.

13 THE COURT: Any redirect?

14 REDIRECT EXAMINATION

15 FROM MR. NEWMAN:

16 Q: From day one, you cooperated in this case and talked to
17 the police and gave them --

18 A: Yes.

19 Q: -- statements, didn't you?

20 A: Yes, sir.

21 MR. NEWMAN: Thank you, Mr. White.

22 THE COURT: You may step down.

23 MS. JONES: One --

24 THE COURT: You may step down. Mr. Newman, you may call
25 your next witness.

1 MR. NEWMAN: If I may confer with co-counsel for just one
2 second? I think we're done.

3 (WHEREUPON, there was a pause the proceedings.)

4 MR. NEWMAN: At this juncture, Your Honor, Mr. Wright
5 rests his case.

6 THE COURT: All right. Madam Forelady and ladies and
7 gentlemen of the jury, we're going to recess until two o'clock
8 and we're going to ask that you be back at two o'clock, two
9 o'clock sharp. Don't be late.

10 Do not discuss the case amongst yourselves or with anyone
11 else. Do not engage in any social media concerning this
12 matter. Do not do any independent investigation.

13 Be back at two o'clock, two o'clock sharp. Everyone
14 remain seated as the jury exits the courtroom.

15 (WHEREUPON, the jury exited the courtroom at 11:54 a.m.)

16 THE COURT: Anything -- I'll be happy to entertain
17 motions at this time.

18 MR. NEWMAN: Your Honor, at this time, the defense, based
19 on hearing all of the evidence in the case, renews its motion
20 for a directed verdict in this case, particularly a directed
21 verdict as to the charge of murder. We believe all the
22 evidence has -- there's no evidence of any malice aforethought
23 that has been proven by the State or any evidence from which
24 the jury can infer such that it's a charge of murder. We move
25 for a directed verdict of not guilty on that charge.

1 THE COURT: I'll be glad to hear from the State.

2 MS. JONES: Thank you, Your Honor. Respectfully, again
3 the State would disagree with Mr. Newman. I rely on my
4 earlier argument that based on the facts and circumstances,
5 the number of shots fired, the fact that the defendant was
6 running away from -- my apologies -- the victim was running
7 away from the defendant when a majority of the shots were
8 fired, he looks him in the eyes as he's on the ground and says
9 you're going to die today and fires the last one, if not two,
10 fatal shots to the head, we feel that malice can be applied
11 from the facts and circumstances and we ask that a directed
12 verdict be denied.

13 THE COURT: Certainly the State has established at least
14 a scintilla of evidence towards murder, and your motion for a
15 directed verdict is denied.

16 We will have a more in-depth charge conference before we
17 have closing arguments, but I intend to charge the fact that
18 the indictment is not evidence, the presumption of innocence,
19 explain the different duties of the jury and the trial judge.

20 I'm going to charge that multiple charges need to be
21 considered separately and distinctly. I'll charge reasonable
22 doubt. I'm going to charge the short version of it and the
23 longer version. I'll charge direct and circumstantial
24 evidence. I'll charge the law with regard to credibility of
25 witnesses, prior record of a witness, prior inconsistent

1 statements.

2 I'll charge the law with regard to murder. I'll charge
3 the law with regard to voluntary manslaughter, possession of a
4 weapon during the commission of a violent crime. I'll charge
5 self-defense.

6 Any other -- any additional requests at this preliminary
7 stage?

8 MS. JONES: Not requests, Your Honor. I would have an
9 objection to self-defense.

10 THE COURT: Okay. You can cite your objections to any of
11 the charges.

12 MS. JONES: Your Honor, the State would first argue
13 against self-defense. We feel that this is not a self-defense
14 case. The four prongs -- I do understand that any evidence
15 would warrant a self-defense charge. I don't feel that there
16 was any evidence presented that this was a self-defense case.

17 This was a case where the defendant felt disrespected.
18 He was mad and he took it out on his brother. He murdered his
19 brother after he felt mad.

20 I again would cite the *Slater* case, even though I know
21 Your Honor disagrees with the comparison regarding the *Slater*
22 case and the facts of the case that we are here for today
23 regarding the --

24 THE COURT: In the -- in the *Slater* case, the distinction
25 in the *Slater* case is in that case Slater interjected himself

1 into an altercation or an event between two other people.

2 This case is different in that the deceased was the aggressor
3 in the altercation and hit the defendant in the face.

4 MS. JONES: Your Honor, I would argue that it was an
5 ongoing argument between the two of them.

6 MS. JONES: And that's a -- that's certainly a factual
7 question for the jury to resolve. I'm absolutely one hundred
8 percent convinced if I don't charge self-defense, it will be
9 reversed. I'm absolutely one hundred percent positive of
10 that.

11 MS. JONES: Okay.

12 THE COURT: All right.

13 MS. JONES: I do have an argument against the voluntary
14 manslaughter charge.

15 THE COURT: Okay.

16 MS. JONES: I would argue that voluntary manslaughter
17 requires both the unlawful -- both the heat of passion and
18 legal provocation. The State does not feel that one hit is
19 enough to suffice the legal provocation.

20 Just because a defendant is angry does not give him any
21 requisite provocation or heat of passion in order to -- to get
22 a lesser included charge of a murder charge. Just because he
23 was afraid, which he may indicate or I believe the defense
24 will argue that he was afraid that Maurice was going to act
25 first and that's why he reacted. I still feel like that isn't

1 enough for -- for a voluntary manslaughter charge.

2 The only provocation I see on this is the one hit. I
3 don't see anything else. I don't see any threats. This isn't
4 a situation where we have a paramour or where we have some
5 sort of heat of passion moment like that. These are two
6 brothers who were arguing over money and I just don't feel
7 that an argument over money is sufficient enough to constitute
8 the requisite heat of passion.

9 THE COURT: Arguing over women is one thing, but arguing
10 over money is not enough?

11 MS. JONES: I don't feel that it's the same.

12 THE COURT: All right. I don't see the real distinction.

13 MS. JONES: And I don't even think that we have fear
14 here. He felt disrespected and I don't believe that that is
15 the kind of evidence -- I don't believe that that is the kind
16 of evidence to support or to warrant a voluntary manslaughter
17 charge to the jury.

18 THE COURT: There's been evidence that the deceased
19 actually had a number of violent -- violent charges involving
20 gunplay admitted into evidence, didn't he? Wasn't that
21 admitted into evidence in this case?

22 MS. JONES: They were admitted over my objection.

23 THE COURT: All right. And there's been testimony that
24 he was a big, bad dude that everyone was afraid of?

25 MS. JONES: Mr. White did say that.

1 THE COURT: I mean do you think that would withstand
2 scrutiny of the appellate entities if I were not to charge --
3 not to charge voluntary manslaughter under these
4 circumstances?

5 MS. JONES: Your Honor, I would hope so, but I'm not
6 going to attempt to say I know what the appellate courts will
7 ever do.

8 THE COURT: All right. Very good. Mr. Newman, I'll be
9 glad to hear from you on each of these.

10 MR. NEWMAN: May I have one second, Your Honor?

11 (WHEREUPON, there was a pause in the proceedings.)

12 MR. NEWMAN: Your Honor, we likewise would oppose a
13 manslaughter charge. We believe under the facts that it's
14 either murder or it's a self-defense case.

15 THE COURT: What does the State have to say about that?

16 MS. JONES: I'm actually very surprised by them not
17 objecting to it.

18 THE COURT: Well, it's either all or nothing. And that
19 means that he'll either be found not guilty or guilty of
20 murder. It's all or nothing. Most -- quite often in these
21 situations, solicitors are fighting to get voluntary
22 manslaughter in order to -- in order to do that. The ultimate
23 question I'm asking you is they're asking for me not to charge
24 it and --

25 MS. JONES: Your Honor --

1 THE COURT: -- my question to you is a question of law.
2 Can I charge it even though they are not asking for it?

3 MS. JONES: I think you can charge it even though they're
4 not asking for it. I'm actually going to do something I don't
5 like to do very often. I'm going to eat my prior objection.
6 I'm no longer going to be objecting to the charging of the
7 voluntary manslaughter charge. I feel that there is --

8 THE COURT: So you agree with me?

9 MS. JONES: I do now, Your Honor.

10 MR. NEWMAN: We'd argue the State is judicially estopped
11 from doing that.

12 MS. JONES: I think I can change my argument prior to a
13 ruling. Your Honor, we don't want to do this over again I
14 mean.

15 THE COURT: Well, let's -- let's talk about that because
16 -- do you have any law that says that I can charge it even
17 though the defendant does not request it?

18 MS. JONES: I don't right now, but I can certainly start
19 looking.

20 THE COURT: Okay. And --

21 MR. NEWMAN: If it pleases the Court, not to shoot myself
22 in the foot, but you usually read these cases and there's been
23 two very good cases that have come out recently that it's
24 clear that a voluntary manslaughter charge went to a jury as a
25 compromise verdict and found not guilty on the murder and

1 guilty on the voluntary, and it states in -- you can read from
2 the playbook the two cases that were recently reversed that
3 the charge was given over the defense's objection and, of
4 course, they warned solicitors to their peril the charge if
5 not properly given that if you're found guilty on the
6 manslaughter, you're necessarily found not guilty on the
7 murder and, if it's reversed, it's nothing.

8 THE COURT: Say that again?

9 MR. NEWMAN: I believe from reading the cases -- I'm just
10 -- my belief is that the State can request a charge over the
11 defense's objections and that this Court has the power to
12 grant that. If that was your question to the solicitor, I
13 believe that is the state of the law.

14 THE COURT: Right. And what did you say about if -- what
15 was the second part of what you initially said?

16 MR. NEWMAN: What I initially said -- there's several
17 cases that came out recently that when the State asks for a
18 manslaughter charge over the defense's objections, they do so
19 at their peril because it's obvious what they're trying to
20 seek is a compromise verdict.

21 And what happens in those cases where manslaughter should
22 not have been charged is if they're found guilty on the
23 manslaughter, there is -- there is no retrial because the
24 murder is necessarily found not guilty on that if you're found
25 guilty on the lesser. So that's what the Supreme Court warned

1 the State at their peril if they're asking for a manslaughter
2 charge in order to seek a compromise verdict because if we
3 reverse you, there is no retrial.

4 THE COURT: What do you have to say about that?

5 MS. JONES: Well, Your Honor, I'm warned. Mr. Newman and
6 I actually have a case right now that's on appeal where it was
7 a not guilty on murder and a guilty on voluntary manslaughter
8 case, and I think he's right. If it's not guilty on a murder,
9 then the murder is gone and then it is the manslaughter that
10 is on appeal. There's no remedy to the murder.

11 THE COURT: Do you think it's reversible error for me to
12 charge it if they are requesting that I not do it?

13 MS. JONES: All of the cases I have read regarding
14 charging manslaughter, judges have been overturned for not
15 charging it.

16 THE COURT: For charging it?

17 MS. JONES: Not for charging -- yes.

18 THE COURT: Is that --

19 MR. NEWMAN: The two recent cases on one of the advance
20 sheets just about three months ago that had that big footnote
21 that this is the last time that we're warning the State to try
22 and get compromise verdicts. If you move for that
23 manslaughter charge, you better make sure that all the facts
24 and circumstances are there that it can be charged.

25 MS. JONES: I don't think Mr. Newman can continue to call

1 it a compromise verdict. He can call it whatever he wants,
2 but the facts are the facts are the facts, and there are
3 facts, as Your Honor as indicated, that would support a
4 voluntary manslaughter charge. I do also believe there are
5 the facts that support a murder charge. While both are there,
6 I think it would be reversible error not to charge it.

7 THE COURT: All right. I'll give that some
8 contemplation. Any other request to charge from the State?

9 MS. JONES: No, Your Honor.

10 THE COURT: Any from the defense?

11 MR. NEWMAN: I don't -- I've not been before you in a
12 case to hear your self-defense charge. Do you charge the
13 charges in Hendricks that a person does not have to wait to
14 let his opponent get the equal -- upper hand on him? That a
15 person can act on appearances -- reasonable appearances?

16 THE COURT: Yes.

17 MR. NEWMAN: And that a person is entitled to fire and
18 continue firing until the threat is eliminated?

19 THE COURT: Yes. All right. We'll stand at ease until
20 two o'clock.

21 MS. JONES: Your Honor, briefly, the State is
22 contemplating recalling Mr. Drake prior to closing arguments.

23 THE COURT: Okay. Very good. You're entitled to do
24 that.

25 MS. JONES: Thank you.

1 THE COURT: All right. We'll stand at ease until two
2 o'clock.

3 (WHEREUPON, there was a break in the proceedings from
4 12:10 p.m. until 2:01 p.m.)

5 THE COURT: Anything from the State before we proceed?

6 MS. JONES: No, Your Honor. The State did intend on
7 calling a rebuttal witness, Mr. Drake. He is in the courtroom
8 right now. However, I believe that now we aren't going to be
9 calling Mr. Drake and I'm prepared to go into closing
10 arguments.

11 THE COURT: All right.

12 MS. JONES: And the State would ask that Mr. Drake be
13 released from his subpoena.

14 MR. NEWMAN: Your Honor, at this point, I don't have a
15 problem with that.

16 THE COURT: Okay. Have you already rested on the record?

17 MR. NEWMAN: I believe I have. If not, I can go ahead
18 and do that again.

19 THE COURT: Okay.

20 MR. NEWMAN: I know I've made my motion -- renewed my
21 motions. So I have rested.

22 THE COURT: Very good.

23 MR. NEWMAN: I may not have rested in the presence of the
24 jury.

25 THE COURT: All right. All right. I'll recognize you

1 when we come out and under these circumstances, Mr. Newman,
2 you go first.

3 MR. NEWMAN: Yes, sir.

4 THE COURT: All right. All right. We're ready for the
5 jury.

6 (WHEREUPON, the jury entered the courtroom at 2:04 p.m.)

7 THE COURT: Madam Forelady and ladies and gentlemen of
8 the jury, thank you for being here and being here on time.
9 Mr. Newman, you're recognized.

10 MR. NEWMAN: Thank you, Your Honor.

11 THE COURT: And have -- I anticipate that you've rested
12 on the record; is that correct?

13 MR. NEWMAN: I have. The defense has rested, Your Honor.

14 THE COURT: Very good. Madam Forelady and ladies and
15 gentlemen of the jury, you've heard all of the evidence that's
16 going to transpire in this case and, as I had mentioned to you
17 early on, this is the part of the trial that's entitled
18 closing arguments. They're very similar in form to the
19 opening statements that you previously heard. These very fine
20 lawyers are going to have an opportunity to stand up before
21 you and comment on the case.

22 And these presentations are truly argumentative in nature
23 because at this point in time you've heard all of the evidence
24 and these very fine lawyers can point to the evidence that
25 supports their relative position. What they have to say is

1 not evidence, but it will aid you immensely in your
2 deliberation process.

3 These lawyers -- we have been -- you and I have been
4 involved in this case since the beginning of the week, but
5 they've been involved in this matter for substantially longer
6 and their closing arguments will aid you immensely in your
7 deliberation process. Although it's not evidence, it will
8 help you; so pay very close attention.

9 Mr. Newman, you're recognized.

10 CLOSING ARGUMENT ON BEHALF OF THE DEFENDANT

11 MR. NEWMAN: Thank you very much, Your Honor. Madam
12 Forelady, gentlemen and ladies of the jury, this is a
13 difficult case. Y'all don't want to be here and I don't think
14 anybody wants to be here. This is one of the hardest things
15 that you can decide when a brother has to take an action
16 against another brother. And the way I said that -- has to
17 take an action against another brother.

18 To start out with, the State wanted to put out evidence
19 merely to make Nate look like a bad person. After this
20 happened, he fled the scene, but what did he do? He chased
21 around and he went right back to where he started from. The
22 State is going to tell you, well, that's evidence of guilt.
23 It's equally evidence of panic.

24 Think of the state of mind that you have to go through a
25 situation that from all accounts you're being aggressed on,

1 you're being attacked, and you have to take action. And the
2 law says in self-defense you can take action. It was either
3 one of the brothers that was going to be in this courtroom
4 today. It was either going to be Tag, the aggressor, or Dion,
5 the little brother. And over what happened there's really no
6 way around that.

7 The charge of the failure to stop for a blue light is not
8 before you and the reason it's not before you is because Mr.
9 Wright pled guilty in this courtroom standing right at that
10 podium and said I panicked, I ran, I did not stop for the blue
11 lights. And he admitted his guilt on that and he'll have to
12 face his punishment on that when it comes that time.

13 That is all a side issue that the State wanted to show
14 you to make Dion look bad. Did he panic? Yeah, he panicked.
15 Did he not know what to do? Yeah, he didn't know what to do.
16 But ultimately, what did he do? He came right back. He
17 surrendered peacefully. The State is going to make a big deal
18 that he said something about I'm not going to let him
19 disrespect me.

20 You heard from Officer Brown that's worked the streets
21 and the schools that that contact is not disrespecting me. It
22 also means pulling a gun. That's a sign of disrespect when
23 you do that. So what context that was in and the excited,
24 agitated state the man was in, we don't know. Does that make
25 him a murderer? No, it doesn't.

1 The State had two witnesses that they chose not to call
2 who had a good deal of information in this case. And that was
3 Sadie Jackson seated right over there and Lance White seated
4 right behind her. Those witnesses came to SLED from the very
5 first day. They gave their statements. They gave them in
6 writing and were cross-examined and asked about their
7 statements that they gave.

8 The State chose not to call them because it doesn't help
9 their case. And is that fair? Are we here just to put up
10 evidence that helps a case make it look like it's one way when
11 it could possibly be the other? When they can't prove each
12 and every element of the crime, they purposely left these
13 witnesses out. We had to call them.

14 And what did they tell you? Lance tells you -- and he's
15 got no interest in this. He just -- sure, he doesn't want to
16 be here either. Nate came over to get a screwdriver to fix or
17 do something with the four-wheeler.

18 Would you show me Number 3, please, sir?

19 And in that picture -- it's kinda hard to see from here,
20 but there's the four-wheeler that's right out there.

21 Could I see that last picture that I asked you about?

22 Likewise, there's the four-wheeler. It's there. The
23 crime scene people chose to ignore it. But what you also see
24 importantly on Tag Wright's car is that car door is open.

25 There is clear evidence that Maurice carried a pistol on

1 him. There's only one person that said Maurice was not always
2 armed with a pistol. And who was that one person? That was
3 Antoine Drake. He said he carries a knife.

4 But you're going to have to judge his credibility because
5 the only witness in this case -- the only witness in this case
6 is Antoine Drake that had anything to say. You're going to
7 have to hang your entire verdict -- and we'll talk about the
8 law in a minute -- on Antoine Drake's one statement. And that
9 statement is that Dion just went wild and shot him and was
10 chasing him through the yard.

11 Well, we know parts of his statement are provably false.
12 Provably false. They showed you in whatever State's exhibit
13 this is that was the bullet fragment, shell casing, shell
14 casing, shell casing, shell casing. If Dion is chasing him
15 all over the place, aren't there going to be shell casings
16 everywhere? They're all right here face to face with the
17 aggressor, with Maurice, with the guy who is known to carry a
18 gun.

19 And what did Lance say? Tag was following Dion. Dion
20 walked over to his next-door neighbor's house, Lance, to get a
21 screwdriver and who is behind him? Who is behind him? All
22 five foot nine and a half -- I'm five eight, so that will give
23 you a little idea -- 315 pounds of an armed Tag Wright.

24 Mr. Drake says I didn't know him to carry a gun. He
25 carried a knife. What did he have tattooed on his chest

1 according to the medical examiner? He had a gun tattoo, a big
2 gun I think she said tattooed on his chest. Tag Wright -- and
3 I don't like to speak ill of the dead, but he lived by
4 violence. He was a violent person. He was an aggressive
5 person.

6 When I asked Investigator Wright -- he was the one that
7 said that he was on the scene within maybe two minutes versus
8 dispatch record that shows he's 20 minutes at this confused
9 chaotic scene that he arrives by his records there 20 minutes
10 later. And I think what he's confused on is he probably
11 arrived two minutes when he got the call, but he didn't get
12 the call until 20 minutes later.

13 Now, Wright -- Detective Wright knew Tag Wright and he
14 knew him to be a violent person. He took out three arrest
15 warrants on him for shooting at his relatives. His own
16 relatives, for shooting at them. Shooting at Cornelius
17 Wright, shooting at Miranda DeLoach, and for shooting at a
18 baby -- shooting at Baby Wright.

19 That is a person that is willing to do what it takes. He
20 wanted money from Dion. He wanted money from Dion I believe
21 the testimony came out to pay his mama's bills, and they had
22 an argument over that. Tag chases him. Tag punches him in
23 the face. Tag follows him doing this.

24 (WHEREUPON, counsel pulled on his pants at his hip.)

25 MR. NEWMAN: In Antoine Drake's statement -- remember,

1 Mr. Drake did not come forward to the police. Mr. Drake did
2 not make a statement to the police, at least initially. He
3 didn't make his statement until after the police had
4 investigated this case.

5 So they knew what they needed Antoine Drake to say. He
6 had a drug charge. He was tried right here in this courthouse
7 and didn't even bother to show up. Mr. Drake -- I don't see
8 Mr. Drake in the courtroom. Mr. Drake was convicted and he
9 was sentenced to jail time, and you'll have those exhibits.
10 He was sentenced to two years in prison on that charge.

11 Well, when they went to go put the sentence on him, he
12 didn't want to take the sentence; so he cut a deal. He says,
13 hey, I know what went on or you think I know what went on and
14 you tell me what you want me to say and, if that'll keep me
15 out of prison, I'm going to say it, even though I didn't talk
16 to you for months and months after this, after you had
17 investigated it, after you knew the facts you wanted me to
18 testify to.

19 Well, he gets a new sentencing sheet that says your
20 sentence -- we'll have that amended. You're not going to
21 jail, but we're going to coerce you, we're going to force you,
22 we're going to twist your arm and hold a gun to your head or
23 at worst the threat of prison bars. Required to cooperate and
24 testify for the State.

25 He didn't even write his own statement. He told you he

1 couldn't read and write. He didn't even write his own
2 statement. Law enforcement wrote his statement.

3 And his statement was that he -- what you heard in court
4 that he chased Tag around with a gun and just kept shooting at
5 him. And that doesn't fit the facts of the physical evidence
6 and where the shell casings are. Mr. Drake, the same Mr.
7 Drake -- well, who the detective testified was over Tag's body
8 and kept telling him you have to move back, and I asked him
9 about -- about the crack in Tag's pocket and he said, oh, no,
10 it's his mama who did that. Now, she took crack out of his
11 pocket. Did she take anything else? Did she take a gun
12 perhaps? I would put to you that a grieving mother looking at
13 her child -- that's not going to be what she's going to do is
14 go through his pocket and take the money and crack cocaine out
15 of his pocket.

16 Now, if you take a drug-addled Antoine Drake, Antoine
17 Drake said, well, I just took his cell phone. Can you trust
18 that? Can you convict a man? Can you take his liberty from
19 him on Antoine Drake's statement and Antoine Drake's statement
20 alone that is not corroborated?

21 The funny thing how the truth comes out in trials -- how
22 the truth comes out is Ms. Jackson testified to you that
23 Antoine Drake came to her and said what to do and she said
24 tell them what you saw and he said I didn't see nothing. I
25 was passed out. I didn't get up until after all this

1 happened, until after I started going through Maurice's
2 pockets. He said that I was on drugs.

3 Now, if that conversation didn't happen, how would Sadie
4 Jackson know that Antoine Drake was on all those drugs that
5 day? She knew. She knew because Antoine told her that and
6 Antoine told her the truth. Antoine didn't want to talk to
7 the cops and be a part of it because he knew the truth. He
8 didn't see anything.

9 What did he tell you? He took all that day. He told you
10 was at Dion's house, but we find out now he wasn't at Dion's
11 house. He was in Bluffton taking drugs. He was taking
12 something called Molly, methamphetamine that keeps you up. He
13 was taking cocaine. I don't know if he was snorting it or
14 shooting it, but he was using cocaine.

15 And then he was using something that goes in the opposite
16 direction. He said he was eating Xanax bars, taking Xanax.
17 That's a downer. It makes you tranquil. It makes you sleepy.
18 He was drinking what they call syrup. That's cough syrup that
19 has a medication in it called codeine. I think we all know
20 from our common sense codeine makes you sleepy and down.

21 You can only do so much cocaine to stay up and so much
22 downers and it's called a crash. And it's called a crash for
23 a reason because you can't -- you can't stay up anymore. And
24 he was passed out asleep. That's what he told Sadie Jackson.
25 That I didn't see anything, but now all of a sudden when it

1 comes December and he gets arrested with the pistol -- that
2 charge is still out there too. When he gets arrested with
3 this pistol, he comes up with this tale that doesn't match the
4 evidence at all. You would have to believe that.

5 What else do we know in this situation? We know that Tag
6 Wright was the aggressor. Even Antoine Drake said that, that
7 he was aggressive and punched him in the face. Is that not
8 disrespect? He came at him. He came after him. He don't
9 have no choice in what he did. He doesn't want to be here.
10 He didn't want to what he had to do, but if he hadn't, I'd be
11 talking about my client Tag Wright sitting there because
12 that's just the way it was.

13 We have the luxury to sit in this courtroom and take as
14 much time as we need on how to decide to act. Dion had about
15 this much time to decide what to do and how to act. He knows
16 his aggressiveness. He knows he shot at family members
17 before. He knows he carries a gun. He knows he's been
18 bullied.

19 And interestingly enough, they talked about gunshot
20 residue. Who had gunshot residue on their hands? Well, Dion
21 did. Who else did? Tag Wright. Tag had gunshot residue on
22 his hands consistent with -- you can get gunshot on you
23 different ways, but they said where the bullet is. He had
24 them on both hands. He had gunshot residue. It certainly
25 leads to the conclusion that Tag had to take -- not Tag --

1 Maurice -- not Maurice either. I'm sorry. Nathaniel. I get
2 mixed up. My apology.

3 That he had that residue on his hands. That tells you he
4 had a gun in his hand. And you also see in the photographs --
5 if I can get this one? That car door is open. He has gunshot
6 residue on his hands and he's shot just on the other side of
7 his car where presumably Nathaniel was because that's where
8 all four bullet casings were found right in that same area,
9 face-to-face.

10 Antoine Drake's statement is not credible whatsoever, but
11 that is for you to determine. Initially, he couldn't get the
12 facts right. If you remember, he said, well, he went over to
13 Lance's house to get a wrench. He said wrench two or three
14 times and the solicitor corrected him and said screwdriver and
15 then he went screwdriver because he couldn't remember his own
16 lie because those facts were fed to him. And you don't think
17 his perception being on methamphetamine, cocaine, codeine,
18 Xanax, that he's got a clear memory of what went on?

19 I would put to you that he was exactly what Ms. Jackson
20 said that Antoine Drake told her. He was passed out. He was
21 doing drugs all day. Remember, this was around 5:30. He said
22 he been doing drugs all day long.

23 What else did Lance tell you? That Tag made a very
24 credible and specific threat to Nate on that fateful
25 afternoon. I'm going to get my money. I'm going to get it in

1 blood. And he was reaching. And he had been the aggressor.
2 As I said, I can't figure why they didn't call Lance and
3 Sadie. You can figure that out why they didn't do that.

4 You're going to be faced with a couple of choices in this
5 trial. Dion was faced with one clear choice that he only had
6 a matter of seconds to make. You will be able to deliberate.
7 That means get together to talk about it and to figure it out.

8 And you're going to have to judge Dion in the
9 circumstances that he was faced with, not to use 20/20
10 hindsight and say, well, you know what? He should have just
11 ran off, he should have done this, he should have done that.
12 You don't get to judge like that. You've got to put yourself
13 into Nathaniel Wright's shoes as to the choices he was faced
14 and the split-second timing with which he had to make that
15 choice.

16 The State has charged Nathaniel Wright with murder. And
17 that's -- and murder is a killing that's done with malice
18 aforethought. It doesn't necessarily have to be planned, but
19 you have to have in your mind that I'm going to set out at
20 this moment and I'm going to come toward you and I've got an
21 evil heart and I'm going to kill you.

22 The State has asked and the judge is going to charge you
23 that there's also another charge that's equally as serious.
24 It's called voluntary manslaughter. And that is voluntary
25 manslaughter is most typical where I think you can describe it

1 as when someone snaps. Say you come home to find your husband
2 or your wife in bed with another woman and you go get a gun
3 and you kill both of them. Your mind doesn't have time to
4 think. That would be a voluntary manslaughter because there's
5 no excuse for the killing.

6 In this case, there is a justification and that is self-
7 defense. He didn't set out to kill his brother. He didn't
8 want to kill his brother, but he had no choice. He didn't
9 just snap. He was confronted and he had that -- it's either
10 him or Tag. And that's sad. What's sadder is that a family
11 loses both their children over an incident caused by the
12 clearly aggressive, clearly armed, clearly having a gun in his
13 hand Tag Wright.

14 And that's a difficult choice, but you've got to remember
15 the State has to prove their case, each and every element,
16 beyond a reasonable doubt. What exactly went on there, that's
17 for you to decide based on the evidence you have or lack of
18 evidence that you have.

19 One of the most important things is the judge is going to
20 charge you on self-defense. The judge is going to charge you
21 you don't have to let your adversary get one up on you or get
22 the drop on you or have to break out first. If you reasonably
23 are in fear of serious bodily harm or death, you can act and
24 you can act first. You can act until the threat is
25 eliminated. It doesn't matter if one bullet is fired or

1 sixteen. Until the threat is eliminated, you can keep at it.

2 Now, the State has to disprove self-defense. Remember,
3 the judge told you about the burden of proofs in the case.
4 The burden of proof always rests right over here. It never
5 shifts over to Nathaniel to prove himself innocent, to prove
6 that he acted in self-defense. The State must disprove beyond
7 a reasonable doubt that he acted in self-defense. And if they
8 have failed to do that, then the verdict is not guilty.

9 You're going to get a verdict form that says we, the
10 jury, find the defendant guilty or not guilty of murder. If
11 you find him not guilty of murder, it will have further down
12 on the form we, the jury, find the defendant guilty or not
13 guilty of manslaughter. As I said, it's equally as bad a
14 crime.

15 Remember that, please -- and the judge will charge you
16 this -- that self-defense -- if you are justified in acting or
17 State can't disprove that you were justified in acting, then
18 self-defense applies to that charge as well. It applies to
19 both of them. If they have not disproven beyond a reasonable
20 doubt that Mr. Wright acted in self-defense, then the verdict
21 is compelled to be a not guilty.

22 I know this is a tragic case. It's bad. We don't want
23 to be here. None of us want to be here as I've said, but in
24 order for you to find a verdict, you're going to have to hang
25 all of your faith, all of your confidence on Antoine Drake's

1 testimony. If you have one doubt about that testimony, then
2 Mr. Wright is not guilty.

3 If you have doubts, any doubts in the case that are
4 reasonable, then Mr. Wright is not guilty. If you can't say
5 in your mind whether or not Mr. Wright had the right to use
6 self-defense, if you can't decide that, then that means the
7 State has not disproven that he acted in self-defense and Mr.
8 Wright would be entitled to a verdict of not guilty.

9 Based on the evidence that you've heard, we are asking
10 you to look for reasonable doubt. That's what jurors are
11 supposed to do. You've got one version coming from the State,
12 Fox News with the spin on it. They didn't want to tell you
13 our two witnesses that they knew about, that their own
14 officers investigated, because it goes to disproving their
15 case.

16 I ask you on behalf of Nathaniel Wright to deliberate all
17 these issues, to look at it, and if you've decided the State
18 has reasonable doubts and has not disproven self-defense as to
19 the murder and manslaughter, it's the same thing, then return
20 Nathaniel Wright to his family and not put him in the system.

21 Madam Forelady, gentlemen and ladies, I thank you.

22 THE COURT: Thank you, Mr. Newman. Ms. Jones, you're
23 recognized.

24 MS. JONES: Thank you, Your Honor. May it please the
25 Court.

1 THE COURT: Yes.

2 CLOSING ARGUMENT ON BEHALF OF THE STATE

3 MS. JONES: Nathaniel Wright, the defendant, murdered his
4 brother and all because he felt disrespected. And I told you
5 that yesterday and I'm going to tell you that again today.
6 I'm telling you that because that's the truth. The only thing
7 about the truth is that it remains the same. There may be a
8 difficult path to get there, but the truth is always easy.
9 It's easy because it's constant.

10 And the truth is that on October 1st of 2014, the
11 defendant did not feel anything else besides disrespect and it
12 was the choices he made that followed that feeling that
13 resulted in the very death of his brother, Maurice -- Tag.

14 Right now, I'd like to take you back on this path to the
15 truth, the path that we took yesterday and today. And
16 throughout this trial y'all heard from a lot of people, and
17 thank you for your time and your patience. We heard from
18 Jasper County Sheriff's deputies. We heard from members of
19 SLED. We heard from some family and friends of Tag and
20 Maurice. We heard from people who were there right before,
21 right after, and right during the time that the defendant
22 murdered his brother.

23 So what do we know? We know on October 1st of 2014,
24 Deputy Brown was patrolling the area of Henry Lawton and
25 Captain Bill Road. We know that he was on his cell phone with

1 Detective Elvin Wright at this time. Deputy Brown hears
2 multiple gunshots. He's relaying that to Detective Wright as
3 he hears these gunshots. He goes over to where he hears the
4 shots coming from and he sees a frantic scene. People are
5 crying, people are screaming, and he sees a car speeding out
6 of the driveway. He sees the defendant's car, that car, the
7 green Honda.

8 You've heard lots of testimony about this green Honda
9 speeding out of the driveway. The defendant is driving that
10 Honda. How do we know he was speeding out of that driveway?
11 That's where he left. That's the driveway going into [REDACTED] and
12 those are the tire marks he made as he was trying to get away.

13 Now, Deputy Brown at this point has two options. What is
14 he supposed to do? His first option -- and I believe the
15 option that the defense thinks he should've made, which I
16 disagree with, he should have stayed on the scene. He
17 shouldn't have left. He should've stayed there.

18 He has this Honda fleeing, speeding, leaving an area
19 where he just heard gunshots and he sees frantic crying,
20 screaming people, and now he sees somebody fleeing. Is he
21 supposed to stay there and not go after this car that is
22 trying to leave the scene? No.

23 His option number two, an option he made, is to follow
24 this green car. It's suspicious. There are gunshots and now
25 this person is trying to get out of there as quickly as

1 possible. So that's what he does. He knows that Detective
2 Wright can be there in one to two minutes; so he takes option
3 number two. He makes the best choice and he follows that
4 green Honda.

5 We know that a chase ensued. We know that they went all
6 over town. The chase starts at the mom's home up here and
7 goes all the way through town, back to Jacob Smart, gets on I-
8 95, keeps going, keeps going, keeps going. He cuts through
9 the median at Exit 13 and comes all the way back, back to
10 right where it started, about a 15 or so minute chase.

11 He's trying to get away from the police is what he's
12 trying to do. And when he realizes that this Honda -- it
13 ain't going to do it, he goes back to where it all started.
14 He didn't have any other options.

15 We know he was speeding in excess of a hundred miles an
16 hour. We know he was trying to run law enforcement off the
17 road. That other people on the highway had to swerve, had to
18 get out of the way because Dion was coming through. He was
19 trying to get away, but he couldn't.

20 Why would he be trying so hard to get away? Ask yourself
21 that. He's trying to get away because he just murdered his
22 brother. He's not trying to get away because he acted in
23 self-defense.

24 The first person on scene after Deputy Brown was
25 Detective Wright. He gets there in one to two minutes he

1 said. Now, the defense again wants to confuse you and say,
2 well, the dispatch logs say that he got there 20 minutes after
3 -- after the gunshots are heard. But Detective Wright told
4 you I didn't call in my dispatch -- I didn't call dispatch
5 immediately. The scene was not secure. People were frantic.
6 I had to go protect the scene; so that's what I did. So no, I
7 did not get on my radio immediately. Again, what is he
8 supposed to do? Is he supposed to wait in his car and call in
9 dispatch to say, hey, I'm here? There are people going crazy,
10 but I'm here. Okay, you've got my time. Okay, good. Now I'm
11 going to go check out the scene.

12 No. That doesn't make sense. That's how crime scenes
13 become contaminated. That's how they become disturbed. He
14 gets there in one to two minutes. What crime scene can you
15 imagine that isn't left alone for some period of time? Unless
16 a police officer is watching the crime as it happens, every
17 crime scene is going to be left unsecure for some period of
18 time. One to two minutes is pretty good. It's nearly
19 perfect.

20 We know that when Detective Wright gets there, he
21 encounters some of Tag's grieving relatives. He tells you his
22 mother was there, Lucille, and he tells you Antoine was there.
23 He tells you both of them were hysterical. They were upset.
24 They were crying. They were in shock.

25 He kept trying to get to Tag's body. He had to keep

1 pulling them off, but he also told you about Antoine, that he
2 was shaking Tag. He was shaking him as if to see, please be
3 alive, please be alive, please be alive. He's not trying to
4 hide evidence. He's not taking a gun and hiding it. He's
5 grieving over his cousin, who he now knows is dead, and he
6 knows who killed him.

7 Detective Wright looked for that gun, this gun the
8 defense wants you to believe exists. He had a gunshot victim
9 in an unsecure scene. One of the things he did was look for a
10 weapon, but he didn't find one. He didn't find one not
11 because Antoine hid it, not because it just mysteriously
12 vanished. He didn't find one because it didn't exist. There
13 was one gun on October 1st, 2014, and that gun was in the hands
14 of the defendant.

15 How else do we know there was only one gun? We know
16 there was only one gun because of the physical evidence. We
17 have shell casings and a fired bullet that were collected from
18 the scene. You heard Special Agent Eichenmiller from SLED get
19 up there and tell you all about firearms and the special
20 characteristics that the shell casings have, that these
21 bullets have, and what she told you is that every single one
22 of these casings and that bullet were fired from the same
23 exact 9mm handgun. Not two guns, one gun, the one gun that
24 was in Dion's hands, the one gun the Dion got rid of.

25 (WHEREUPON, a portion of State's Exhibit Number 5 was

1 played in open court and then stopped.)

2 MS. JONES: This is the chase. What comes out that
3 window? You have this. You can watch it again.

4 I submit to you what comes out that window is that black
5 bag with a gun inside. The black bag is a black grocery bag.
6 Something like that thrown out of a window at a hundred miles
7 per hour is not going -- with a gun inside of it, it does not
8 flutter into the air like the defense would have you believe.

9 Look at the video. It comes out that car door -- that
10 car window and it drops. It doesn't flutter -- I believe was
11 the exact word the defense used. Had it been empty, it most
12 certainly would have. Had it been empty when it fell with the
13 law enforcement speeding up behind it, it would have blown it
14 back in the air. That didn't happen.

15 What happened was that gun was in that bag. Busy stretch
16 of Highway 17. When SLED gets the opportunity to go back and
17 look for it, a couple hours have passed and unfortunately that
18 gun is no longer in that bag. We have cars, hundred of cars
19 going through that area, pedestrians. The gun is gone. But
20 it was in that bag when it came out of the defendant's window,
21 out of the defendant's car.

22 The defense also had a lot to say, a lot to question
23 about DNA and fingerprints. Why? Why no DNA? Why no
24 fingerprints? Why didn't anybody even try to get DNA or
25 fingerprints?

1 Well, Special Agent Tallon got up there and he told you a
2 little bit about DNA and a little bit about fingerprints in
3 regards to shell casings. And the only evidence collected at
4 the scene where that could possibly even be attained -- what
5 he told you was those shell casings and that fired bullet,
6 once it leaves the chamber of that handgun as it is fired, it
7 is extremely unlikely to find any DNA or any fingerprints on
8 that. You have to imagine that bullet goes through the
9 chamber of that gun, the heat, the fire, the speed. That
10 ruins any chance of getting any DNA or fingerprints. So they
11 hand it over to ballistics. They hand it over to firearms for
12 comparison.

13 GSR -- another science that we heard about here
14 yesterday. Gunshot residue. What we learned about gunshot
15 residue is that somebody can get gunshot residue on their
16 person or on their hands in three ways. They can get it from
17 being in the vicinity of a gun being fired, from firing a gun
18 or from touching something that has gunshot residue on it.
19 It's that easy to transfer gunshot residue that you can get it
20 by touching something.

21 Maurice had gunshot residue on his hands. He did. He
22 most certainly did. But another thing that Agent Sturkie told
23 us is, well, we expect to find gunshot residue on a gunshot
24 victim. They, of course, were in the vicinity of a gun being
25 fired. And what's important about Tag, about Maurice, is one

1 of those shots was in his hand, the very hand that was swabbed
2 for this gunshot residue. Of course, he's going to have
3 gunshot residue on that hand. He had a bullet go through it.

4 He didn't get it from firing a gun. He got it from being
5 the victim of his brother. His brother, the defendant, who
6 also had gunshot residue on his hands. Now, was he in the
7 vicinity of being fired? Absolutely. He was in the vicinity
8 because he was the one firing the gun. Did he fire a gun? A
9 hundred percent. He's the one that fired the gun at least
10 eight times at his brother. Did he touch something with
11 gunshot residue on it? He most certainly did. The gun he
12 used to murder his brother and discard out the window of his
13 car.

14 We talked about gunshot residue and the defense had a lot
15 of questions about that too. What about gunshot residue on
16 that black bag? Well, it wasn't submitted. It wasn't
17 submitted. It wasn't submitted. No, it wasn't submitted for
18 gunshot residue testing. It wasn't. It just wasn't. But in
19 the same breath when they are asking why can't SLED submit
20 that bag for testing, the FBI doesn't even use gunshot residue
21 testing anymore, do they? No, but Agent Sturkie told you why.
22 The FBI doesn't do GSR testing anymore because they are better
23 equipped to use their money elsewhere, not because it's not
24 reliable.

25 We heard from Dr. Presnell. She is the one that the day

1 after the murder performed the autopsy on Tag. She told you
2 he had a clean toxicology. He had nothing in his system that
3 day. She also told you he was shot eight times.

4 She went through her diagram and she went wound by wound,
5 and what she told us is very interesting. What she told us
6 was that all of these pink -- one -- two -- three -- four --
7 five -- six. Pink are entrance wounds. What she told us
8 about those initial six entrance wounds was pretty alarming.

9 Not one of those bullets were fatal. Tag was hurt. He
10 was bleeding. He was in misery, but he would have lived.
11 What she told you though was that these two to the back of his
12 head -- not the front -- the back of his head were fatal.

13 I want you to look at these entrance wounds again. This
14 one right here is the only entrance wound that a hundred
15 percent was head-on. These three are as Tag is running away,
16 as are these two. The hand and the upper arm I submit to you
17 are also inflicted while he was running away.

18 Another interesting thing about those shots -- the
19 sequence of those shots. No, you can't say exactly the order
20 that Tag received every single one of these eight gunshots,
21 but you can say that the last two were the two to the head
22 because as Maurice is on the ground helpless, cowering, the
23 defendant looks at him and fires these two last shots.

24 But how do we really know that everything I have just
25 said is what happened? Well, we have Belinda Wright. She's

1 the aunt of Maurice and she's the aunt of the defendant. And
2 we have Antoine.

3 Belinda told you that she was over at Lucille's, her
4 sister's, house that day. She told you that when she was over
5 there the brothers were arguing, the brothers being Tag and
6 Dion. They were arguing. She tried to get them to stop.
7 They wouldn't stop.

8 She goes across the street -- across the yard to another
9 cousin's house and before she can even knock on the door, she
10 hears the gunshots. She runs back to Lucille's home and she
11 sees the defendant fleeing out of the yard. Within minutes of
12 the earlier argument she had just seen, minutes, Tag is dead
13 and Dion is running away.

14 And we heard from Antoine. Y'all saw Antoine. He got
15 extremely emotional up there. He was crying. He was upset.
16 He was sad. He is a grieving person. He is a grieving man.

17 You also know that Tag -- that Antoine was convicted of
18 possession of cocaine. And the judge sentenced him to prison,
19 but changed that sentence to probation, and a condition of
20 that probation is that he cooperate. He told you that.

21 But he also told you that the reason he cooperated --
22 that that was part of the reason, but the other part of the
23 reason he's cooperating is because it's the truth. It's
24 because he's doing it for Tag because nobody else will. He
25 also told you that if it was the other way around, if Tag had

1 shot Dion, he'd be here testifying today as well.

2 He was there. And besides Tag and Dion, he's the only
3 other person that had a front row seat to what really happened.
4 that afternoon. He was not passed out as Dion's aunt would
5 tell you, as Dion's motherly figure would tell you, as the one
6 person closest to Dion would tell you, the one person that
7 said she'd do just about anything for Dion. He wasn't passed
8 out. If he was passed out, how could he be already grieving
9 over Antoine -- over Tag's body when Detective Wright gets
10 there? He couldn't be. There was no time for that. He was
11 grieving over the body of his lost cousin because he was just
12 in the middle of the gunfire himself.

13 You heard that he talked to the police two months later,
14 not the night of the incident, not the night of the murder.
15 Two months had passed. But he also told you why two months
16 had passed. He didn't want to talk to the police. He was
17 upset. These are two men that he was close to. He slept on
18 Tag's couch one night and he slept on Dion's couch the other
19 night.

20 He didn't want to have anything to do with this, but he
21 knew that it was the right thing to do; so he came in here and
22 he told you everything. He tells you that him and Dion get to
23 Lucille's that afternoon. They start talking about money.
24 Tag and Dion start arguing over who is going to pay Lucille's
25 bills.

1 He also tells you that Dion is parked in this open field.
2 And if we look at the crime scene sketch, he's over here. The
3 initial -- the argument comes over here and the initial hit,
4 the initial punch, the only punch, the only physical contact
5 is at Dion's car right there. Dion turns into his center
6 console and he grabs his gun, and he comes after Maurice --
7 Tag. He fires. He fires. He fires. He hits him. He hits
8 him. He hits him.

9 Maurice crouches to the ground. Before that, Antoine
10 gets in the middle of them. Dion still has the gun in his
11 hand. Maurice -- Tag is crouching. He's trying to hide
12 behind Antoine. He's pulling on his shirt, but he can't get
13 away. Dion's response to Antoine begging him to stop shooting
14 his cousin, begging him to stop, is this shit ain't for you.
15 Because who was it for? It was for Tag, not Antoine.

16 Maurice makes his way over to this side and crouches
17 down. He's hurt, but he's alive. He's bleeding and he is
18 hurt. And as he's on the ground, Dion looks at him, looks his
19 brother in his eyes, his helpless brother on the ground, and
20 fires two more shots, bam, bam, but not before saying you're
21 going to die today. And it's his final two shots that cause
22 Maurice to take his last breath.

23 That brings us back around to the defendant fleeing. He
24 flees. He's parked over here and he flees. We know about
25 this white car that the defense mistakenly told you was

1 Maurice's car, but we heard some testimony that wasn't
2 Maurice's car. This blue car was Maurice's car. That white
3 car wasn't there yet. The defendant flees and leaves and the
4 chase ensues.

5 We heard from Deputy Brown, Deputy Ellis and Deputy Moran
6 about that chase. We saw the video that Deputy Ellis -- who
7 had video in his car that afternoon. He showed you the video
8 and he told you how after the defendant was back at his mom's
9 house, what he did was he kicked the car and he said slow-
10 assed car. Those are the words of somebody who was mad
11 because they could not get away, somebody who had no other
12 option but return to the crime scene because their car
13 wouldn't let them outrun the police.

14 More importantly, I want you to remember what Deputy
15 Brown and Deputy Moran told you. Deputy Brown told you that
16 as soon as the handcuffs go on Dion's hands, the defendant's
17 hands, he says, not prompted by anybody -- not prompted by
18 anybody, he says I was not going to let that N disrespect me.
19 I was not going to let him disrespect me.

20 A little bit of time passes and he's in the back of
21 Moran's car. Three women approach. One is his mother, Tag's
22 mother. Dion looks at them and his words to them are fuck
23 that N-word. His mother buckles at these words and she's
24 hauled off, she's taken away.

25 Now, the defense wants you to believe that this is self-

1 defense, but this is not a case of self-defense. This is no
2 way a case of self-defense. And in order for self-defense to
3 apply, four elements must all be met.

4 They are the defendant is without fault in bringing on
5 the difficulty. The defendant, number two, was in actual
6 imminent danger of losing his life or sustaining serious
7 bodily injury or he must have actually believed he was in such
8 danger of losing his life or sustaining serious bodily injury.
9 Number three, if his belief is on this or he believed he was
10 in danger of death or serious bodily injury, a reasonable
11 prudent person must also have that same belief. And the
12 defendant had no other probable means of avoiding the danger.

13 The problem with this though is none of these
14 requirements are met. None.

15 First, there's a mutual argument over money, over who is
16 going to pay mom's bills that month. Dion cursed Tag first.
17 Antoine told you Tag didn't really curse. But Dion did and he
18 did first. He went to his car. He was in his car and after
19 one punch by the victim, one punch, that's it, one punch, he
20 grabs his gun and starts shooting. He starts shooting an
21 unarmed man, his unarmed brother.

22 He one hundred percent brought on this difficulty when he
23 introduced that gun into the situation. There were no guns
24 present. There were no weapons present. He had been punched
25 one time by his brother, he felt disrespected, he grabs his

1 gun and starts shooting.

2 Second, he was never in any actual danger of losing his
3 life. He was in an argument with his brother over who was
4 going to pay mom's bills. One punch had been thrown by the
5 victim before the defendant retrieved his gun. He was never
6 in danger of losing his life, never in danger of sustaining
7 serious bodily injury, and it doesn't make sense with those
8 facts to think he would be. How are either of those things
9 supposed to happen by one punch in an argument over money?

10 But if he believed that he was in this actual danger of
11 death or serious bodily injury, then a reasonably prudent man
12 would have also had to believe this. And does that make
13 sense? No. It's just not logical. It doesn't make sense.
14 No person in their right mind is going to believe that they
15 are going to be killed or sustain serious bodily injury
16 because their brother is yelling at them about money.

17 Even after that one punch is thrown, that's still not
18 enough. That's still not going to give a reasonable person
19 the necessary fear. It just doesn't do it.

20 I also want you to remember his words because they're not
21 the words of a man acting in self-defense, not the words of a
22 man forced to end his brother's life. I am not going to let
23 that N disrespect me. Fuck that N. I am not going to let him
24 disrespect me. Those are the words of a man who was mad, who
25 was angry. Those are not the words of a man acting in self-

1 defense.

2 The final prong -- and remember it's "and"; you have to
3 have all of them. No other probable means of avoiding the
4 danger. He was in his car when he got the gun. Couldn't he
5 have just left? If he thought -- if he reasonably really,
6 really thought Tag was going to kill him, leave. You're in
7 your car. Get out of there. Go away.

8 He didn't leave. He gets that gun and he start shooting.
9 He chose to take the argument to the next level. He chose to
10 get that gun. He chose to murder his brother. He chose to
11 shoot him six times. He chose to follow him as he was running
12 away. He chose to look his brother in the eyes when he's on
13 the ground helpless and say you are going to die today and
14 fire two more shots in his head -- the back of his head.

15 It's the defendant's choices that day that bring us here
16 today. So as you go into your jury room and you begin your
17 deliberations, remember everything you heard and everything
18 you saw this week. Remember what I asked you to recall here
19 today and more importantly remember the words of the
20 defendant. I was not going to let that N disrespect me. I
21 was not going to let him disrespect me. Fuck that N.

22 Those are not the words of a man who had to take his
23 brother's life by force because he was afraid and he was
24 acting in self-defense. Those are the words of a man who was
25 fed up and pissed off. Those are the words of a man who felt

1 disrespected. Those are the words of a murderer.

2 MR. NEWMAN: May we approach, Your Honor?

3 THE COURT: Yes.

4 (Whereupon, a bench conference was held off the record.)

5 THE COURT: Madam Forelady and ladies and gentlemen of
6 the jury, you've heard all of the evidence. You've heard
7 closing arguments. I'm going to ask that you retire to the
8 jury. Refresh yourselves.

9 We'll come out and the sequence of events are going to be
10 that I'm going to charge you the law and then I'll give you
11 some further instructions and ultimately here shortly you'll
12 begin deliberations, but it's not time to deliberate yet.

13 Madam Forelady, make sure that nobody says anything about this
14 case. No discussion whatsoever.

15 Everyone remain seated as the jury exits the courtroom.

16 (Whereupon, the jury exited the courtroom at 3:07 p.m.)

17 THE COURT: We'll stand at ease for five minutes.

18 (WHEREUPON, there was a break in the proceedings from
19 3:08 p.m. until 3:20 p.m.)

20 THE COURT: Anything from the State before we proceed?

21 MS. JONES: No, Your Honor.

22 THE COURT: Anything from defense?

23 MR. NEWMAN: No, sir.

24 THE COURT: All right. We're ready to proceed. Bring
25 the jury out.

1 (WHEREUPON, the jury entered the courtroom at 3:20 p.m.)

2 CHARGE ON THE LAW

3 THE COURT: Madam Forelady and ladies and gentlemen of
4 the jury, at the beginning of the week you took a solemn oath
5 that you would listen to the evidence presented in this case
6 and determine what the truth is and apply it to the law.
7 You've heard all of the evidence and I've watched you. You've
8 paid very close attention throughout the trial of this case.

9 And now it's my responsibility to charge you the law.
10 The charge on the law is not the most exciting thing, but it's
11 an important thing because you have taken a solemn oath to do
12 what's right and to do what's fair. In order to do that,
13 you've got to understand the law.

14 I know that it's midafternoon. We've already had lunch.
15 I'm going to ask you, if you could, to perk up, sit on the
16 edge of your chair, and take in the law as I charge it to you.
17 Madam Forelady and ladies and gentlemen of the jury, pay very
18 close attention.

19 The indictments charge the defendant with murder and
20 possession of a weapon during the commission of a violent
21 crime. I remind you that the fact that the defendant was
22 arrested, charged, and indicted is not evidence. It cannot be
23 considered by you as evidence of guilt, nor does it create any
24 presumption or inference of guilt. This document is simply
25 the written instrument which contains the charges made against

1 the defendant. It is the formal document by which this case
2 is brought into this court.

3 Each indictment -- one indictment charges murder, the
4 other possession of a weapon during the commission of a
5 violent crime. Each indictment charges a separate and
6 distinct offense. You must decide each indictment separately
7 on the evidence and the law applicable to it uninfluenced by
8 your decision as to any other indictment.

9 The defendant may be convicted or acquitted on any or all
10 of the offenses charged. You'll be asked to write a separate
11 verdict of guilty or not guilty for each indictment. The
12 defendant was indicted for murder and there's also a lesser-
13 included charge of voluntary manslaughter that I will explain
14 to you later.

15 Ladies and gentlemen of the jury, I remind you that
16 during this trial you and I have certain duties to perform.
17 As the trial judge, it is my responsibility to preside over
18 the trial and I also have the duty to rule on the
19 admissibility of evidence offered during this trial. You are
20 to consider only the competent evidence before you. You are
21 to consider only the testimony which has been presented from
22 this witness stand, any exhibits which have been made a part
23 of the record, and any stipulations of counsel.

24 I have the additional duty to charge you the law. As the
25 presiding judge, I am the sole judge of the law. It is your

1 duty as jurors to accept and apply the law as I now state it
2 to you. If you already have an idea as to what the law is or
3 what the law ought to be and it does not agree with what I now
4 tell you the law is, you must abandon this idea because you
5 are sworn to accept the law and apply the law exactly as I
6 state it to you.

7 In every case tried in this court before a jury, the jury
8 becomes the sole and exclusive judge of the facts. A trial
9 judge cannot intimate, state, comment on or make any statement
10 to a trial jury about the facts. Since you, the jury, are the
11 sole judge of the facts in the case, you are not to infer from
12 what I have said during the progress of this trial in ruling
13 upon the admissibility of evidence or otherwise or anything
14 that I say now during the course of this instruction to you
15 that I have any opinion about the facts. The law does not
16 allow me to have an opinion about the facts. This is a matter
17 solely for you, the jury, to determine. As jurors, it is your
18 duty to determine the effect, value, weight, and truth of the
19 evidence presented during this trial.

20 Madam Forelady and ladies and gentlemen of the jury, the
21 defendant has pled not guilty to this indictment and that plea
22 puts the burden on the State to prove the defendant guilty. A
23 person charged with committing a criminal offense in South
24 Carolina is never required to prove himself innocent.

25 I charge you that it is an important rule of the law that

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

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

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

20 What is reasonable doubt in the law? A reasonable doubt
21 is the kind of doubt that would cause a reasonable person to
22 hesitate to act. The State has the burden of proving the
23 defendant guilty beyond a reasonable doubt.

24 Some of you may have served as jurors in civil cases
25 where you were told that it is only necessary to prove that a

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

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

15 There are two types of evidence which are generally
16 presented during a trial: direct evidence and circumstantial
17 evidence. Direct evidence directly proves the existence of a
18 fact and does not require deduction. Circumstantial evidence
19 is proof of a chain of facts and circumstances indicating the
20 existence of a fact.

21 Crimes may be proven by circumstantial evidence. The law
22 makes no difference between the weight or value to be given to
23 either direct or circumstantial evidence. However, to the
24 extent the State relies on circumstantial evidence, all of the
25 circumstances must be consistent with each other and when

1 taken together point conclusively to the guilt of the accused
2 beyond a reasonable doubt. If these circumstances really
3 portray the defendant's behavior as suspicious, the proof has
4 failed.

5 The State has the burden of proving the defendant guilty
6 beyond a reasonable doubt. This burden rests with the State
7 regardless of whether the State relies on direct evidence,
8 circumstantial evidence or some combination of the two.

9 Madam Forelady and ladies and gentlemen of the jury,
10 necessarily you must determine the credibility of witnesses
11 who have testified. Credibility simply means believability.
12 It becomes your duty as jurors to analyze and to evaluate the
13 evidence and determine which evidence convinces you of its
14 truth.

15 In determining the believability of witnesses who have
16 testified, you may believe one witness over several witnesses
17 or several witnesses over one witness. You may believe a part
18 of the testimony of a witness and reject the remaining part of
19 the testimony of that same witness. You may believe the
20 testimony of a witness in its entirety or reject the testimony
21 of a witness in its entirety.

22 You may consider whether any witness has exhibited to you
23 any interest, bias, prejudice, or other motive in this case.
24 You may also consider the appearance and manner of a witness
25 while on the witness stand.

1 A person who has a past criminal record is competent to
2 testify during a trial. A past record does not affect the
3 ability of that witness to testify. A past record may only be
4 considered by you, if at all, in determining the witness'
5 believability. Remember, you are the sole judges of the facts
6 in the case and the believability of any and all of the
7 witnesses.

8 There has been evidence presented that witnesses have
9 made prior statements which are not consistent with the
10 witness' present testimony. You may use this evidence to
11 decide whether to believe the witness. You may also use the
12 evidence of the earlier contradictory statements to determine
13 the truth of those statements. It is up to you to decide
14 whether to believe the earlier statements or the testimony
15 given at trial.

16 If a witness is shown to have knowingly testified
17 untruthfully during any material -- or concerning any material
18 matter, you may consider this in determining whether to trust
19 the witness' testimony as to other matters. You may reject
20 all of the testimony of that witness or give all or part of
21 the testimony the weight you think it deserves.

22 Madam Forelady and ladies and gentlemen of the jury, I
23 instruct and emphasize that the fact that the defendant did
24 not testify is not a factor to be considered by you in any way
25 in your deliberations and in your consideration on the

1 question of guilt or innocence of the defendant. It must not
2 be considered by you in any manner whatsoever.

3 A defendant has the constitutional right to remain silent
4 and the assertion of this right must not be considered by you
5 in your deliberations. I repeat, under your oath, you are --
6 you are to draw no conclusions whatsoever from the fact that
7 the defendant in this case did not testify. The fact that
8 this defendant did not testify should not even be discussed in
9 the jury room.

10 Madam Forelady, I'm going to ask that you enforce that
11 rule. There will be no discussion whatsoever about the fact
12 that the defendant did not testify. The burden of proof, as I
13 have stated to you, is on the State. The defendant is not
14 required to prove his innocence. The burden of proof remains
15 on the State to prove guilt beyond a reasonable doubt.

16 I'm going to charge you the substantive law with regard
17 to murder. Pay very close attention.

18 The defendant is charged with murder. The State must
19 prove beyond a reasonable doubt that the defendant killed
20 another person with malice aforethought. Malice is hatred,
21 ill will or hostility towards another person. It is the
22 intentional doing of a wrongful act without just cause or
23 excuse with an intent to inflict an injury or under
24 circumstances that the law will infer an evil intent.

25 Malice aforethought does not require that malice exist

1 for any particular time before the act is committed, but
2 malice must exist in the mind of the defendant just before and
3 at the time of the act -- of the act having been committed.
4 Therefore, there must be a combination of the previous evil
5 intent and the act.

6 Malice aforethought may be express or inferred. These
7 terms, express and inferred, do not mean different kinds of
8 malice, but merely the manner in which malice may be shown to
9 exist. That is either by direct evidence or by inference from
10 the facts and circumstances which are proved.

11 Express malice is shown by a person -- when a person
12 speaks words which express hatred or ill will for another or
13 when the person prepared beforehand to do the act which was
14 later accomplished. For example, lying in wait for a person
15 or other acts of preparation going to show that the deed was
16 within the defendant's mind would be express malice.

17 I'm going to charge the lesser-included offense of
18 manslaughter. If you find that the State has failed to prove
19 beyond a reasonable doubt that the defendant committed murder,
20 you may consider whether the State has proven beyond a
21 reasonable doubt that the defendant committed voluntary
22 manslaughter, the lesser-included offense.

23 To prove voluntary manslaughter, the State must prove
24 beyond a reasonable doubt that the defendant took the life of
25 another in the sudden heat of passion based on sufficient

1 legal provocation. Both heat of passion and sufficient legal
2 provocation must be present at the time of the killing to
3 constitute voluntary manslaughter.

4 Sudden heat of passion may for a time affect a person's
5 self-control and temporarily disturb a person's reason.

6 Sudden heat of passion must be the type that would make an
7 ordinary person unable to coolly reflect on his actions and
8 would produce an uncontrollable impulse to do violence.

9 Sufficient legal provocation must be the type that would make
10 a person of ordinary reason and caution become enraged and to
11 lose control temporarily.

12 Provocation needed for voluntary manslaughter must come
13 from some act of or related to the victim. Words alone,
14 however vulgar or insulting, are not enough to be legal
15 provocation. Where death is caused by the use of a deadly
16 weapon, the words must be accompanied by some overt
17 threatening act which could have produced the heat of passion.

18 The exercise of a legal right, no matter how offensive it
19 is to another, is never sufficient legal provocation for
20 voluntary manslaughter. If the heat of passion had cooled or
21 if there was enough time between the provocation, if any, and
22 the killing for the passion of a reasonable person to cool,
23 the killing would not be voluntary manslaughter.

24 In deciding whether a reasonable person would have enough
25 time to cool off, you should consider all of the circumstances

1 surrounding the killing. You may consider the nature of the
2 provocation, if any, the defendant's mental and physical
3 state, and the circumstances and relationships between the
4 parties.

5 I'm going to charge you the substantive law with regard
6 to possession of a weapon during the commission of a violent
7 crime.

8 The defendant is charged with possession of a weapon
9 during the commission of or attempt to commit a violent crime.
10 The State must prove beyond a reasonable doubt that the
11 defendant was in possession of a firearm during the commission
12 of a violent crime. A firearm means any machine-gun,
13 automatic rifle, revolver, pistol or any weapon which will --
14 which will, is designed to or may be readily converted to
15 expel a projectile.

16 In order to find the defendant guilty of possession of a
17 weapon during the commission of a violent crime, you must
18 first find the defendant guilty of either committing a violent
19 crime or attempting to commit a violent crime. For the
20 purposes of this case, murder and voluntary manslaughter are
21 violent crimes as defined by South Carolina Code Section 16-1-
22 6. The State must prove beyond a reasonable doubt that the
23 weapon furthered, advanced or helped in the commission of the
24 crime.

25 Ladies and gentlemen of the jury, I'm going to charge to

1 you the concept of and the defense of self-defense. Pay very
2 close attention.

3 The defendant has raised the defense of self-defense.
4 Self-defense is a complete defense and, if it is established,
5 you must find the defendant not guilty. The State has the
6 burden of disproving self-defense by proof beyond a reasonable
7 doubt.

8 If you have a reasonable doubt of the defendant's guilt
9 after considering all of the evidence, including the evidence
10 of self-defense, then you must find the defendant not guilty.
11 On the other hand, if you have no reasonable doubt of the
12 defendant's guilt after considering all the evidence,
13 including the evidence of self-defense, you must find the
14 defendant guilty.

15 The following elements are required to establish self-
16 defense.

17 One. Without fault. First, the defendant must be
18 without fault in bringing on the difficulty. If the
19 defendant's conduct was the type which was reasonably
20 calculated to and did provoke a deadly assault, the defendant
21 would be at fault in bringing on the difficulty and would not
22 be entitled to an acquittal based on self-defense.

23 Two. The second element of self-defense is that the
24 defendant was actually in imminent danger of death or serious
25 bodily injury or that the defendant actually believed he was

1 in imminent danger of death or serious bodily injury.

2 If the defendant was actually in imminent danger, it must
3 be shown that the circumstances would've warranted a person of
4 ordinary firmness and courage to strike the fatal blow to
5 prevent death or serious bodily injury. If the defendant
6 believed he was in imminent danger of death or serious bodily
7 injury, it must be shown that a reasonably prudent person of
8 ordinary firmness and courage would have had the same belief.

9 In deciding whether the defendant actually was or
10 believed he was in imminent danger of death or serious bodily
11 injury, you should consider all of the facts and circumstances
12 surrounding the crime, including the physical condition and
13 characteristics of the defendant and the victim.

14 The defendant does not have to show that he was actually
15 in danger. It is enough if the defendant believed he was in
16 imminent danger and a reasonably prudent person of ordinary
17 firmness and courage would have had the same belief.

18 The defendant has the right to act on appearances even
19 though the defendant's belief may have been mistaken. It's
20 for you to decide whether the defendant's fear of imminent
21 danger of death or serious bodily injury was reasonable and
22 would have been felt by an ordinary person in the same
23 situation.

24 Words accompanied by hostile acts may, depending upon the
25 circumstances, establish self-defense. Evidence of prior

1 difficulties between the defendant and the victim may be
2 considered in deciding whether a threat existed, whether the
3 defendant had a reason to believe a threat existed, and how
4 serious that threat was.

5 The relative sizes, ages, and weights of the defendant
6 and the victim may be considered in deciding the apparent or
7 actual need for force in self-defense and the amount of force
8 needed.

9 The reputation of the victim as a violent person may be
10 considered in deciding whether there was a need for force,
11 whether the defendant had a reason to believe there was a need
12 for force, and whether deadly force was reasonably necessary.
13 Prior instances of violence by the victim may be considered in
14 deciding whether the defendant actually believed he was in
15 imminent danger of death or serious bodily injury or was
16 actually in imminent danger. Threats made by the victim may
17 be considered in determining whether the defendant actually
18 was or believed he was in imminent danger.

19 The final element of self-defense is that the defendant
20 had no other probable way to avoid the danger of death or
21 serious bodily injury than to act as a defendant did in this
22 particular instance.

23 A person cannot be required to make an exact calculation
24 as to the degree or amount of force which may be needed to
25 avoid death or serious bodily harm. Therefore, in self-

1 defense, the defendant has the right to use the force needed
2 to avoid death or serious bodily harm. The force used in
3 self-defense does not have to be limited to the degree or
4 amount of force used by the victim. The defendant has a right
5 to use so much force as appears to be necessary for complete
6 self-protection in which a person of ordinary reason and
7 firmness would have believed to be needed to prevent the death
8 or serious bodily injury.

9 If the defendant is justified in defending himself and in
10 firing the first shot, then the defendant is also justified in
11 continuing to shoot until it is apparent that the danger of
12 death or serious bodily injury has completely ended.

13 I'm going to come forward and share with you the verdict
14 form. Madam Forelady, I'm going to ask if you could stand
15 while I go over the verdict form with you.

16 This is a document. It's a two-page document and it's
17 got the State of South Carolina versus Nathaniel Wright. It's
18 got the two indictments here and the document is entitled
19 verdict form.

20 There are -- the first offense that you'll be asked to
21 consider -- and it's Roman Numeral I, murder. As to the
22 offense of murder, we, the jury, by unanimous consent find the
23 defendant not guilty or guilty. That's your decision in your
24 collective wisdom.

25 If you find the defendant not guilty of murder, then go

1 to Roman Numeral II. If you find the defendant guilty of
2 murder, then go to number III.

3 You can't -- a person can't be guilty of murder and
4 voluntary manslaughter. It's either one or the other. So if
5 you find him guilty of murder, then go and consider possession
6 of a weapon during the commission of a violent crime.

7 If you find him not guilty of murder, then consider
8 voluntary manslaughter. If you find him not guilty of murder
9 and voluntary manslaughter, discontinue your deliberations
10 because a prerequisite of possession of a weapon during the
11 commission of a violent crime is that they be convicted of one
12 of these two. You follow me?

13 And you've heard the law as I've charged it to you. If
14 you find him guilty of either murder or voluntary
15 manslaughter, then you can consider the issue of possession of
16 a weapon during the commission of a violent crime.

17 There's a note here at the bottom that says the defendant
18 -- the verdict must be unanimous and to notify the bailiff
19 upon reaching your verdict. There's a place for you to sign
20 and date it. You can have a seat.

21 Madam Forelady and ladies and gentlemen of the jury, the
22 verdict must be unanimous. It can't be eleven to one, eight
23 to four, six to six. Everyone has to agree.

24 I'm going to also mention to you, Madam Forelady, if --
25 during the deliberations if someone were to get up and use the

1 restroom, stop deliberations because everybody has to
2 participate in all the deliberations.

3 There might come a time during your deliberations where
4 there's a question that comes up. And as you've heard the law
5 charged, y'all are the sole and exclusive judges of the facts.
6 The very difficult decisions and questions that need answers,
7 y'all are going to have to answer.

8 However, if it's a question of law, you can reduce it to
9 writing, give it to the bailiff, and I'll bring you in and
10 answer a legal question, a question about the law. If in your
11 mind you can't decide whether a question is a legal question
12 or a factual question, write it down and if it's something I
13 can help you with, I will.

14 But I don't anticipate there are going to be any
15 questions because y'all have listened to the evidence. Y'all
16 have paid very close attention to the closing arguments and
17 the opening statements. You've paid attention throughout this
18 whole process. You paid attention to the law. Y'all have all
19 the tools necessary to resolve this case.

20 Madam Forelady, you are charged with the responsibility
21 of presiding over the deliberation process, and that
22 essentially means that you're to ensure that everybody's voice
23 is heard in that process.

24 I'm going to ask the alternate to remain with us and I'm
25 going to ask you to return to the jury room. And like I've

1 done throughout this trial, I'm going to tell you not to begin
2 deliberations because I'm going to have to talk with these
3 very fine lawyers to determine whether or not they have an
4 objection as to the manner in which I've charged the law.

5 They're also going to have an opportunity to gather up
6 all of this documentary evidence that's going to be in the
7 jury room for y'all to review if you see fit. And if there's
8 not a need to bring you back, then the bailiff will get all
9 this documentary evidence, give it to you and tell you to
10 begin deliberations, but once again do not begin deliberations
11 or any discussion about this case until you receive
12 instructions from me.

13 And I'm going to ask the alternate to stay with us.
14 Everyone else can exit to the jury room. Everyone remain
15 seated as the jury exits the courtroom.

16 (WHEREUPON, the jury exited the courtroom at 3:46 p.m.)

17 THE COURT: Madam Alternate, thank you so much for your
18 service. I know you feel like you've been invited to a dance
19 and didn't get to dance, but this is a public form. If you
20 would like to stay here and if you're interested in the result
21 of it, you can do that. We will be here for some period of
22 time after they begin deliberations.

23 However, if you have other things to attend to, you can
24 go about your business and, if you have an interest in it, you
25 can call the clerk or the Solicitor's Office or the Public

1 Defender's Office or whoever and you can ask them what the
2 verdict was if you're interested in it.

3 I told you from the beginning not to discuss the case.
4 I'm releasing you from that order. You can talk to anybody
5 you want to about this case at this juncture. However, if
6 some -- if you don't want to talk about it, you don't have to.
7 If someone approaches you about this case and you don't want
8 to talk to them, tell them so. And if they insist on speaking
9 to you after that, identify them as best you can, report it to
10 me, and I'll deal with them accordingly.

11 You have earned a three-year exception. If subpoenaed to
12 participate in this courthouse within the next three years,
13 you can elect not to serve if you want to. It doesn't apply
14 to federal court, magistrate's courtroom or municipal court,
15 but for this court, you've earned an exception.

16 You'll be paid handsomely for your services. How much is
17 it, Madam Clerk? How much?

18 THE CLERK: Ten cents a mile.

19 THE COURT: Ten cents a mile and how much a day?

20 THE CLERK: Ten dollars a day.

21 THE COURT: Ten dollars a day. All right. That's hardly
22 compensation for your very valuable service. Do you have any
23 questions?

24 THE ALTERNATE JUROR: No.

25 THE COURT: All right. Well, you're free to leave if you

1 would like to do so. Thank you so much.

2 (WHEREUPON, the alternate juror exited the courtroom.)

3 THE COURT: Any objections to the jury charge from the
4 State?

5 MS. JONES: Your Honor, I don't believe I heard a charge
6 on expert testimony.

7 THE COURT: Okay. You're absolutely right. I think I
8 did eliminate that. I'm sure I did. Let me hold the book.
9 All right. Any other -- any other objections from the
10 defense.

11 MR. NEWMAN: I don't have an objection, but I do ask for
12 a modification because the verdict form and the indictment
13 states two separate charges on it. I would ask Your Honor
14 with a charge of the murder and the self-defense, I would ask
15 for a charge that self-defense applies and is given in the law
16 equally to either of those charges.

17 THE COURT: Okay. All right. If we could have the jury
18 back in?

19 (WHEREUPON, the jury entered the courtroom at 3:51 p.m.)

20 THE COURT: Madam Forelady and ladies and gentlemen of
21 the jury, I spoke to you about how to evaluate expert
22 witnesses throughout the trial of the case, but I'm going to
23 do so in a more thorough fashion. Pay very close attention.

24 The rules of evidence ordinarily do not permit witnesses
25 to testify to opinions or conclusions. An exception to this

1 rule exists for witnesses we call expert witnesses. A witness
2 who by education and experience has become an expert in some
3 art, science, profession or calling may state an opinion as to
4 relevant and material matters in which the witness claims to
5 be an expert and may also state the reasons for the opinion.

6 You should consider any expert opinion received in
7 evidence in this case and, like any other evidence, give it
8 the weight you think it deserves. If you decide that the
9 opinion of an expert is not based on sufficient education and
10 experience or if you conclude that the reasons given in
11 support of the opinion are not sound or that the opinion is
12 outweighed by other evidence, you may disregard the opinion
13 entirely.

14 An expert witness's testimony is to be given no greater
15 weight than that of other witnesses simply because the witness
16 is an expert. Further, you are not required to accept an
17 expert's opinion even though it is not contradicted.

18 A point of clarification. Self-defense is a complete
19 defense to both murder and voluntary manslaughter.

20 You may return to the jury room. Do not begin
21 deliberations until you hear from me or the bailiff.

22 (WHEREUPON, the jury exited the courtroom at 3:53 p.m.)

23 THE COURT: Any further objections from the State?

24 MS. JONES: No, Your Honor.

25 THE COURT: Any from the defense?

1 MR. NEWMAN: No, sir.

2 THE COURT: All right. Well, I'm going to ask if each of
3 you can come forward and I'm going to ask that the documents
4 be placed in a pile wherever's best to do it. It might be on
5 that table right there. But put all of the evidence on there
6 and y'all organize it and make sure that everything in the
7 pile is into evidence and there's not anything in the pile
8 that's not in evidence.

9 MR. NEWMAN: I'm taking these back. These are the arrest
10 warrants. These were not introduced into evidence.

11 THE COURT: Okay.

12 MR. NEWMAN: I referred to them, but they were not
13 introduced.

14 (WHEREUPON, there was a pause in the proceedings as the
15 evidence was checked.)

16 MS. JONES: It's all there.

17 THE COURT: All right. Ms. Jones, is everything in that
18 pile in evidence?

19 MS. JONES: Yes. Are these your exhibits right here?
20 Okay. Yes.

21 THE COURT: Is there anything in that pile that's not in
22 evidence?

23 MS. JONES: No, Your Honor.

24 THE COURT: Mr. Newman, is everything in that pile in
25 evidence?

1 MR. NEWMAN: Yes, sir.

2 THE COURT: Is there anything in that pile that's not in
3 evidence?

4 MR. NEWMAN: No, sir.

5 THE COURT: All right. I'm going to ask the bailiff if
6 you could take the documentary evidence to the jury, give them
7 some paper and pencils, and tell them to begin deliberations.
8 Let the record reflect it's four o'clock.

9 (WHEREUPON, jury deliberations began at 4:00 p.m.)

10 THE COURT: All right. We'll stand at ease.

11 (WHEREUPON, there was a break in the proceedings from
12 4:00 p.m. until 4:02 p.m.)

13 (WHEREUPON, the forelady entered the courtroom.)

14 THE COURT: Madam Forelady, there has been a request for
15 a laptop to play a video and you're certainly entitled to do
16 that, but it would have to be done in the courtroom and we
17 would have to cue that up and do that. If that's something
18 y'all want to do, let us know and we'll make arrangements to
19 do that.

20 THE FORELADY: Okay. Let me check with them.

21 THE COURT: Pardon?

22 THE FORELADY: Let me check with them and I'll tell you.

23 THE COURT: Okay. Very good.

24 (WHEREUPON, there was a break in the proceedings from
25 4:03 p.m. until 4:07 p.m.)

1 THE COURT: A question has been posed on behalf of the
2 jury. We would like to view the video only. The audio do not
3 need to listen to at this time.

4 I'll make this note a part of the record. If we could
5 cue up the video, let me know when it's ready. Is it ready?

6 MR. HALL: It's not ready.

7 THE COURT: All right. Well, let me know when it's
8 ready.

9 (WHEREUPON, the jury note was marked as Court's Exhibit
10 Number 2.)

11 MS. JONES: Your Honor, since they've just requested just
12 the video and not the audio, we would just mute it?

13 THE COURT: I think they were talking about the audio 9-
14 1-1 tapes.

15 MS. JONES: Okay.

16 THE COURT: I think they want to listen to the video and
17 the audio to the video, but not -- wasn't there two different
18 tapes? There was one --

19 MS. JONES: There was.

20 THE COURT: -- with 9-1-1.

21 MS. JONES: There was two different disks.

22 THE COURT: They don't want to hear the 9-1-1 tapes is my
23 interpretation.

24 MS. JONES: Okay.

25 THE COURT: All right.

1 • (WHEREUPON, there was a pause in the proceedings as the
2 video was readied for playing.)

3 THE COURT: Are we ready?

4 UNKNOWN MALE: Yes, Your Honor.

5 THE COURT: All right. We're ready for the jury.

6 (WHEREUPON, the jury entered the courtroom at 4:16 p.m.)

7 THE COURT: In response to your request, pay very close
8 attention to the video.

9 (WHEREUPON, State's Exhibit Number 5, the dash cam video,
10 was played in open court and then stopped at the end.)

11 THE COURT: Madam Forelady, you may return to the jury
12 room and resume deliberations.

13 (WHEREUPON, the jury exited the courtroom at 4:32 p.m.)

14 (WHEREUPON, there was a break in the proceedings from
15 4:32 p.m. until 6:00 p.m.)

16 THE COURT: We have a question that says on behalf of the
17 jury we would like to request the definition of murder,
18 voluntary manslaughter, and also the definition of a
19 reasonable person. I anticipate she might mean reasonable
20 doubt.

21 MS. JONES: Or because reasonable person was used in the
22 self-defense charge, but they're not asking about self-
23 defense.

24 THE COURT: All right. I imagine the definition of
25 reasonable --

1 (WHEREUPON, there was a pause in the proceedings as the
2 Court and law clerk conferred off the record.)

3 THE COURT: All right. What I intend to -- as far as --
4 I'm going to just recharge murder and voluntary manslaughter,
5 and I'm going to define a reasonable person as a person having
6 sound judgment, fair and sensible.

7 MR. NEWMAN: Your Honor, I would ask that you charge --
8 because reasonable person is in self-defense, to recharge the
9 self-defense charge.

10 THE COURT: That isn't -- that isn't what they asked.

11 MR. NEWMAN: I understand that, Your Honor, but they have
12 to look at a reasonable person confronted with the facts and
13 circumstances the defendant was confronted with because you
14 have to look at the facts and circumstances from the point of
15 view of the defendant.

16 THE COURT: Well, they didn't ask all that. They asked
17 for a definition of reasonable person. What's the State's
18 position?

19 MS. JONES: Your Honor, the State would just take the
20 position it's just manslaughter and murder and reasonable
21 person. They didn't ask for self-defense.

22 THE COURT: Very good. That's what I'll do. You're
23 protected on the record. All right. Let's bring the jury
24 out.

25 (WHEREUPON, the jury entered the courtroom at 6:03 p.m.)

1 THE COURT: Pay very close attention as I define or
2 charge you the definition of murder, voluntary manslaughter,
3 and reasonable person.

4 Madam Forelady and ladies and gentlemen of the jury, the
5 defendant is charged with murder. The State must prove beyond
6 a reasonable doubt that the defendant killed another person
7 with malice aforethought.

8 Malice is hatred, ill will or hostility towards another
9 person. It is the intentional doing of a wrongful act without
10 just cause or excuse with an intent to inflict an injury or
11 under circumstances that the law will infer an evil intent.

12 Malice aforethought does not require that malice exist
13 for any particular time before the act is committed, but
14 malice must exist in the mind of the defendant just before and
15 at the time of the act -- at the time the act is being
16 committed. Therefore, there must be a combination of the
17 previous evil intent and the act.

18 Malice aforethought may be express or inferred. These
19 terms, express and inferred, do not mean different kinds of
20 malice, but merely the manner in which malice may be shown to
21 exist. This is either by direct evidence or by inference from
22 the facts and circumstances which are proved.

23 Express malice is shown when a person speaks words which
24 express hatred or ill will for another or when the person
25 prepared beforehand to do the act which was later

1 accomplished. For example, lying in wait for a person or any
2 other acts of preparation going to show that the deed was
3 within the defendant's mind would be express malice.

4 Voluntary manslaughter. If you find that the State has
5 failed to prove beyond a reasonable doubt that the defendant
6 committed murder, you must consider whether the State has
7 proved beyond a reasonable doubt that the defendant committed
8 voluntary manslaughter.

9 To prove voluntary manslaughter, the State must prove
10 beyond a reasonable doubt that the defendant took the life of
11 another in the sudden heat of passion based on sufficient
12 legal provocation. Both heat of passion and sufficient legal
13 provocation must be present at the time of the killing to
14 constitute voluntary manslaughter.

15 Sudden heat of passion may for a time affect a person's
16 self-control and temporarily disturb a person's reason.
17 Sudden heat of passion must be the type that would make an
18 ordinary person unable to coolly reflect on his actions or
19 would produce an uncontrollable impulse to do violence.
20 Sufficient legal provocation must be the type that would make
21 a person of ordinary reason and caution become enraged and to
22 lose control temporarily.

23 Provocation needed for voluntary manslaughter must come
24 from an act of or related to the victim. Words alone, however
25 vulgar or insulting, are not enough to be legal provocation.

1 Where death is caused by the use of a deadly weapon, the words
2 must be accompanied by an overt threatening act which could
3 have produced the heat of passion.

4 The exercise of a legal right, no matter how offensive it
5 is to another, is never sufficient legal provocation for
6 voluntary manslaughter. If the heat of passion had cooled or
7 if there was enough time between the provocation, if any, and
8 the killing for the passion of a reasonable person to cool,
9 the killing would not be voluntary manslaughter.

10 In deciding whether a reasonable person would have had
11 enough time to cool off, you should consider all of the
12 circumstances surrounding the killing. You may consider the
13 nature of the provocation, if any, the defendant's mental and
14 physical state, and the circumstances and relationships
15 between the parties.

16 You may return to the jury room and resume deliberations.

17 Oh, I'm sorry. I'm sorry. You -- if we could come back
18 for one moment?

19 You have also asked for the definition of a reasonable
20 person. A reasonable person is a person having sound
21 judgment, fair and sensible.

22 You may return to the jury room.

23 (WHEREUPON, the jury exited the courtroom at 6:08 p.m.)

24 THE COURT: All right. We'll stand at ease until we hear
25 further from the jury.

1 (WHEREUPON, the jury note was marked as Court's Exhibit
2 Number 3.)

3 (WHEREUPON, there was a break in the proceedings from
4 6:09 p.m. until 6:34 p.m.)

5 THE COURT: All right. I understand that they've reached
6 a verdict and, quite often, the reading of a verdict can be an
7 emotional time for people in the audience, family members, but
8 my responsibility is to preside over this trial and charge the
9 law and maintain order in the court.

10 And there will be no outbursts here in this court. If
11 there is, I'm going to ask law enforcement to -- don't ask or
12 wait for any direction from me. If there's any outburst
13 whatsoever, I'm going to ask that they take you into custody.
14 There will be no outbursts. Does everybody understand that?

15 If you feel as though you can't maintain your composure,
16 you can leave at this time, but if you stay here, we're going
17 to conduct ourselves appropriately.

18 All right. We're ready for the jury.

19 (WHEREUPON, the jury entered the courtroom at 6:35 p.m.)

20 THE COURT: Madam Forelady, have you reached a verdict?

21 THE FORELADY: Yes.

22 THE COURT: Is it unanimous?

23 THE FORELADY: Yes.

24 THE COURT: I'm going to ask if you could give it to the
25 clerk -- the verdict form to the clerk.

1 (WHEREUPON, the forelady complied.)

2 THE COURT: All right. The verdict form seems to be in
3 order and I'm going to ask the clerk if she could publish it
4 for the record.

5 VERDICT

6 THE CLERK: State of South Carolina, County of Jasper,
7 the State versus Nathaniel Wright, Indictment Number 2014-GS-
8 27-541, Indictment Number 2014-GS-27-542. Verdict form.

9 One: murder.

10 As to the offense of murder, we, the jury, by unanimous
11 consent find the defendant not guilty.

12 Two: voluntary manslaughter.

13 As to the offense of voluntary manslaughter, we, the
14 jury, by unanimous consent find the defendant guilty.

15 Three: possession of a weapon during the commission of a
16 violent crime.

17 As to the offense of the possession of a weapon during
18 the commission of a violent crime, we, the jury, by unanimous
19 consent find the defendant guilty.

20 Signed by the foreperson, February the 10th, 2016.

21 THE COURT: Any additional requests for polling from the
22 State?

23 MS. JONES: No, Your Honor.

24 THE COURT: Any from defense?

25 MR. NEWMAN: We ask the jury be polled.

1 THE COURT: Very good.

2 THE CLERK: As I call your name, will you raise your
3 right hand? Veronica Beaden, is this your verdict?

4 JUROR NUMBER 15: Yes.

5 THE CLERK: Is it still your verdict?

6 JUROR NUMBER 15: Yes..

7 THE CLERK: Thank you. Deedra Mitchell, was this your
8 verdict?

9 JUROR NUMBER 130: Yes.

10 THE CLERK: Is it still your verdict?

11 JUROR NUMBER 130: Yes.

12 THE CLERK: Thank you. Tamara Bentley, was this your
13 verdict?

14 JUROR NUMBER 16: Yes.

15 THE CLERK: Is it still your verdict?

16 JUROR NUMBER 16: Yes.

17 THE CLERK: Thank you. Cleophus Williams, was this your
18 verdict?

19 JUROR NUMBER 212: Yes.

20 THE CLERK: Is it still your verdict?

21 JUROR NUMBER 212: Yes.

22 THE CLERK: Thank you. Ian Young, was this your verdict?

23 JUROR NUMBER 224: Yes.

24 THE CLERK: Is it still your verdict?

25 JUROR NUMBER 224: Yes.

1 THE CLERK: Thank you. Courtney Carson, was this your
2 verdict?

3 JUROR NUMBER 33: Yes.

4 THE CLERK: Is it still your verdict?

5 JUROR NUMBER 33: Yes.

6 THE CLERK: Thank you. Adrian Scott, was this your
7 verdict?

8 JUROR NUMBER 173: Yes.

9 THE CLERK: Is it still your verdict?

10 JUROR NUMBER 173: Yes.

11 THE CLERK: Thank you. Doreatha Dunham, was this your
12 verdict?

13 JUROR NUMBER 56: Yes.

14 THE CLERK: Is it still your verdict?

15 JUROR NUMBER 56: Yes.

16 THE CLERK: Thank you. Carolyn Miller, was this your
17 verdict?

18 JUROR NUMBER 127: Yes.

19 THE CLERK: Is it still your verdict?

20 JUROR NUMBER 127: Yes.

21 THE CLERK: Thank you. Nathan Phillips, was this your
22 verdict?

23 JUROR NUMBER 151: Yes.

24 THE CLERK: Is it still your verdict?

25 JUROR NUMBER 151: Yes.

1 THE CLERK: Mary Jane Heinlein, was this your verdict?

2 JUROR NUMBER 86: Yes.

3 THE CLERK: Is it still your verdict?

4 JUROR NUMBER 86: Yes.

5 THE CLERK: Thank you. Daniela Reyes, was this your
6 verdict?

7 JUROR NUMBER 163: Yes.

8 THE CLERK: Is it still your verdict?

9 JUROR NUMBER 163: Yes.

10 THE CLERK: Brittany Shaw -- am I missing someone? Okay.
11 Okay. That's it.

12 THE COURT: All right. Madam Forelady and ladies and
13 gentlemen of the jury, that concludes your service. Your job
14 has been discharged with regard to rendering a verdict.

15 My job in a criminal case is obviously to preside over
16 the case, to rule on the admissibility of evidence, and to
17 charge you the law, but in addition to that in the state of
18 South Carolina, I'm the one who renders the sentence.

19 It's not necessary and certainly not required that you
20 participate in that, but you have been involved in this case
21 and you have been able to bring finality to this matter,
22 something that nobody in this courtroom has been able to do up
23 until this point until you sat as a jury and through your
24 collective wisdom have been able to reach a verdict.

25 But your duty has been discharged and you're free to

1 leave at this time. However, this is a public forum and if
2 you would like to have a seat in the -- in the auditorium -- I
3 mean in the audience and -- and witness the sentencing, you
4 are welcome to do that.

5 As far as your service in general, I want to thank you
6 for your time and your consideration. There's absolutely no
7 civil duty that you could perform short of military service
8 that's more important than serving on a jury.

9 You know, we're all -- nobody -- generally, litigants in
10 these matters don't choose to be here, but, you know, if you
11 think about it, we're only a breath away from litigation or a
12 criminal charge ourselves. And every time I lay my head down
13 on the pillow at night, I thank the Lord that we have a jury
14 system where the jury listens to all the evidence and in their
15 collective wisdom renders a verdict.

16 Thank you for your time and your consideration. You've
17 earned a three-year exemption. If called upon to serve in
18 this courtroom within the next three years, you can exercise
19 an exemption and elect not to serve if you choose to do so.

20 There -- the clerk will provide you excuses. Your duty
21 for the week has been discharged. There's no need to report
22 back.

23 When I -- we started this case, I ordered that you not
24 discuss this case. I'm releasing you from that order. You
25 can talk to anybody that you want to talk to about any of the

1 details of this case.

2 On the other hand, if you don't want to talk about the
3 case, tell the person who would talk to you that you don't
4 want to talk to them about it. If they insist after you tell
5 them you don't want to talk about it, then identify them as
6 best you can and I'll deal with them accordingly. But you can
7 talk to anybody you want to about it, but you aren't required
8 to talk to anybody. Does everybody understand that?

9 Very good. I always ask -- ask the jurors if you have
10 any questions. Do y'all have any questions?

11 (WHEREUPON, there was no response.)

12 THE COURT: All right. You're free to leave. You can
13 follow the bailiff and, those of you who would like to witness
14 the sentencing, you're welcome to do so. We'll stand at ease
15 for five minutes while we get the defendant and the sentencing
16 sheets put together.

17 Very good. You're free to leave at this time.

18 (WHEREUPON, the jury was released at 6:41 p.m.)

19 (WHEREUPON, there was a pause in the proceedings.)

20 THE COURT: Mr. Wright, I'm going to ask you and your
21 counsel if you could come forward.

22 (WHEREUPON, the defendant and counsel complied.)

23 THE COURT: Ms. Jones, you're recognized with regard to
24 sentencing.

25 MS. JONES: Thank you, Your Honor.

1 MR. NEWMAN: Your Honor, prior to that, I wish to renew
2 my motions for a directed verdict in the case.

3 I also move for a new trial based on the question and
4 based on what we believe is the inadequacy of the answer as to
5 reasonable person because it's defined both in the
6 manslaughter charge and it's also defined in the self-defense
7 charge as a reasonable person under the circumstances there
8 and then existing. And we are asking for a new trial on that
9 basis and a renewal of our directed verdict motions.

10 THE COURT: All right. Your motion is noted, but denied,
11 and you're protected on the record.

12 MR. NEWMAN: Thank you, Your Honor.

13 MS. JONES: Thank you, Your Honor. Your Honor, I'm not
14 going to go back into the facts. We were all here for this
15 entire trial.

16 What I do think what the State needs to point out is
17 Antoine's testimony and how important that was, and that is
18 what took us back to the incident, to the day that the
19 defendant did kill his brother. I've said from day one and I
20 believe the jury -- well, they did agree with me that this was
21 never a self-defense case. That this was a -- a homicide. It
22 was not justified and they did find him guilty of the lesser-
23 included of voluntary manslaughter. And I stand here today
24 representing Tag, who can't be here.

25 Mr. Nathaniel Wright is a violent man. He has a

1 significant criminal history and, if Your Honor may, I would
2 like to go through all of his prior convictions.

3 In 2002, he had a failure to stop for a blue light. Fast
4 forward, in 2011, he has a possession with intent to
5 distribute crack cocaine. In 2010, he has a public disorderly
6 conduct, possession of a controlled substance, and giving
7 false information.

8 In 2011, again another possession with intent to
9 distribute cocaine, two counts of possession with intent to
10 distribute crack cocaine, a possession with intent to
11 distribute a controlled substance, as well as a malicious
12 injury to personal property. He did receive six years in
13 prison in the Department of Corrections on those sentences.

14 2014, he had a driving without a license. What also
15 should be noted for the record is while Mr. -- while this Mr.
16 Wright was -- on October '14 when he committed this crime, he
17 was actually out on bond on numerous charges as well. He was
18 out on an arson third degree, an instance that involved the
19 burning of his sister's home.

20 MR. NEWMAN: Your Honor --

21 MS. JONES: Possession --

22 MR. NEWMAN: If it please the Court, I don't think that
23 is proper for the Court to hear. Those charges are charges
24 without convictions. He has a presumption of innocence on
25 them and I don't think that it's proper for the State to go

1 into.

2 THE COURT: All right. Very good. I think -- out of an
3 abundance of precaution, I think we've got a pretty good
4 flavor of his criminal history and I'm not going to give any
5 outstanding charges for which he has not been convicted any
6 consideration whatsoever.

7 MS. JONES: Absolutely, Your Honor. I would argue that
8 based on his prior record -- he has multiple, multiple
9 possession with intent to distribute drug charges. His
10 criminal behavior has just escalated over the years as he's
11 entered his adulthood and it doesn't seem to be slowing down.

12 The State feels that because of that, he is absolutely a
13 danger. And based on the facts and circumstances of the case
14 that he was convicted of today, I think that reiterates how
15 dangerous this individual is and how dangerous he is for
16 Jasper County. Because of that, the State would ask that you
17 sentence him to the maximum of thirty years on the voluntary
18 manslaughter charge, as well as the five years on the weapons
19 charge.

20 THE COURT: I'll be glad to hear from the defense.

21 MR. NEWMAN: Thank you, Your Honor. As to our plea in
22 mitigation, you've got a flavor of the case. You've heard
23 about the brothers, about the dominance of his older brother.
24 He, not to speak ill of the dead, but likewise has a similar
25 history of not only drug possessions, but crimes of violence.

1 Mr. Wright has no crimes of violence on his record. He
2 doesn't even have a simple assault on his record.

3 I think that under the circumstances that you heard that
4 you're looking at somebody that, as the jury found on
5 manslaughter, that snapped, that lost his cool, which is the
6 definition of voluntary manslaughter. South Carolina gives
7 our circuit court judges, such as you, wide latitude from two
8 to thirty years on that charge and there's reasons for that
9 because there are different cases.

10 You've heard in this case that Tag was not the -- I mean
11 -- I'm sorry. That this Mr. Wright was not the aggressor. He
12 was actually punched in his face by his brother. He was
13 taunted. And I ask you to take all those facts into
14 consideration. You're looking at somebody that, as the jury
15 found, snapped.

16 I also want the Court to know and I want the jurors
17 present to know in this case that we entertained discussions
18 with the Court of entering a plea to voluntary manslaughter to
19 which the State did not accept. We believed that that's what
20 that case was. Mr. Wright was prepared to plead guilty to
21 that charge. However, the State would not accept it. And we
22 did have those discussions in chambers. The State also when
23 we had our roster meeting in this case said they would enter
24 into no plea negotiations in this case and try the case as
25 charged.

1 I believe that the proper charge is what the jury found.
2 Mr. Wright was willing to plead guilty to that and I ask you
3 to take that into consideration. That he was willing to stand
4 before this Court and admit his guilt. He readily admitted
5 his guilt when he panicked and ran and went on a chase and
6 pled guilty before Your Honor and readily admitted his guilt
7 on that charge.

8 How many children do you have?

9 THE DEFENDANT: Two.

10 MR. NEWMAN: He has two children. You're looking at the
11 bulk of what's left of his family over on that side of the
12 courtroom that have been here to support him.

13 And I mean it's -- you know, I could go all the way back
14 to the Bible I guess to Cain and Abel that it's a horrible
15 tragedy, but he has lost his brother and I can tell you in our
16 discussions -- I knew Tag Wright very well. I've known him
17 for years. I've known Nathaniel for years. I do know that
18 Nathaniel grieves for his brother. He grieves for his brother
19 every day, as does the family.

20 He is remorseful in his actions. He can't undo what was
21 done and, you know, unfortunately on a snap, as the jury found
22 it, from, you know, being harassed by Tag and hit that he took
23 his actions too far and he's ready and prepared to be punished
24 for that.

25 And I don't think the maximum punishment in this case

1 serves out anybody. We would ask for a sentence that is not
2 in the maximum. That taking everything into consideration is
3 one of the things that, you know, we had to look at and
4 examine in this case was from the shoes of Mr. Wright.

5 So that's our plea in mitigation, Your Honor. We ask
6 whatever sentences you do that you run them concurrently and
7 give credit for time served. He's been in jail since October
8 1st.

9 THE COURT: Which how many days is that?

10 MR. NEWMAN: I'm not sure, Your Honor. I know the jail
11 usually calculates that on the sheets when they send them to
12 SCDC.

13 THE COURT: Mr. Wright, it's not necessary that you
14 speak, but if you'd like to say something, I'll be glad to
15 hear from you.

16 THE DEFENDANT: No, sir.

17 THE COURT: Anybody else? Anything else in mitigation?

18 MR. NEWMAN: Your Honor, I could bring up every one of
19 his family members that would likewise tell you that, you
20 know, he was basically bullied pretty much all of his life and
21 his mother didn't stand up for him. I think you have heard
22 some of that from the witness stand from at least one of the
23 witnesses.

24 I think it would be redundant, but I want you to know
25 that there's a reason that they are here and that is in

1 support of Mr. Wright. I guess I could give an opportunity if
2 any of his family would like to speak.

3 THE COURT: All right. If they would like to speak, now
4 is the time.

5 MR. NEWMAN: Anybody would like to address the Court?

6 (WHEREUPON, there was no response.)

7 MR. NEWMAN: He's been in jail for 497 days, Your Honor.
8 I also ask when you fashion the sentence, as you're well
9 aware, this is a no-parole offense. I ask that you take that
10 into consideration with your sentencing, Your Honor. Thank
11 you for hearing us.

12 (WHEREUPON, there was a pause in the proceedings.)

13 SENTENCE

14 THE COURT: Mr. Wright, on this voluntary manslaughter,
15 it is a non-paroleable offense. You will serve it day for day
16 subject to the 85 percent rule and community supervision
17 thereafter.

18 On Indictment 2014-GS-27-00541, voluntary manslaughter,
19 the sentence of the Court is you be committed to the State
20 Department of Corrections for a period of 23 years. The
21 sentence to run concurrent. Credit for 497 days.

22 With regard to Indictment 2014-GS-27-00542, possession of
23 a weapon during the commission of a violent crime, the
24 sentence of the Court is you be committed to the State
25 Department of Corrections for a period of five years.

1 Sentence to run concurrent. Credit for 497 days.

2 With regard to Indictment 2014-GS-27-00540, failure to
3 stop for a blue light, the sentence of the Court is you be
4 committed to the State Department of Corrections for a period
5 of three years. Sentence to run concurrent. Credit for 497
6 days.

7 Good luck to you.

8 MS. JONES: Thank you, Your Honor.

9 THE COURT: We'll stand adjourned until 9:30 in the
10 morning.

11 (WHEREUPON, the proceedings ended at 6:59 p.m.)

12

13 --- END REQUESTED TRANSCRIPT ---

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WITNESSES

J. Shealy - SLED

ARREST WARRANT NUMBER

2014A2710200328

ACTION OF GRAND JURY

TRUE BILL ☒

NO BILL

FOREMAN Mrs. C. Coak

DATE 11-20-2014

Foreperson of Grand Jury

Date:

VERDICT

Voluntary Manslaughter Guilty

Foreperson of Petit Jury

Date:

DOCKET NO. 2014GS2700541

The State of South Carolina

County of Jasper

COURT OF GENERAL SESSIONS

November Term 2014

THE STATE

vs.

Nathaniel Wright

Indictment for

Murder / Murder

SC Code: 16-03-0010; 16-03-0020

CDR Code:0116

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

Hereby appear in my own proper person and plead guilty to the within indictment o to

Defendant

Witness:

C.C.C. PLS. and G.S.

8432345678

Received by Fax Station Feb 12 2016 11:22AM Page 4

10:50:41 a.m. 02-12-2016

4/9

STATE OF SOUTH CAROLINA)
COUNTY OF JASPER)

INDICTMENT

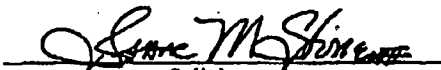
2014GS2700541

At a Court of General Sessions, convened on November 20, 2014, the Grand Jurors of Jasper County present upon their oath:

Murder / Murder

That in Jasper County on or about October 1, 2014, with malice aforethought, Nathaniel Wright did kill and murder Maurice Wright by means of shooting him, and that Maurice Wright did die in Jasper County as a proximate result thereof on October 1, 2014; in violation of Section 16-3-10 of the South Carolina Code of Laws (1976), as amended.

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


Solicitor

8432345678

10:49:21 a.m. 02-12-2016

2/9

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Jasper
STATE VS.

Nathaniel Wright

AKA:

Race: AFRICAN AM Sex: M Age: 32

DOB:

SS:

City, State, Zip:

DL#:

SID#:

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

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

FO: Manslaughter / Voluntary manslaughter

INDICTMENT/CASE#: 2014GS2700541

A/W#: 2014A2710200328

Date of Offense: 10/1/2014

S.C. Code §: 16-03-0010; 16-03-0020

CDR Code #: 0116

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-03-0050 of the S.C. Code of Laws, bearing CDR Code # 0217

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS (CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Concannon Jones, Mary

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 23 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years

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

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

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

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 11/12/2016☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. 49 days☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine:

§ 14-1-206 (Assessments 107.5 %)

\$ 0

§ 14-1-211(A)(1) (Conv. Surcharge)

\$100

\$ 100.00

§ 14-1-211(A)(2) (DUI Surcharge)

\$100

\$ 0

§ 56-5-2995 (DUI Assessment)

\$12

\$ 0

§ 56-1-286 (DUI Breath Test)

\$25

\$ 0

Proviso 47.9 (Public Def/Prob)

\$500

\$ 0

§ 14-1-212 (Law Enforce. Funding)

\$25

\$ 25.00

§ 14-1-213 (Drug Court Surcharge)

\$150

\$ 0

§ 50-21-114(BUI Breath Test Fee)

\$50

\$ 0

§ 56-5-2942(J) (Vehicle Assessment)

\$10/ea

\$ 0

Proviso 90.5 (SCCJA Surcharge)

\$5

\$ 5.00

3% to County (if paid in installments)

\$ 3.90

TOTAL

\$ 133.90

PTUP _____

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel,

§ 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk

Court Reporter:

Presiding Judge

Judge Code:

Sentence Date:

Mary Bostick
Krystal Smith2140
2/10/16

WITNESSES

J. Shealy - SLED

ARREST WARRANT NUMBER

2014A2710200329

ACTION OF GRAND JURY

TRUE BILL ☒

NO BILL

FOREMAN *James E. Galt*

DATE *11-20-2014*

Foreperson of Grand Jury

Date:

VERDICT

Guilty

James E. Galt
Foreperson of Petit Jury

Date:

DOCKET NO. 2014GS2700542

The State of South Carolina

County of Jasper

COURT OF GENERAL SESSIONS

November Term 2014

THE STATE

vs.

Nathaniel Wright

Indictment for

**Weapons / Possession of a weapon during
commission of a violent crime**

SC Code: 16-23-0490

CDR Code:0549

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I

Hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. and G.S.

11:13:56 a.m. 02-12-2016

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Received Fax: Feb 12 2016 11:48AM Fax Station: Page 1

463

8432345678

11:14:14 a.m. 02-12-2016

2 / 2

STATE OF SOUTH CAROLINA)
COUNTY OF JASPER)

INDICTMENT

2014GS2700542

At a Court of General Sessions, convened on November 20, 2014, the Grand Jurors of Jasper County present upon their oath:

Weapons / Possession of a weapon during commission of a violent crime

That in Jasper County, South Carolina, on or about October 1, 2014, the Defendant, Nathaniel Wright, did possess a weapon during the commission of murder, a violent crime. This is in violation of 16-23-490 of the South Carolina Code of Laws, (1976) as amended.

- *Malboughd*
- *Captain Bill Wood + Henry Lawton*
- *1 mile from ct house*

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

Leanne M. Stone

Solicitor

8432345678

10:48:27 a.m. 02-12-2016

1/9

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Jasper
STATE VS.

Nathaniel Wright

AKA:

Race: AFRICAN AMESex: M Age: 32

DOB: SS#:

Address:

City, State, Zip:

DL#: SID#:

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

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

☒ CONVICTED OF or ☐ PLEADS

TO: Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death

in violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ § 17-25-45
w/minor 1st or Lewd Act)The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Concanika Jones, Mary SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment

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

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

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. 497 days☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ plus 20% fee: \$

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:	\$	0
§ 14-1-206 (Assessments 107.5 %)	\$	0
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$ 0
§ 56-5-2995 (DUI Assessment)	\$12	\$ 0
§ 56-1-286 (DUI Breath Test)	\$25	\$ 0
Proviso 47.9 (Public Def/Prob)	\$500	\$ 0
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§ 14-1-213 (Drug Court Surcharge)	\$150	\$ 0
§ 50-21-114(B)(1) (Breath Test Fee)	\$50	\$ 0
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$ 0
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ 5.00
3% to County (if paid in installments)	\$	\$ 3.90
TOTAL	\$	\$ 133.90

Clerk of Court/ Deputy Clerk

Court Reporter:

INDICTMENT/CASE#: 2014GS2700542

A/W#: 2014A2710200329

Date of Offense: 10/1/2014

S.C. Code § : 16-23-0490

CDR Code #: 0549

SENTENCE SHEET

Presiding Judge

Judge Code: 2140

Sentence Date: 2/10/16

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APR 17 2017

SC Court of Appeals

CERTIFICATE OF COUNSEL FOR APPELLANT

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

Respectfully Submitted,



Kathrine H. Hudgins
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 17th day of April, 2017.