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STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

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SC Court of Appeals

Appeal from Sumter County

Honorable William Jeffrey Young, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ARSENIO D. COLCLOUGH,

APPELLANT

APPELLATE CASE NO. 2016-000724

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA) IN THE 3RD JUDICIAL CIRCUIT
COUNTY OF SUMTER) IN THE COURT OF GENERAL SESSIONS
) 2014-GS-43-00896
STATE OF SOUTH CAROLINA,)
)
PLAINTIFF,)
)
VERSUS)
)
ARSENIO D. COLCLOUGH,)
)
DATE: MARCH 21-24, 2016
DEFENDANT.) PLACE: SUMTER, SOUTH CAROLINA

TRIAL TRANSCRIPT

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THE HONORABLE WILLIAM JEFFREY YOUNG

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1 JURY VOIR DIRE

2 THE COURT: Thank you ladies and gentlemen. Please take
3 your seats. Solicitor, are you ready to call your first case?

4 SOLICITOR: We are, Your Honor. The State calls the case
5 of The State of South Carolina versus Arsenio Colclough on
6 Indictment #2014-GS-43-0896.

7 THE COURT: All right. Do you have the original
8 indictment?

9 SOLICITOR: Your Honor, I handed it to your law clerk
10 earlier this morning.

11 THE COURT: Very well. All right, ladies and gentlemen,
12 as the Solicitor stated, we are calling the case of The State
13 versus Arsenio Dante Colclough, who is charged with two
14 counts of murder and two counts of possession of a weapon
15 during the commission of a violent crime and I will read to
16 you the indictments at this time.

17 Count one, and this is under Indictment 2014-GS-43-896..
18 Count one states that Arsenio Dante Colclough did, in Sumter
19 County on or about April 12, 2013, willfully, feloniously and
20 intentionally kill the victim, Willie Jermaine Chatman, with
21 malice aforethought, either express or implied, by means of
22 shooting the victim several times in the arm, chest, and back
23 and that the victim did die as a proximate result thereof on
24 April 22, 2013 in Sumter County in violation of §16-3-10 S.C.
25 Code of Laws (1976), as amended.

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1 Count two, murder. That Arsenio Dante Colcough did, in
2 Sumter County, on or about April 12, 2013, willfully,
3 feloniously, and intentionally kill the victim, Rayshawn
4 Rashad Holmes with malice aforethought, either express or
5 implied, by means of shooting the victim in the back and the
6 victim died as a proximate result thereof on or about April
7 12, 2013, in Sumter County in violation of §16-3-10 of the
8 S.C. Code of Laws(1976), as amended.

9 Count three, possession of a weapon during the
10 commission of a violent crime. That Arsenio Dante Colcough
11 did, in Sumter County on or about April 12, 2013, possess a
12 firearm or visibly displayed what appeared to be a firearm or
13 visibly displayed a knife during the commission or attempted
14 commission of a violent crime in violation of §16-23-490 of
15 the S.C. Code.

16 And then, Count four, possession of a weapon during the
17 commission of a violent crime. That Arsenio Dante Colcough
18 did, in Sumter County on or about April 12, 2013, possess a
19 firearm or visibly displayed what appeared to be a firearm or
20 visibly displayed a knife during the commission or attempted
21 commission of a violent crime in violation of §16-23-490 of
22 the S.C. Code of Laws (1976), as amended.

23 Ladies and gentlemen, let me remind you that the fact
24 that the defendant was arrested and charged and indicted is
25 not evidence that the defendant is guilty of the charge. The

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1 Defendant has pled not guilty and, therefore, is presumed to
2 be innocent and the State has the burden of proving each and
3 every allegation of each of these charges beyond a reasonable
4 doubt and the burden is on the State to prove that. The
5 Defendant does not have to prove anything.

6 Now, ladies and gentlemen, I remind you that you're
7 still under oath from earlier and there are some questions
8 that I'm going to need to ask you under oath, and again, the
9 reason that you're under oath for these questions is that
10 this is such a crucial stage of a trial. You know, just like
11 a building must have a firm foundation to be strong and
12 protective of those who live in it, so must a jury be strong
13 as the basis of a fair and impartial trial for those who
14 participate and live in it; which would be the Solicitor for
15 the State and the Defendant who is on trial.

16 Now, ladies and gentlemen, your answers to these
17 questions are the foundations by which these attorneys will
18 build a jury and they're relying on your truthful answers to
19 help them strike an unbiased jury who will diligently listen
20 to the facts and will deliver a true and just verdict. And
21 again, thank you for your complete truthfulness as I ask you
22 these questions.

23 Now, ladies and gentlemen, the first question is, has
24 any member the jury panel ever been related by blood or
25 marriage or had a close personal or business relationship

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1 with the Defendant Arsenio Colcough, who is sitting at this
2 table right here? Mr. Colcough, would you please stand and
3 face the jury? (Mr. Colcough complies) All right. You may be
4 seated. Or the alleged victims; Willie Jermaine Chatman or
5 Rayshawn Rashad Holmes? If so, please stand.

6 THE COURT: Yes, ma'am, state your name and juror number.

7 MS. ROSE: Kayla Rose, number 148.

8 THE COURT: Okay. And who do you know?

9 MS. ROSE: Rayshawn.

10 THE COURT: Okay. The fact that you know Rayshawn Holmes
11 make it so you can't be fair and impartial to the State or
12 the Defendant?

13 MS. ROSE: I'm sorry. Could you say that again?

14 THE COURT: Would the fact that you know Rayshawn Holmes
15 make it so you can't be fair and impartial to the State or
16 the Defendant?

17 MS. ROSE: Yes, sir.

18 THE COURT: You could not be fair and impartial or you
19 can?

20 MS. ROSE: I can't.

21 THE COURT: You cannot. Okay. Any objection to this
22 witness being excused?

23 MR. DONNALD: No, Your Honor.

24 MR. DERIEG: No, Your Honor.

25 THE COURT: Thank you. Actually, she can go ahead and

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1 leave because this will be the only jury we select for the
2 day. Thank you, ma'am. Yes, sir. State your name.

3 MR. GAMBLE: Gamble.

4 THE COURT: And your juror number?

5 MR. GAMBLE: Sixty-four.

6 THE COURT: And who do you know?

7 MR. GAMBLE: Willie Chatman.

8 THE COURT: And so, you know Willie Jermaine Chatman.

9 Would the fact that you know Willie Jermaine Chatman make it
10 so that you can't be fair and impartial to the State or the
11 Defendant?

12 MR. GAMBLE: Yes.

13 THE COURT: That you cannot be fair and impartial?

14 MR. GAMBLE: No.

15 THE COURT: Thank you, sir. You can be excused from the
16 trial of this case. Continue to call back after six to see if
17 you will be needed on another case.

18 THE COURT: Yes, sir. State your name and number.

19 MR. DAVID: Willie David, number 48.

20 THE COURT: Yes, sir. Who do you know?

21 MR. DAVID: Willie Chatman.

22 THE COURT: The fact that you know Willie Jermaine
23 Chatman, would that make it so that you cannot be fair and
24 impartial to the State or the Defendant?

25 MR. DAVID: Correct, sir.

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1 THE COURT: All right. I will excuse you from the trial
2 of this case, as well. Thank you, sir. Call back after six
3 for further instructions concerning other juries.

4 Ladies and gentlemen, this is a long list of possible
5 witnesses. I've been given two lists and I haven't had an
6 opportunity to go through both of them to see if there are
7 duplicates, so I'm just going to go through the entire list
8 of both lists: Sergeant Melissa Addison, Major Larry
9 Florence; Captain Allen Dailey of the Sumter County Sheriff's
10 office, and so are the other ones I named. Lieutenant Robert
11 Burnish of the Sumter County Sheriff's office; Senior
12 Corporal Blake Weathersbee, Sumter County Sheriff's office;
13 Sergeant Rodney Ragin, of the Sumter County Sheriff's office;
14 Lieutenant Donnie Vickers of the Sumter County Sheriff's
15 office; Senior investigator, Tim Herbert of the Sumter County
16 Sheriff's office; Investigator Bobby Richardson of the Sumter
17 County Sheriff's office; Investigator Wesley Gardner, Sumter
18 County Sheriff's office; Deputy Jim Atkinson of the Sumter
19 County Sheriff's office; Deputy Deron Solomon; Senior
20 Detective John Litaker, Sumter City Police; Detective Johanna
21 Aleck, Sumter City Police; Agent Chad Smith of the State Law
22 Enforcement Division; Agent Catherine Leisy of the State Law
23 Enforcement Division; Doctor Janice E. Ross, Newberry
24 Pathology Associates; Matthew Burgess, Reliable Pawn Shop;
25 Janice Chatman; Rodney Holmes; Rondell McFadden; John

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1 Colclough; Le Deshia Dinkins; Rondel McFadden; Tamara Norton;
2 Jwain Francis; Christopher Robinson; Shakira Lawson; Kristen
3 Bryant; Shemeka Johnson; Ralph Meyers; Corie Simon and Eric
4 Davis. And Kristin Amber Bryant; Cassidy Beasley; Garrett
5 Moody; Kayla McFadden; Jay Phillips; and Corporal Windham of
6 the Sumter-Lee Regional Detention Center; Sergeant Kimberly
7 James of the Sumter-Lee Regional Detention Center; Sergeant
8 Chanae Lumpkin, Sumter-Lee Regional Detention Center; Camara
9 Jordan; Derrick Darby; John Colcough, Jr.; Pastor Gary
10 Blobaum, Emanuel Lutheran Church; Susan Keefe; Ralph Myers;
11 Charlene Moody; Shemeka Johnson; Tamara Norton or Willie
12 Walker. Is there any member of the jury panel who is related
13 by blood or marriage or has a close and personal or business
14 relationship with any of the potential witnesses in this
15 case? If so, please stand.

16 Yes, ma'am. State your name and juror number.

17 MS. ROBINSON, 147.

18 THE COURT: Okay.

19 MS. ROBINSON: Deron Solomon and Shakira Lawson.

20 THE COURT: Okay. Would the fact that you know these two
21 people who are potential witnesses in this case make it so
22 that you cannot be fair and impartial to the State or the
23 Defendant in this case?

24 MS. ROBINSON: Oh, yes.

25 THE COURT: You cannot be fair and impartial. All right.

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1 Thank you, ma'am. I will excuse you for cause on this
2 particular case. Yes, ma'am?

3 MS. LIVEN: Number 98. My name is Carmel Liven.

4 THE COURT: Yes, ma'am?

5 MS. LIVEN: Janice Chatman, we all grew up together.

6 THE COURT: Okay. So, you feel that Ms. Chatman being a
7 witness, you cannot be fair and impartial to the State or the
8 Defendant?

9 MS. LIVEN: Yes.

10 THE COURT: All right. Thank you, ma'am. I will excuse
11 you from the trial of this case. Please call back after six
12 tonight for further instructions. Yes, ma'am? What is your
13 name and number?

14 RANELL: My name is Johnnie Ranell and my number is 77
15 and Willie Walker.

16 THE COURT: All right. The fact that you know Willie
17 Walker, would that make it so you could not be fair and
18 impartial to the State or the Defendant in this case?

19 MS. RANELL: Correct.

20 THE COURT: Okay. I will excuse you for cause on this
21 particular case. Please call back after six for further
22 instructions.

23 MS. RANELL: Yes, sir.

24 THE COURT: All right, ladies and gentlemen, one of the
25 attorneys in this case is Mr. Eddie Donnalld for the State.

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1 Mr. Donnald, would you introduce yourself and your boss,
2 please.

3 MR. DONNALD: My name is Eddie Donnald. I work here in
4 Sumter County for the Third Circuit Solicitor's office.
5 Sitting beside me is Chip Finney, who is my boss and employer
6 and we will be presenting the State's case.

7 THE COURT: Thank you. Mr. Derieg, would you introduce
8 yourself and your law firm?

9 MR. DERIEG: My name is Lir Derieg. I work in the Derieg
10 Law Firm out of Columbia. I'm a part of the Richland County
11 private bar and it is my honor to represent Mr. Arsenio
12 Colclough.

13 THE COURT: Thank you. Ladies and gentlemen, has any
14 member the jury panel ever been represented by either of
15 these attorneys or related by blood or marriage or have a
16 personal or business relationship with the lawyers or the
17 firms they work with? If so, please stand. Thank you. No one
18 is standing.

19 Does any member of the jury panel know anything
20 concerning this incident that happened on April 12, 2013,
21 outside of what's been stated in this courtroom? If so,
22 please stand. Thank you. (No one stands)

23 Has any member of the jury panel formed or expressed an
24 opinion about any issue or matter that is involved with this
25 case? If so, please stand. Thank you. No one is standing.

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1 Has any member of your family, or yourself, been a
2 victim or charged with a violent crime? If so, please stand.
3 Yes ma'am, please come down and talk privately about this
4 matter. (She complies) What is your name and number?

5 MS. LONG: Cynthia Long, number 105.

6 THE COURT: Yes, ma'am?

7 MS. LONG: My credit union was robbed at gunpoint and a
8 gun was held to my face.

9 THE COURT: Yes, ma'am. Would the fact that that happened
10 make it so that you can't be fair and impartial?

11 MS. LONG: No.

12 THE COURT: Thank you, ma'am. You may return to your
13 seat. This juror will stay on the panel.

14 MR. BRADLEY: Your Honor, Mr. Witherspoon.

15 THE COURT: Mr. Witherspoon, come forward, please. Number
16 179. Yes, sir?

17 MR. WITHERSPOON: My cousin was murdered out on Westwood
18 Road, Mr. Titus.

19 THE COURT: The fact that you had a cousin who was
20 murdered, would that make it where you couldn't be fair and
21 impartial to the State or the Defendant in this case?

22 MR. WITHERSPOON: I can be fair.

23 THE COURT: You could be fair and impartial and listen to
24 the testimony and make your decision based on that evidence?

25 MR. WITHERSPOON: Yes, sir.

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1 THE COURT: Thank you. Have a seat.

2 MR. BRADLEY: Your Honor, number 44, Ida Davis.

3 THE COURT: Good morning. Yes, ma'am?

4 MS. DAVIS: I had a sister who was murdered in '87.

5 THE COURT: Would the fact that you had a sister who was
6 murdered back in 1987 make it where you could not be fair or
7 impartial to the State or the Defense?

8 MS. DAVIS: No.

9 THE COURT: You can be fair and impartial?

10 MS. DAVIS: Yes.

11 THE COURT: All right. Thank you, ma'am.

12 MR. BRADLEY: Number 132, Ms. Peterson, Your Honor.

13 THE COURT: Come forward, please. Good morning.

14 MS. PETERSON: Morning.

15 THE COURT: Yes, ma'am?

16 MS. PETERSON: My sister was murdered by her husband.
17 He's still in jail.

18 THE COURT: All right. The fact that that happened to
19 your sister, would that make it so you couldn't be fair or
20 impartial to the State or the Defendant?

21 MS. PETERSON: No.

22 THE COURT: Okay. Very good. Thank you.

23 Is there any member of the jury panel that knows of any
24 bias or prejudice toward either the State or the Defendant in
25 this case? If so, please stand. Thank you, no one is

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1 standing.

2 Is there any member of the jury panel who was also a
3 member of the grand jury that indicted this case? If so,
4 please stand. Thank you, no one is standing.

5 Is there any member of the jury panel who is a member or
6 a contributor to any group which has as its primary concern
7 the promotion of law enforcement or victims rights? These
8 groups would include, but are certainly not limited to;
9 Mothers Against Drunk Drivers, Students Against Drunk Drivers
10 or Citizens Against Violent Crime. If so, please stand.
11 Thank you, no one is standing.

12 Does any member the jury panel know of any reason,
13 whatsoever, why he or she should not serve as a juror in this
14 case with particular emphasis being placed on your ability to
15 be fair and impartial to both the State and the Defendant?
16 If so, please stand. Yes, ma'am, come forward. What's your
17 name and number?

18 MS. DAIS: Number 182, Your Honor.

19 THE COURT: Yes, ma'am?

20 MS. DAIS: I have a nine-month old.

21 THE COURT: Why didn't you say that earlier?

22 MS. DAIS: I didn't know I was going to come up here.

23 THE COURT: You are with the child all day?

24 MS. DAIS: Yes, sir.

25 THE COURT: Juror is excused. She could have been excused

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1 earlier. She has a nine-month old. Does the State have
2 additional questions they would like for me to ask?

3 MR. DONNALD: No, Your Honor.

4 THE COURT: Does the Defense have any additional
5 questions they would like me to ask?

6 MR. DERIEG: None, Your Honor.

7 JURY SELECTION

8 THE COURT: All right. Very well. Well, ladies and
9 gentlemen, what is going to happen now is the computer is
10 going to run a list of potential jurors. When your name is
11 called, please come and stand in front of the podium. The
12 State and the Defense will then have an opportunity to strike
13 you. Please do not take it personally if you are stricken
14 from being a juror in this case. Each side has a particular
15 idea of what they think would be an optimal jury, so if you
16 do not get selected, maybe you will get an opportunity to
17 serve on a jury this week. We will select 12 primary jurors
18 and two alternates. You may proceed.

19 MR. BRADLEY: Thank you, sir. Ladies and gentlemen, when
20 your name is called, come and stand in front of the podium
21 and face the back of the courtroom, please. Juror #12, Blaine
22 Bjorken.

23 (Whereupon, Blaine Bjorken, a white male, comes forward)

24 MR. BRADLEY: I'm sorry. And bring any personal
25 belongings with you that you may have.

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1 MR. BRADLEY: What sayeth the State?

2 MR. DONNALD: Please present Mr. Bjorken.

3 MR. BRADLEY: What sayeth the Defendant?

4 MR. DERIEG: Please seat Mr. Bjorken.

5 MR. BRADLEY: Have a seat in the jury box, please, sir.

6 Juror #173, Edward Wellborn.

7 (Whereupon, Edward Wellborn, a white male, comes forward)

8 MR. BRADLEY: What sayeth the State?

9 MR. DONNALD: Please present Mr. Wellborn.

10 MR. BRADLEY: What sayeth the Defendant?

11 MR. DERIEG: Please excuse Mr. Wellborn.

12 MR. BRADLEY: Have a seat back in the panel, please, sir.

13 Juror #44, Ida Davis.

14 (Whereupon, Ida Davis, a black female comes forward)

15 MR. BRADLEY: What sayeth the State?

16 MR. DONNALD: Please present Ms. Davis.

17 MR. BRADLEY: What sayeth the Defendant?

18 MR. DERIEG: Please excuse Ms. Davis.

19 MR. BRADLEY: Have a seat back in the panel. You've been
20 excused from this trial, please, ma'am. Juror #159, Qanard
21 Singleton.

22 (Whereupon, Qanard Singleton, a black male, comes forward)

23 MR. BRADLEY: What sayeth the State?

24 MR. DONNALD: Please present Mr. Singleton.

25 MR. BRADLEY: What sayeth the Defendant?

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1 MR. DERIEG: Please seat Mr. Singleton.

2 MR. BRADLEY: Have a seat in the jury box, please, sir.

3 Juror #10, Franklin Benjamin.

4 (Whereupon, Franklin Benjamin, a black male, comes forward)

5 MR. BRADLEY: What sayeth the State?

6 MR. DONNARD: Please present Mr. Benjamin.

7 MR. BRADLEY: What sayeth the Defendant?

8 MR. DERIEG: Please seat Mr. Benjamin.

9 MR. BRADLEY: Have a seat in the jury box, please, sir.

10 Juror #37, Doris Choice-Workman.

11 (Whereupon, Doris Choice-Workman, a black female comes
12 forward)

13 MR. BRADLEY: What sayeth the State?

14 MR. DONNARD: Please present Ms. Choice-Workman.

15 MR. BRADLEY: What sayeth the Defendant?

16 MR. DERIEG: Please seat Ms. Choice-Workman.

17 MR. BRADLEY: Have a seat in the jury box, please, ma'am.

18 Juror #40, Jonathan Couthen.

19 (Whereupon, Jonathan Couthen, a black male, comes forward)

20 MR. BRADLEY: What sayeth the State?

21 MR. DONNARD: Please present Mr. Couthen.

22 MR. BRADLEY: What sayeth the Defendant?

23 MR. DERIEG: Please seat Mr. Couthen.

24 MR. BRADLEY: Have a seat in the jury box, please, sir.

25 Juror #42, Laura Curtis.

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1 (Whereupon, Laura Curtis, a white female, comes forward)

2 MR. BRADLEY: What sayeth the State?

3 MR. DONNALD: Please present Ms. Curtis.

4 MR. BRADLEY: What sayeth the Defendant?

5 MR. DERIEG: Please seat Ms. Curtis.

6 MR. BRADLEY: Have a seat in the jury box, please, ma'am.

7 Juror #117, Melody McLeod.

8 (Whereupon, Melody McLeod, a white female, comes forward)

9 MR. BRADLEY: What sayeth the State?

10 MR. DONNALD: Please present Ms. McLeod.

11 MR. BRADLEY: What sayeth the Defendant?

12 MR. DERIEG: Please seat Ms. McLeod.

13 MR. BRADLEY: Have a seat in the jury box, please, ma'am.

14 Juror #76, Tammie Grimsley.

15 (Whereupon, Tammie Grimsley, a white female comes forward)

16 MR. BRADLEY: What sayeth the State?

17 MR. DONNALD: Please present Ms. Grimsley.

18 MR. BRADLEY: What sayeth the Defendant?

19 MR. DERIEG: Please excuse Ms. Grimsley.

20 MR. BRADLEY: Have a seat back with the jury panel,
21 please, ma'am. You've been excused from this trial, ma'am.

22 Juror #49, Gener Dizon.

23 (Whereupon, Gena Dizon, an Asian male, comes forward)

24 MR. BRADLEY: What sayeth the State?

25 MR. DONNALD: Please present Mr. Dizon.

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1 MR. BRADLEY: What sayeth the Defendant?

2 MR. DERIEG: Please excuse Mr. Dizon.

3 MR. BRADLEY: Have a seat back with the jury panel,
4 please, sir. You've been excused from this trial, sir. Juror
5 #82, Johnny Harrison.

6 (Whereupon, Johnny Harrison, a black male, comes forward)

7 MR. BRADLEY: What sayeth the State?

8 MR. DONNARD: Please present Mr. Harrison.

9 MR. BRADLEY: What sayeth the Defendant?

10 MR. DERIEG: Please seat Mr. Harrison.

11 MR. BRADLEY: Have a seat in the jury box, please, sir.
12 Juror #46, Patrick Diamond.

13 (Whereupon, Patrick Diamond, a white male, comes forward)

14 MR. BRADLEY: What sayeth the State?

15 MR. DONNARD: Please present Mr. Diamond.

16 MR. BRADLEY: What sayeth the Defendant?

17 MR. DERIEG: Please seat Mr. Diamond.

18 MR. BRADLEY: Have a seat in the jury box, please, sir.
19 Juror #169, Richard Timmons, II.

20 (Whereupon, Richard Timmons, II, a white male comes forward)

21 MR. BRADLEY: What sayeth the State?

22 MR. DONNARD: Please present Mr. Timmons.

23 MR. BRADLEY: What sayeth the Defendant?

24 MR. DERIEG: Please excuse Mr. Timmons.

25 MR. BRADLEY: Have a seat back in the panel. You've been

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1 excused from this trial, please, sir. Juror #105, Cynthia
2 Long.

3 (Whereupon, Cynthia Long, a white female, comes forward)

4 MR. BRADLEY: What sayeth the State?

5 MR. DONNALD: Please present Ms. Long.

6 MR. BRADLEY: What sayeth the Defendant?

7 MR. DERIEG: Please seat Ms. Long.

8 MR. BRADLEY: Have a seat in the jury box, please, ma'am.
9 Juror #155, Regina Service.

10 (Whereupon, Regina Service, a black female comes forward).

11 MR. BRADLEY: What sayeth the State?

12 MR. DONNALD: Please present Ms. Service.

13 MR. BRADLEY: What sayeth the Defendant?

14 MR. DERIEG: Please seat Ms. Service.

15 MR. BRADLEY: Have a seat in the jury box, please, ma'am.
16 Juror #143, Tammy Ridgill.

17 Whereupon, Tammy Ridgill, a white female comes forward)

18 MR. BRADLEY: What sayeth the State?

19 MR. DONNALD: Please present Ms. Ridgill.

20 MR. BRADLEY: What sayeth the Defendant?

21 MR. DERIEG: Please seat Ms. Ridgill.

22 MR. BRADLEY: Have a seat in the jury box, please, ma'am.

23 First alternate Juror. Juror #96, Tabatha Kirby.

24 (Whereupon, Tabitha Kirby, a female comes forward)

25 MR. BRADLEY: What sayeth the State?

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1 MR. DONNALD: Please present Ms. Kirby.

2 MR. BRADLEY: What sayeth the Defendant?

3 MR. DERIEG: Please seat Ms. Kirby.

4 MR. BRADLEY: Have a seat in the jury box, please, ma'am.
5 Second alternate juror, #6, Veronica Barker.

6 (Whereupon, Veronica Barker, a black female, comes forward)

7 MR. BRADLEY: What sayeth the State?

8 MR. DONNALD: Please excuse Ms. Barker from the trial of
9 this case.

10 MR. BRADLEY: Have a seat back in the jury panel. You've
11 been excused from this trial, please, ma'am. Juror #166,
12 Kevin Taffe, Junior.

13 (Whereupon, Kevin Taffe, a black male, comes forward)

14 MR. BRADLEY: Any reason for cause from the State?

15 MR. DONNALD: Please present Mr. Taffe.

16 MR. BRADLEY: What say the Defendant?

17 MR. DERIEG: Please seat Mr. Taffe.

18 MR. BRADLEY: Have a seat in the jury box, please, sir.

19 THE COURT: All right, Mr. Bradley. If you would please
20 call the roll of the jury.

21 MR. BRADLEY: Yes, sir, Your Honor. Ladies and gentlemen
22 of the jury, when I call your name, please raise your right
23 hand: Blaine Bjorken, Qanard Singleton, Franklin Benjamin,
24 Doris Choice-Workman, Jonathan Couthen, Laura Curtis, Melody
25 McLeod, Johnny Harrison, Patrick Diamond, Cynthia Long,

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1 Regina Service, Tammy Ridgill, Tabitha Kirby, Kevin Taffe,
2 Jr. Thank you. (Jurors all complied by raising their right
3 hands)

4 THE COURT: Thank you, Ladies and gentlemen. Y'all have
5 been selected as jurors for this case. I'm going to send you
6 back in the jury room for just a few minutes as I speak with
7 the attorneys and the rest of the jurors. While you are back
8 there, you can decide amongst yourselves, from the twelve
9 primary jurors, who you want to be the foreperson of your
10 jury. The foreperson will be responsible, will be the leader
11 during the deliberations, and will be the jury spokesperson
12 here in court. Like I said earlier, only members of the
13 primary group can serve as foreperson. So, ladies and
14 gentlemen, go back to the jury room for just a few minutes
15 and then I will bring you back out here and I will dismiss
16 you for lunch.

17 (Jury out at 11:43 AM)

18 THE COURT: Are there any objections or exceptions to the
19 jury as they have been selected or in the manner in which
20 they have been selected, from the state?

21 SOLICITOR: Beg the Court's indulgence just a moment,
22 please, Your Honor. (Speaks to someone sitting behind the
23 Solicitor's table) Judge, I don't have a motion.

24 MR. DERIEG: I have no objection, Your Honor.

25 THE COURT: All right. Ladies and gentlemen of the jury,

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1 the rest of you who have not been selected may have an
2 opportunity to be selected later this week. It's doubtful,
3 though. I will tell you that you're off for the rest of the
4 day, so have a nice afternoon and call back after 6:00. Thank
5 you.

6 (Jury panel released at 11:45 a.m.)

7 (Brief bench conference off the record)

8 THE COURT: Bring us the jury, please.

9 (Jury in at 11:48 a.m.)

10 MR. BRADLEY: Ms. Long is the foreperson.

11 THE COURT: Ms. Long, thank you for taking on the
12 responsibility for being the foreperson of this jury. Ladies
13 and gentlemen, let me thank you again for taking on this
14 responsibility. What I'm going to do now, I am going to dismiss
15 you until 3 o'clock. It will be a long lunch. If you could do
16 me a favor, please don't go out and tell everybody you see
17 that you are a juror in this case. The reason for that is
18 that people you talk to are invariably going to tell you,
19 "You know, I was on a jury one time and this is what happened
20 on my jury." Well, you don't need to hear that. You need to
21 be only concerned with what happens in this particular case.
22 So, ladies and gentlemen, you're dismissed until 3 o'clock
23 and the bailiffs will show you where you need to meet and
24 then at 3 o'clock, we will begin the trial. Thank you, ladies
25 and gentlemen. And also, I tell jurors, don't eat too heavy

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1 of a lunch. Jurors tend to get sleepy in the afternoon and I
2 had one juror whose head was nodding and I had the whole jury
3 stand up and that juror stayed there sound asleep. You don't
4 want to do that. Have a light lunch. Thank you, ladies and
5 gentlemen, we will see you at three.

6 (Jury out at 11:50 AM)

7 THE COURT: All right, gentlemen, I'll see you back here
8 at 1:30 and we will begin our pre-trial motions.

9 MARCH 21, 2016 - AFTERNOON

10 PRE-TRIAL MOTIONS

11 THE COURT: Mr. Donnald.

12 MR. DONNARD: Your Honor, the State is ready to proceed
13 with the pre-trial hearings on 2014-0896, which is The State
14 of South Carolina versus Arsenio Colclough. There are some
15 statements by Mr. Colclough that the State wishes to present,
16 therefore, we would ask the Court to conduct the necessary
17 hearing pursuant to Jackson versus Denno. I would call
18 Melissa Addison for the purposes of that as she took the
19 statement. She is actually right outside the courtroom.

20 THE COURT: Okay.

21 MR. DONNARD: Since she's outside the courtroom, I
22 thought it would be a good time and I have Rodney Holmes who
23 is on my witness list, but is the father of one of the
24 victims of this incident, and I also have Janice Chatman who
25 is the mother of one of the victims of this incident. I

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1 anticipate them testifying immediately upon the call of the
2 case, but I wanted to entertain -- I asked Mr. Derieg if he
3 intended to make a motion to sequester. He says that he does
4 and so I would like to get some ground rules on that before
5 we start the pre-trial hearing.

6 THE COURT: They are victims and therefore I am going to
7 allow them to stay in the courtroom.

8 MR. DONNALD: Yes, sir.

9 THE COURT: That's how I've done on every case that I've
10 had on this. The actual parents of the victims will be
11 allowed to stay in the courtroom.

12 MR. DONNALD: I assume that any other family members that
13 may wish to be considered as a witness at a later portion of
14 the trial needs to be sequestered?

15 THE COURT: They need to be outside, yes, sir.

16 MR. DONNALD: So, family members in the courtroom during
17 the hearings will not be able to testify at a later time?

18 THE COURT: That's correct.

19 MR. DONNALD: Okay. Melissa Addison has just come in. She
20 is my chief investigator and so I would ask that she be able
21 to remain in the courtroom.

22 THE COURT: She will be allowed to remain in the
23 courtroom.

24 MR. DONNALD: And I would make a counter motion that any
25 of Mr. Colclough's witnesses, other than family members, be

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1 sequestered from the courtroom.

2 THE COURT: All right. Mr. Derieg?

3 MR. DERIEG: Your Honor, I won't have any problem with
4 that other than my private investigator, Mr. Jay Phillips. He
5 will be here for certain portions of the trial and I believe
6 since they get their investigator, we get to have our
7 investigator sit with us, as well.

8 THE COURT: Any objection to that?

9 MR. DONNALD: No objection, Your Honor.

10 THE COURT: All right. Very well.

11 JACKSON V DENNO HEARING

12 THE COURT: Mr. Donald, you may call your first witness.

13 MR. DONNALD: Yes, sir, Your Honor. Pursuant to
14 Jackson v. Denno, we call Melissa Addison to the stand.

15 (After being duly sworn by Mr. Bradley, Sergeant Melissa
16 Addison testified as follows:)

17 MR. BRADLEY: State your full name and spell your last
18 name for the record.

19 SERGEANT ADDISON: Melissa Addison. A-D-D-I-S-O-N.

20 THE COURT: All right. You may proceed.

21 MR. DONNALD: Thank you, Your Honor.

22 DIRECT EXAMINATION

23 BY MR. DONNALD:

24 Q. Ms. Addison, tell the Court who you are and for the
25 record, what you do and what your ranking is.

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1 A. Again, I'm Melissa Addison and I work at the Sumter
2 County Sheriff's office. I am currently in a
3 professional standards department as a grant writer and
4 I am a lieutenant with the Sheriff's office at this
5 time.

6 Q. Back in 2013, what was your ranking and what were your
7 duties in 2013?

8 A. In 2013, I was a sergeant in investigations, criminal
9 investigations, for the Sheriff's department. My duties
10 included assigning various cases that came through our
11 jurisdiction for follow-up and I also investigated and
12 followed up cases, as well, to include any type of
13 cases; murders, crimes against persons, sexual assaults,
14 property crimes, et cetera.

15 Q. Were you assigned during that time period to the case of
16 State versus Arsenio Colclough?

17 A. Yes, I was.

18 Q. Actually, I guess you made the case of State against
19 Arsenio Colclough because you effected the arrest on
20 Arsenio Colclough. Is that right?

21 A. Yes, sir, I did.

22 Q. Prior to that there was a death investigation of Willie
23 Chatman and Rayshawn Holmes. Is that right?

24 A. That's right.

25 Q. Now, pursuant to your investigation, did you take a

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1 statement from Arsenio Colclough?

2 A. I actually interviewed Arsenio Colclough. No written
3 statement.

4 Q. Okay. Did you secure what's commonly known as Miranda, a
5 Miranda Waiver Sheet from Mr. Colclough?

6 A. Yes, I did.

7 Q. Ms. Addison, I'm going to show you what's been
8 previously marked as State's Exhibit #1.

9 MR. DONNALD: And Your Honor, would you prefer it be a
10 State's exhibit or a Court's exhibit at this point?

11 THE COURT: Let's make it a Court's exhibit.

12 MR. DONNALD: Okay. Then, I'll ask to have it marked as a
13 Court's exhibit.

14 Q. Ms. Addison, I'm showing you what's been marked as
15 Court's Exhibit #1. Can you identify that for the Court,
16 please?

17 A. Yes, sir. This is the Sumter County Sheriff's office's
18 Miranda Waiver Form.

19 Q. And that consists of how many pages?

20 A. It looks like -- well, actually, it's one page, but the
21 second page is a consent form for a sample.

22 Q. Okay. Now, when was that administered to Mr. Colclough?

23 A. The Miranda was administered on October 1st of 2013.

24 Q. October the 1st?

25 A. Yes, sir.

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1 Q. Did you at any time take a statement from Mr. Colclough?

2 A. Not a written statement, no.

3 Q. But did you have an interview with him?

4 A. Yes, sir.

5 Q. Okay. When was the interview that you conducted with Mr.
6 Colclough?

7 A. The interview was on that day, the day that the Miranda
8 was read and also the day that he was arrested, as well.
9 It was a date prior -- or -- no, this is it. I'm sorry.
10 Court's indulgence.

11 Q. Actually, I couldn't understand that last part. Could
12 you say it again?

13 A. I was trying to recall. Actually, I met with him twice,
14 but this was when, I believe, he was arrested on this
15 day. I believe.

16 Q. Okay. Did you take notes of the interview times that you
17 did with him regarding when you would have interviewed
18 him and when you would have talked with him? Do you keep
19 notes on that sort of thing?

20 A. I do keep some notes, yes.

21 Q. Did you prepare an investigative summary for the
22 Solicitor's office?

23 A. Yes, I did.

24 Q. Would it help to refresh your memory if you were to look
25 at that, just as far as times and dates and when he was

1 arrested and when he was Mirandized and when he was
2 interviewed?

3 A. Yes.

4 Q. Then, I'd ask the Court to allow you to look at page, I
5 believe it's page eight of your summary concerning your
6 interviews with Mr. Colclough.

7 A. Yes, sir. It looks like it was on October 1st.

8 Q. Okay. So, you interviewed him on October the 1st. Did
9 you talk to him on September the 18th?

10 A. Court's indulgence. Yes, sir. I did.

11 Q. Okay. And do you recall where you talked to him at that
12 time?

13 A. Yes, sir. On both occasions, I spoke with him at the
14 Sumter County Sheriff's office located on North Main
15 Street.

16 Q. Okay.

17 Mr. DONNALD: Your Honor, I have started playing the
18 video. I have hit the laptop PGA here. (Having trouble
19 playing the video)

20 THE COURT: I have it approved for all. Are you on HDMI?

21 MR. DONNALD: I'm on HDMI, Judge. It's giving me a status
22 of acceptance. I don't know why ---

23 THE COURT: I'm showing one that's approved, too.

24 MR. DONNALD: There it is.

25 THE COURT: Here we go.

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1 Q. All right. Now, that's playing and there is only one
2 person sitting there. It says, September 18, 2013. Can
3 you see it on your screen?

4 A. This is not on.

5 Q. Can you see it on your screen?

6 A. No, sir.

7 THE COURT: It's not on mine, either.

8 (Mr. Donnald fixes witness' screen)

9 A. I see it now.

10 Q. It's just sitting here running, but I have the sound cut
11 off on my computer, so it's not playing any audio. What
12 is the date that shows on that video?

13 A. September 18th.

14 Q. 2013?

15 A. 2013.

16 Q. Tell the Court what room is that.

17 A. That's one of the interview rooms at the Sheriff's
18 office in the investigations division.

19 Q. Okay. And do you recognize who that is or do you
20 remember who that is sitting at the table?

21 A. Yes. Arsenio Colclough.

22 Q. All right. Now, was he under arrest at that time?

23 A. He was.

24 Q. What was he under arrest for?

25 A. He was under arrest for a charge, I believe it was a

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1 larceny charge involving April Johnson. I think it was
2 also for a contempt of court charge, I believe.

3 Q. Can you tell the Court why Mr. Colclough was sitting at
4 the table there that day?

5 A. Why he's sitting at the table like that?

6 Q. Uh-huh.

7 A. Because he was under arrest.

8 Q. Okay. What does it indicate that he was in the interview
9 room?

10 A. I'm sorry?

11 Q. What does it mean that he was sitting in an interview
12 room being recorded?

13 A. That he was about to be interviewed and he was
14 interviewed.

15 Q. Okay. Now, I'm skipping ahead just a little. (On video)
16 Another individual comes into the room. Can you tell me
17 who that individual is?

18 A. That's Investigator Wesley Gardner.

19 Q. Okay. Did y'all interview Mr. Colclough together?

20 A. Yes, we did.

21 Q. Now, this interview, when is the last time you watched
22 this recording of this interview?

23 A. Today.

24 Q. This morning?

25 A. Yes.

1 Q. On my computer in my office. Is that correct?

2 A. Yes.

3 Q. Who is that that just came into the room?

4 A. That was me.

5 Q. Okay. (Plays a part of the video)

6 MR. DONNARD: Can you hear that, at all, Your Honor?

7 THE COURT: I can. I have to listen carefully.

8 Q. Ms. Addison, I'm going to stop it there because this
9 interview goes on for about an hour. Is that right?

10 A. I'm not sure. Possibly.

11 Q. Well, you don't dispute that it went on for about an
12 hour? In fact, it went from 10:00 on 9/18 in the morning
13 to 10:51:27. That's what the video, itself, says. Right?

14 A. That's what it appears to be, yes, sir.

15 Q. Okay. If that's what the date says on there, you can
16 take it for that's what it is. Right?

17 A. Right.

18 Q. Those rooms, do they automatically record at the
19 Sheriff's office?

20 A. They do.

21 Q. Now, was Mr. Colclough -- you stated he was under
22 arrest. Was he free to leave at the time that interview
23 was taken?

24 A. No, he was not.

25 Q. Was he Mirandized for that interview?

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1 A. I believe he was Mirandized for that interview.

2 Q. Okay. But the Miranda sheet was for a different day?

3 A. It was.

4 Q. Okay. Now, what are the Miranda warnings you would have
5 given to him on that day?

6 A. It would have been the same as this one that's on the
7 sheet.

8 Q. Okay. Now, you watched this video again this morning.
9 Correct?

10 A. Yes.

11 Q. Did he tell you anything useful on this video or during
12 this interview with regard to the murders that happened
13 out on Confederate Drive?

14 A. No. No, not really.

15 Q. But that's not the only time you interviewed him. Is
16 that right?

17 A. That's right.

18 Q. Okay. When else did you interview him?

19 A. He was also interviewed on the date of his arrest, which
20 was October 1, 2013.

21 Q. The date of his arrest for this charge?

22 A. For this charge. Correct.

23 Q. Was he Mirandized on that date?

24 A. He was.

25 Q. Is that the Miranda form that you have in front of you?

1 A. Yes.

2 Q. Was an interview done with regard to that arrest?

3 A. It was.

4 Q. Where was that interview conducted?

5 A. Conducted in one of the Sheriff's office's
6 investigations interview rooms.

7 Q. In one of these interview rooms?

8 A. Yes.

9 Q. Now, this is the tough question, is there a video of
10 that second interview?

11 A. No, there's not.

12 Q. Can you tell the Court why there is not a video of the
13 second interview?

14 A. There were some technical problems and we weren't able
15 to pull that video.

16 Q. Okay. Your incident report summarizes, does it not, the
17 interview that you had with Mr. Colclough on that second
18 date? Right?

19 A. Yes.

20 Q. I want you to tell the Court, specifically, what Mr.
21 Colclough said at the second interview with regard to a
22 gun that he knew about and John Colclough.

23 A. Okay. On that date during the interview, Investigator
24 Gardner was also, again, present and in regards to the
25 gun and John Colclough, whom he indicated was his cousin

1 who goes by the street name of "Boogaloo". At that time,
2 Mr. Colclough stated that the gun that Mr. Colclough
3 used ---

4 Q. Let me stop you right there. You just said Mr. Colclough
5 said the gun that Mr. Colclough ---

6 A. I'm sorry. I'll use first names. The Defendant, Arsenio
7 Colclough, stated during that interview that his cousin,
8 John Colclough, had actually asked and had a friend of
9 his at the time, that he stated that knew only as
10 "Coodgy"(ph), to purchase a gun. Arsenio Colclough
11 stated that John Colclough gave this "Coodgy", who I
12 later determined to be Ralph Myers, the two hundred or
13 so dollars to purchase the firearm from the Reliable
14 Pawn Shop.

15 Q. Did Mr. Arsenio Colclough state whether or not he was
16 present when the gun was purchased?

17 A. He stated that he was present.

18 Q. Arsenio Colclough stated that he, Arsenio Colclough, was
19 present when the gun was purchased?

20 A. Yes, sir. He did.

21 Q. From Reliable Pawn Shop?

22 A. Correct.

23 Q. All right. Did he say anything else that was
24 incriminating against him in the second interview?

25 A. You stated, incriminating. You mean in regards to ---

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1 Q. In regards to ---

2 A. Where he was that night?

3 Q. Yes.

4 A. He did state about where he was that night. He indicated
5 that on the night of the murders he was at the El
6 Cheapo's. He termed it "Westside" and termed it to be
7 El Cheapo's on Guillard. He stated he was standing on
8 the outside and two unknown white females approached
9 him. He indicated he didn't know who they were. He
10 stated that he and the unknown white girls got together
11 and they left and went to a club and then later on he
12 stated he went back and was picked up by his then
13 girlfriend, Shemeka Johnson, and he went back to her
14 residence.

15 Q. Okay. Now, the purpose of this hearing isn't necessarily
16 to get everything he told you. It's just to determine
17 whether or not what he told you was voluntary. So, with
18 regard to the second statement that is not recorded that
19 happened at the Sheriff's office, is that the one that
20 you have the Miranda form for?

21 A. Yes, it is.

22 Q. Okay. And was he mirandized for the second statement?

23 A. Yes, he was.

24 Q. Can you read the Miranda warning for the Court?

25 A. Yes. "You have the right to remain silent. Anything you

1 say can and will be used against you in a court of law.
2 You have a right to talk to an attorney and have him or
3 her present while you are being questioned. If you
4 cannot afford to hire an attorney, one will appointed to
5 represent you before any questioning if you wish. You
6 can decide at any time to exercise these rights and not
7 answer any questions or make any statements." And it
8 goes on to say that each of these rights which I have
9 been read and explained by -- and there's a spot there
10 for whoever is reading it and that's my name -- of the
11 Sumter County Sheriff's office. It has the time and
12 place for him to sign, or the individual to sign, and
13 then at the bottom is a waiver of rights which states:
14 having been advised of my rights and fully understanding
15 my rights I do wish to answer questions at this time. I
16 do not wish to have an attorney present. My decision to
17 answer questions now without an attorney is made freely,
18 of my own choice, and no one has threatened or promised
19 me anything.

20 Q. And whose signatures appear on that document?

21 A. The signature is Arsenio Colclough, also initialed one
22 through five. Arsenio Colclough, my signature as a
23 witness and also Investigator Wesley Gardner, witness.

24 Q. When you say, as a witness, did you watch Arsenio
25 Colclough sign that document?

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1 A. Yes, sir, I did.

2 Q. And it was this Arsenio Colclough that is sitting at the
3 defense table that signed that document?

4 A. Yes, it is.

5 Q. He was in custody at the time. He couldn't leave?

6 A. No, he could not.

7 Q. Okay.

8 MR. DONNALD: Your Honor, that's all the questions that I
9 have with regard to the Denno hearing.

10 THE COURT: Mr. Derieg?

11 MR. DERIEG: Just very briefly, Your Honor.

12 CROSS EXAMINATION

13 BY MR. DERIEG:

14 Q. This video that he just played on the screen, Ms.
15 Addison -- is it sergeant or lieutenant?

16 A. Lieutenant, now.

17 Q. Lieutenant. Congratulations.

18 A. Thank you.

19 Q. Lieutenant Addison, when did you turn over the video
20 that just played on the screen to the Solicitor's
21 office?

22 A. I'm not exactly sure about the date. It was recently,
23 but I'm not sure exactly when I turned it in.

24 Q. It was recently?

25 A. Yes, it was.

1 Q. And would it have been within the last month, last two
2 months?

3 A. It could have been.

4 Q. And again, this happened on September 18, 2013?

5 A. Yes.

6 Q. Why wasn't it turned over to Mr. Donnald until just
7 recently?

8 MR. DONNALD: Your Honor, I don't believe that goes to
9 whether or not it was voluntary.

10 THE COURT: I'm curious.

11 MR. DONNALD: Yes, sir.

12 THE COURT: Go ahead.

13 A. I actually thought that I had given him a copy. When I
14 went back to check, I hadn't, so...

15 Q. And if you look at your incident report on page six, or
16 your investigative report on page six, that's where it
17 talks about September 18, 2013. That's where you write
18 down September 28, 2013 in the investigative report.
19 Right?

20 A. Yes.

21 Q. What, about the interview that we just watched make it
22 into your investigative report?

23 A. What about that?

24 Q. Yes, ma'am.

25 A. Court's indulgence. (Looks at document) I was reading

1 over the first to see if I put it in there, but I would
2 have to read it in its entirety to see if I put it in
3 there, but I don't have it on there for the 18th.

4 Q. Okay. And in that interview that we just watched, he
5 repeated over and over again that he didn't have any
6 knowledge about the murder and he didn't have any
7 involvement about the murder.

8 A. Right.

9 Q. But that never made it into your report?

10 A. It did make it into my report that he denied
11 involvement.

12 Q. On the 18th?

13 A. I said it wasn't on the 18th. I'd have to read it in its
14 entirety to see where it is, but that's indicated in
15 that.

16 Q. Is there any way that we can agree that the interview
17 that we just watched, the contents of that interview
18 didn't make it into your investigative report?

19 A. Well, it may not have, but we have the interview itself
20 and the video.

21 Q. Now, what exactly happened to that second video?

22 A. There were some technical difficulties, so it didn't
23 record and so we weren't able to secure that video.

24 Q. And when did you attempt to secure that video?

25 A. After the same, on or about the same time that we did

1 the interview, afterwards, a few days or so afterwards.
2 I tried to get it, but due to technical difficulties we
3 were unable to get it. This wasn't the only case. There
4 are probably some others, as well. I'm not exactly sure
5 about the date, but I know we tried to get it, but we
6 couldn't.

7 Q. Why wasn't it gotten on October 1st after the interview?

8 A. Like I stated, I don't recall when I tried to get it. I
9 could have tried that day, but again, we weren't able to
10 for technical reasons.

11 Q. And now, are we to believe that everything that happened
12 and was said in that second interview made it into your
13 investigative report under October 1st?

14 A. Well, you can believe what you want. There was someone
15 else in there, as well, that I'm sure is going to
16 testify.

17 Q. Who is that?

18 A. Investigator Wesley Gardner.

19 Q. Isn't it true that Sheriff Dennis was in there for a
20 period of time?

21 A. He could have been in there for a period of time.

22 Q. Were you in there when Sheriff Dennis was in there?

23 A. For a part of it, yes, I was.

24 Q. Were you in there when Sheriff Dennis told Arsenio
25 Colclough that he was going to make sure that he went

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1 down for this?

2 A. No. I don't remember hearing him saying that.

3 Q. Were you in the room when he used racial slurs towards
4 Arsenio Colclough?

5 A. No, I was not.

6 Q. Do you have a Miranda form from September 18th?

7 A. No, I don't.

8 Q. Why not?

9 A. Because I didn't get his Miranda. I believe the person
10 that transported him gave the Miranda.

11 Q. Oh, so you are not even sure whether he was mirandized
12 on the 18th?

13 A. I asked the individual and I was told he was mirandized
14 at that time.

15 Q. And who was that that mirandized him?

16 A. I'm going to have to look at my notes. Whoever did the
17 transportation, I was told, mirandized him.

18 Q. Well, in terms of the voluntariness of the
19 statements/confessions, it's pretty important to know
20 who did the mirandizing. Correct?

21 A. Correct.

22 Q. So, would you be able to supply us with that name?

23 A. Yes. Again, sir -- well, I believe it was Lieutenant
24 Brown.

25 Q. He would have mirandized him in the transport vehicle on

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1 the way to the interview room?

2 A. That's what I believe.

3 Q. So, he wasn't mirandized on October 1st -- or he wasn't
4 mirandized on October the 1st in the transport vehicle
5 on the way to the interview room?

6 A. I provided his Miranda on the 1st.

7 Q. I'm just trying to figure out why on the 18th he gets
8 mirandized in a transport van and on the 1st he gets
9 mirandized on a form when we're looking at September the
10 18th where he's adamantly denying being involved in it
11 over and over and over again and then October 1st, we
12 have your statement that he said that he was there when
13 the murder weapon was purchased.

14 A. Well, he did deny his involvement as far as the murder
15 was concerned. He just indicated that the weapon that
16 was in question regarding John Colclough, that he was
17 present for that when I asked him that particular
18 question.

19 Q. I'm just trying to figure out why there was a different
20 method of mirandizing Mr. Colclough on September the
21 18th and then on October the 1st.

22 A. I wouldn't say that it was a different method. What I am
23 saying is that I didn't mirandize him on the 18th.
24 Someone else mirandized him on the 18th.

25 Q. Is it a normal department policy for the interviewer not

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1 to mirandize the subject when he's been mirandized in a
2 transport van?

3 A. First, it wasn't a transport van. It was a vehicle and
4 secondly, we work together as a team. When someone tells
5 me when I ask someone if he has been mirandized and they
6 say yes in regards to that, then that's not anything
7 that is policy-wise that states that you have to do that
8 at this point.

9 Mr. DERIEG: Court's indulgence for just a moment, Your
10 Honor.

11 THE COURT: Yes, sir.

12 Q. When was the September the 18th video retrieved or
13 collected?

14 A. I'm not sure what day it was retrieved or collected. I
15 just collected it. I'm not sure. It's only, they only
16 are available for a certain amount of time and so it
17 would have had to have been within ten to fifteen days
18 after when it was recorded or it becomes unavailable
19 unless there were some technical problems. So, it's not
20 that I went back, like, last month.

21 Q. So, when you finally decided to turn over this tape that
22 we just watched to the Solicitor's office wasn't when
23 you went and actually retrieved the tape?

24 A. I'm sorry. I don't understand the question.

25 Q. Let me re-phrase that then. Did you retrieve the tape,

1 roughly, about the same time that you sent it to Mr.
2 Donnald?

3 A. No.

4 Q. Is it documented anywhere when you would have retrieved
5 the September 18th video?

6 A. I don't believe so.

7 Q. The system doesn't keep track of when videos are
8 downloaded or retrieved?

9 A. I'm not sure about that. I don't do the technical side.
10 I'm not sure if it will or not. I would think that it
11 wouldn't since it only holds them for a certain amount
12 of days or time exactly when I retrieved it and so I'm
13 not sure about that question.

14 Q. So, if you don't know about the technical stuff, you're
15 not the one that actually retrieved the tape. Correct?

16 A. I was there when it was retrieved, but as far as the
17 question that you are asking, can someone go back and
18 see when it was retrieved, I don't know.

19 Q. Well, now I'm asking, since -- someone else retrieved
20 this video from September 18th. Right?

21 A. One of -- yes, someone retrieved the video for me in my
22 presence. Yes.

23 Q. And who was that?

24 A. That would have been Lieutenant Burnish.

25 Q. Lieutenant Burnish? And was it Lieutenant Burnish that

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1 attempted to retrieve the September 1st video?

2 A. Yes, sir. I believe so.

3 THE COURT: October 1st.

4 MR. DERIEG: October 1st, excuse me. Yes, sir. Thank you,
5 Your Honor.

6 A. October. Yes.

7 MR. DERIEG: That's all I have, Your Honor.

8 THE COURT: Mr. Donald, any redirect?

9 MR. DONNALD: Beg the Court's indulgence.

10 THE COURT: I'd like to see the Miranda form. (Looks at
11 document)

12 MR. DONNALD: Your Honor, I don't have any additional
13 questions for Lieutenant Addison on this issue.

14 THE COURT: All right. Thank you. You may step down.

15 MR. DONNALD: I don't have any additional witnesses, Your
16 Honor.

17 THE COURT: Mr. Derieg?

18 MR. DERIEG: Your Honor, I don't have any witnesses to
19 call, but I would make a motion at the appropriate time. Is
20 now that time?

21 THE COURT: Now, would be the appropriate time.

22 Mr. DERIEG: Thank you, Your Honor. I would move to
23 suppress this statement. You've seen the difference between
24 what was done on September the 18th and October the 1st.

25 And on September the 18th when he doesn't -- well, we

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1 have it on tape. He doesn't say anything of any interest to
2 the police department, there is no Miranda form and the video
3 shows up. And then, on October 1st he is alleged to say these
4 things that are in this investigative report and then we
5 don't have a video but we do have a Miranda form.

6 Your Honor, I think at the very least this is suspect
7 and if the State wants to put into evidence that my client
8 was present when this gun was purchased, then the man you've
9 heard, the man that Lieutenant Addison says purchased the
10 gun, Ralph Myers, is on their witness list. He can come in
11 and say Mr. Colclough was there with me.

12 THE COURT: Well, but I mean, you are not disputing that
13 he signed this Miranda form ---

14 MR. DERIEG: No, sir.

15 THE COURT: --- freely and voluntarily and that after the
16 signing of this is when he gave the statement. Correct?

17 MR. DERIEG: That he gave a statement.

18 THE COURT: Right. That goes to the credibility of the
19 officer. I mean, you can certainly cross examine the officer
20 concerning that and you may be able to damage their
21 credibility, but I don't think there is any question that the
22 statement made after this Miranda warning was made will come
23 into evidence. I don't think there is any question about
24 that. Just because it's not taped, I mean, we've had trials
25 for hundreds of years without video tape. It's nice when you

1 have it, but it doesn't preclude the case unless it's like
2 when the legislature has said on a DUI; no video, no
3 conviction. That's not the situation we have here. Is this
4 the one you are trying to get in?

5 MR. DONNALD: That's correct. I do not intend to
6 introduce anything that came out of that first interview into
7 evidence that wasn't mirandized on the record anyway. I don't
8 think there was anything -- I'm not intending to introduce
9 anything that would fall under Jackson v. Denno. I don't
10 think I'm going to introduce anything at all, but I certainly
11 don't think there is anything on there that is incriminating
12 and that would require a Jackson v. Denno analysis.

13 THE COURT: Okay. Well, I don't think there's any
14 question though that what is stated after this -- as to
15 whether the jury believes it or not or thinks it sounds fishy
16 or whatever, that's for the jury to determine, but I'm going
17 to rule at the appropriate time provided a proper foundation
18 is laid during the trial that this statement will come in or
19 the statement made after this will come into evidence.

20 MR. DONNALD: Thank you, Your Honor.

21 THE COURT: All right. Thank you.

22 MR. DONNALD: Thank you, Your Honor. As I'm sure you will
23 recall you asked Mr. Derieg and I to prepare pre-trial briefs
24 in anticipation of the trial. One of the things that Mr.
25 Derieg had indicated was that he may wish to make a motion in

1 limine regarding certain DNA evidence. The technician or the
2 scientist that did that evaluation is named Catherine Leisy.
3 She's from The South Carolina Law Enforcement Division. She's
4 outside in the anteroom. If Mr. Derieg wishes to make that
5 motion, I've had her here for the purposes that she can
6 explain the weight and meaning of her DNA report if you would
7 allow her to do so.

8 THE COURT: Mr. Derieg?

9 MR. DERIEG: That's correct, Your Honor. We will make a
10 motion in limine to suppress any DNA evidence related to the
11 red hat that was tested by law enforcement.

12 THE COURT: Tell me the story of the red hat, briefly.

13 MR. DONNALD: There was a red hat photographed at the
14 scene beside the body of one of the -- both of the deceased.
15 They were actually photographed beside each other. There was
16 some interview, some witnesses who indicated that one of Mr.
17 Arsenio Colclough's concern with regard to this case was that
18 he had left a red hat on the seat. At the preliminary hearing
19 -- let me back up one time period. For whatever reason that I
20 can't explain to you, and I wish I could, Mike Bean processed
21 this scene with the assistance of Bobby Richardson and that
22 red hat was not taken into evidence at the time. However,
23 Janice Chatman, who is the mother of Willie Chatman and is
24 seated in the courtroom ---

25 MS. CHATMAN: Rayshawn.

1 MR. DONNALD: Rayshawn. I'm sorry. She had the horrible
2 job of cleaning up this house after her son was murdered in
3 the house, took a hat that she found there into her own
4 possession and took home. When it was determined at the
5 preliminary hearing, there was some testimony regarding the
6 red hat, she came forward and said she could produce the red
7 hat. I don't think it's fungible because it is identifiable
8 and she can identify it as the hat she found on the scene and
9 as the hat that she turned into law enforcement, which was
10 then sent to SLED, was swabbed and analyzed for those
11 purposes. There is a swabbing from the hat that indicates
12 that Mr. Arsenio Colclough, along with two others, cannot be
13 excluded as donors of the DNA found on the hat and the
14 likelihood of somebody other than Arsenio, deemed the person
15 who produced that DNA, would be one in sixteen and more
16 technical than that, Ms. Leisy will have to tell you.

17 THE COURT: Let me hear some expert testimony. Let's call
18 Ms. Leisy.

19 MR. DONNALD: Your Honor, let me inquire of the Court.
20 There are two ways I can go about doing this. I need to see
21 -- it's Mr. Derieg's motion and so I need to see which way he
22 wants us to go, but I want to answer any questions you have.
23 It's my belief or interpretation that the motion in limine is
24 based primarily on the science that is behind the DNA and so
25 we will stipulate for purposes of having the technician or

1 having the scientist testify that the chain will be proven up
2 at a later point, then I can have her come in at this point
3 and testify as to ---

4 THE COURT: Yes. Mr. Derieg, is that your objection, that
5 because there was no chain or you want to see how it could be
6 in somebody else's possession when it could have been his
7 hat? Is that what your objection is?

8 MR. DERIEG: Yes, Your Honor, but specifically that it
9 was in the possession of related individuals to Mr. Colclough
10 and the DNA report says that the probability of finding an
11 unrelated person to Mr. Colclough to match whatever partial
12 DNA evidence they had, is one in sixteen out of every person,
13 out of the three billion people on earth, but when it's
14 somebody related to him it's going to be much more likely
15 that that DNA can exclude Mr. Colclough if that DNA is from
16 somebody related to him.

17 THE COURT: I don't know that it takes an expert to know
18 that. When people have common genes, the quadrillion shrinks
19 rapidly because they have, you know, common genes. The
20 purpose of putting it into evidence is to show that it was
21 his hat or could have been his hat? Isn't that still kind of
22 stretching it? I mean, I don't have a problem with the chain
23 of custody concerning the hat itself. If somebody can say
24 that was the hat that he was wearing and it's in the picture
25 and this picture was taken of the scene, I don't find that to

1 be too objectionable.

2 MR. DERIEG: And I'm not objecting to that, Your Honor.
3 I'm just objecting to any DNA testimony regarding that red
4 hat.

5 THE COURT: I would tend to go along with his motion on
6 that simply because you don't know where it was, you don't
7 know what it was stored with. It could have been brushed up
8 against some other article that might have been his and, I
9 mean, and where people were.

10 MR. DONNALD: In that case, I'd ask to call Ms. Janice
11 Chatman, because she can answer those questions.

12 THE COURT: All right. Call her. It depends on what she
13 testifies to. I still may -- If it's almost impossible for
14 whatever DNA to have been tainted, that's a different story.

15 MR. DONNALD: Thank you, Your Honor. Your Honor, the
16 State calls Ms. Janice Chatman to the stand.

17 THE COURT: All right. Come up, please.

18 (After being duly sworn by Mr. Bradley, JANICE CHATMAN
19 testified as follows:)

20 MR. BRADLEY: Please state your full name and spell your
21 last name for the record?

22 MS. CHATMAN: Janice Denise Chatman. C-H-A-T-M-A-N.

23 DIRECT EXAMINATION

24 BY MR. DONNALD:

25 Q. Good afternoon, Ms. Chatman.

1 A. Good afternoon.

2 Q. Real briefly, because the Court has already heard me
3 give a summary of what your testimony will be. Tell us
4 how you are related to this case against Arsenio
5 Colclough.

6 A. Rayshawn Holmes is my son, my only son, and Willie
7 Chatman is my nephew.

8 Q. All right. And I apologize for getting that mixed up.
9 Your name is Chatman and I got mixed up because Willie's
10 last name is Chatman, but Rayshawn Holmes is your son.
11 Correct?

12 A. Yes, sir.

13 Q. And there is no easy way to get into this, but they were
14 both shot and killed as a result of being shot. Is that
15 right?

16 A. Yes.

17 Q. Okay. Who found their bodies the night they were shot?

18 A. I did.

19 Q. You were the first person in the house?

20 A. Yes.

21 Q. And you saw them both laying there? Where were they
22 laying?

23 A. In the hallway.

24 Q. Okay. Now, who called the police?

25 A. I did.

1 Q. And when the police came, did they do an investigation
2 and, ultimately, did they leave the house?

3 A. When the police came they did their investigation and
4 they removed the bodies and then they left the house.

5 Q. Okay. Whose house was it?

6 A. Rayshawn's.

7 Q. Okay. Who cleaned up the house?

8 A. Me and my sister, Evelyn.

9 Q. As you were cleaning up the house, did you find a red
10 hat?

11 A. I found a lot of hats. Shawn was a hat person. He was
12 known to wear a lot of hats. As a matter of fact, I've
13 got them all at the house hanging up on his hat rack.

14 Q. All right. But did you, ultimately, turn a red hat over
15 to law enforcement?

16 A. Yes. Because when I had talked to law enforcement later
17 on that week, they had mentioned something about a hat
18 and so when I went home, I didn't thought about it and I
19 was in my bed sleep and when I woke up that morning, it
20 dawned on me that I did have a red hat that I got out at
21 Rayshawn's house and it was hanging on his hat rack.

22 Q. Do you recall from the incident scene that night where
23 that red hat was laying?

24 A. I think it was on the floor. You know, everything
25 happened so fast that night and being that it was my

1 son, it was just like really traumatic. I can't hardly
2 remember exactly where I got the hat from, but I know I
3 got it out of the house and I know I had it hanging up
4 on his hat rack among his other hats. (Witness stopped
5 her testimony, Mr. Donald walked away, and then she
6 began again) One of the ---

7 THE COURT: Hold on, ma'am.

8 MS. CHATMAN: Oh, okay.

9 MR. DONNARD: Beg the Court's indulgence.

10 THE COURT: Yes.

11 Q. Ms. Chatman. (Opens a paper bag)

12 A. Yes.

13 Q. Ms. Chatman, I'm showing you what has been marked as
14 Court's Exhibit #2.

15 A. That's the hat.

16 Q. When you say, "that's the hat", tell me what you mean by
17 that.

18 A. That's the hat. Can I touch it? Because there's also
19 something else on the bottom of it that shows that it's
20 the same hat that I had in my house.

21 Q. You certainly may hold it.

22 A. This right here.

23 Q. Tell us what you are talking about.

24 A. The "large". Rayshawn had an extra large head.

25 Q. Okay. So, that's not your son's hat size?

1 A. No.

2 Q. How about the markings that are on it? Did you put those
3 markings on there?

4 A. No.

5 Q. Were they on there when you found it in Rayshawn's
6 house?

7 A. Those aren't my markings.

8 Q. Do you recall if they were on there when you found it in
9 Rayshawn's house?

10 A. I didn't really look at it. My daughter was like, all
11 these two are my godson's because they found leaves and
12 blood splatter on it.

13 Q. Okay. But you don't recall whether the markings were
14 there?

15 A. I don't think so.

16 Q. How about the markings ---

17 A. I just remember the "A" and the size of the hat.

18 Q. Okay. And does that look to be the hat that you took to
19 law enforcement and turned over to law enforcement?

20 A. It look like it.

21 Q. All right, now. Can you see the screen right beside you?

22 A. Yes.

23 Q. Is that where you found the hat?

24 A. I don't remember. I just know that when the detectives
25 were telling me about the red hat that was missing from

1 the scene, they say because one of the defendants, the
2 guy, Jwain Francis, say that Arsenio and Rayshawn had
3 fight so hard that Rayshawn had knocked Arsenio's hat
4 off his head. And so, when I got home and I went to
5 sleep that night and I thought about it that morning I
6 thought I had a red hat hanging up in Rayshawn's room
7 because I called Rayshawn "hat man", I call him, "my
8 baby", and "my godson". My godson and my baby's blood
9 splatter, and weed, marijuana residue on it, and my hat
10 man say -- my son hat man say, Rayshawn, never wear a
11 red hat and then that hat was too small for his head
12 anyway so I called Detective Wesley Gardner and he came
13 by and picked it up.

14 Q. Where was the hat in between when you cleaned up
15 Rayshawn's house and Wesley Gardner picked it up?

16 A. It was on his hat rack. The whole time it was in his
17 room on his hat rack. That's where I put it at with all
18 his other hats I brought out his house.

19 Q. When you say, "his" hat rack, who do you mean?

20 A. Rayshawn Holmes, my son.

21 Q. So, it was found in Rayshawn's home with several other
22 hats belonging to Rayshawn?

23 A. Yes.

24 Q. And kept with Rayshawn's hats. And where was it kept?

25 A. Oh, all of them just hanging up on the hat rack. He got

1 a hat rack that hangs in his bedroom at my house.

2 Q. As far as you know, did anybody touch it in between the
3 time when you cleaned it up out of Rayshawn's house and
4 turned it over to Investigator Gardner?

5 A. No. When I took -- I got all Rayshawn's stuff and I took
6 it home. What they didn't steal out of the house, I took
7 home and I burnt up almost everything he had or gave it
8 away and I kept all his hats because he has a son, a
9 four-year-old son, and eventually one day he might be
10 wearing those hats.

11 MR. DONNARD: Your Honor, I beg the Court's indulgence.
12 Your Honor, that's all the questions that I have for Ms.
13 Chatman.

14 THE COURT: Okay. Mr. Derieg.

15 MR. DERIEG: Thank you, Your Honor.

16 CROSS EXAMINATION

17 BY MR. DERIEG:

18 Q. Good afternoon, Ms. Chatman. Could you show me on the
19 hat...

20 MR. DERIEG: May I approach, Your Honor?

21 THE COURT: You may.

22 Q. Could you show me on the hat what you just showed Mr.
23 Donnard?

24 A. This size "large". My son's head was size extra large
25 and the "A" on the hat and it's a red hat that was

1 hanging up on my ---

2 Q. May I touch the hat?

3 A. Yes.

4 Q. And you didn't make any of these markings on this hat?

5 A. For what?

6 Q. Do you remember where you found the hat?

7 A. Didn't I just answer that question when ---

8 THE COURT: You answer the question, please, ma'am.

9 A. No, I do not, because like I said, I was traumatized. I
10 just remember I picked up all the hats that was in the
11 house and moved them to my son's room.

12 Q. And how were they stored -- how were they stored for
13 transport from the house on Confederate to your house?

14 A. In a bag, a Hefty bag.

15 Q. Everything jammed together?

16 A. Just the hats. They weren't, like, really jammed. I had
17 them laying on top of each other.

18 Q. Are you related to Mr. Colclough?

19 A. No, we are not. None of us.

20 Q. You are not related to him?

21 A. None, 'soever.

22 Q. And Rayshawn's room at his house, at your house. How
23 secure is that room?

24 A. Very. It's very secure. Nobody goes in his room now
25 since Rayshawn got killed except me, his father, or

1 either his son who is four years old and the hats are
2 hanging way up in the ceiling.

3 Q. Was Rayshawn's room kept locked?

4 A. Never. Nobody there but me. I stay there by myself.

5 Q. In between the time you collected the hat and the time
6 that you turned the hat over to law enforcement, do you
7 know how many visitors you had at your house?

8 A. In between times? Nobody but my daughters. Probably my
9 daughters and my ex-husband, Rayshawn's father, but no,
10 I don't have that much company because I'm so busy at
11 work or either at school or either raising Rayshawn's
12 son.

13 Q. So, all totaled, how many people do you think would have
14 been in your house between the time you collected the
15 hat and you turned the hat over to law enforcement?

16 A. Probably around about four or five.

17 Q. Four or five?

18 A. All family members. My son, my son's first cousins,
19 which is my nephews. That's probably about it. Or either
20 his girlfriend, but if you are suggesting that his room
21 is not secure, it is. I don't let nobody go in that
22 room.

23 Q. Would it be possible for somebody to go in that room
24 without your knowledge?

25 A. No, because my bedroom is right there. My bedroom is the

1 first one down the hall. As a matter of fact, I don't
2 even let nobody go down my hallway. I don't even let
3 nobody use my bathroom.

4 MR. DERIEG: Beg the Court's indulgence.

5 THE COURT: Yes, sir.

6 Q. Isn't it true that one of the visitors that you had to
7 your house after your son passed away was Mr. Colclough?

8 A. No. He's never been to my house since my son passed
9 away. He came to the funeral home. He came to the
10 funeral, but he never came to my house. As a matter of
11 fact, he called me three days later after my son getting
12 killed and was just talking to me like he was normal.
13 That's why it shocked me to found out he was the killer.

14 Q. That's all I have, Your Honor.

15 THE COURT: Redirect?

16 MR. DONNALD: Very briefly on redirect, Your Honor.

17 REDIRECT EXAMINATION

18 BY MR. DONNALD:

19 Q. Ms. Chatman, is there any way that you know of that
20 either Arsenio Colclough or anybody related to Arsenio
21 Colclough could have come into contact with that hat
22 between the time you cleaned it up from Rayshawn's house
23 and you turned it over to Investigator Gardner?

24 A. No. Like I said, I'm very private. That's why I live in
25 the country. I very seldom have company.

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1 Q. Okay.

2 MR. DONNALD: Your Honor, that's all the questions I have
3 on redirect.

4 THE COURT: All right. Any re-cross?

5 MR. DERIEG: No, Your Honor. I don't have anything
6 further.

7 THE COURT: You may step down.

8 MR. DONNALD: Your Honor, I would call Catherine Leisy to
9 the stand.

10 THE COURT: Okay.

11 MR. DONNALD: She's from The South Carolina Law
12 Enforcement Division.

13 (After being duly sworn by Mr. Bradley, CATHERINE LEISY
14 testified as follows:)

15 MR. BRADLEY: Have a seat, please. Please state your full
16 name and spell your last name for the record.

17 MS. LEISY: Catherine Leisy. L-E-I-S-Y.

18 THE COURT: You may proceed.

19 MR. DONNALD: Yes, Your Honor.

20 DIRECT EXAMINATION

21 BY MR. DONNALD:

22 Q. Ms. Leisy, who do you work for?

23 A. I work for The South Carolina Law Enforcement Division,
24 more commonly known as SLED.

25 Q. And what do you do for them?

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1 A. I'm a forensic DNA analyst.

2 Q. Your title is forensic scientist. Is that right?

3 A. Yes, sir.

4 Q. What does that mean?

5 A. My position as a forensic scientist assigned to the DNA
6 and serology unit requires me to process forensic cases,
7 to generate reports based on the conclusions drawn on
8 those cases and testify to those reports as necessary.

9 Q. Have you had any contact on a case regarding The State
10 versus Arsenio Colclough?

11 A. Yes, sir.

12 Q. How many times have you and I talked about cases?

13 A. Quite a few.

14 Q. The last, we were trying to get a DNA report for Judge
15 King. Is that right?

16 A. Correct.

17 Q. Okay. I'm going to show you Court's Exhibit, I believe
18 will be #3. (Marked and shown to Mr. Derieg)

19 MR. DERIEG: No objection.

20 Q. Tell me what that is.

21 A. This is a copy of the report that I issued on March 16th
22 of this year outlining what items were tested on this
23 case as well as the results that were obtained.

24 Q. When did you say that was issued?

25 A. It's dated March 16th.

1 Q. Last Wednesday. Is that right?

2 A. I believe so. Yes, sir.

3 Q. Okay. But that's not the only report you've issued.

4 A. Correct.

5 Q. In fact, just in the interest of speed, the only match
6 that you've been able to make with regard to this case
7 is the instance regarding a swab from a hat. Is that
8 correct?

9 A. That is correct. Yes, sir.

10 Q. All right. Sitting in front of you on the counter is
11 Court's Exhibit #2, which is a hat. Have you ever seen
12 the hat?

13 A. I have not. The hat was not in my custody.

14 Q. So, tell the Court what you would have been involved
15 with, with regard to your performance.

16 A. The hat went through our evidence processing or serology
17 unit. The hat was processed for bodily fluids as well as
18 swabbed for possible touch DNA, what we refer to as
19 ownership. So, in an attempt to determine who may have
20 been wearing the hat or come into contact with it, I
21 received a cutting taken from the hat as well as a swab
22 taken from the brim and, I believe, the inside band as
23 well as several items listed as possible debris, to
24 check to see if there was hair and I determined that
25 none of those items were hair suitable for analysis.

1 Q. Now, when SLED does an investigation, this involved an
2 investigation, y'all assign an item number. Is that
3 correct?

4 A. That is correct.

5 Q. And you mentioned the swab from the baseball cap. Is
6 that item #40.2?

7 A. Yes, it is.

8 Q. And the cutting from the baseball cap. Is that item
9 #40.1?

10 A. It is.

11 Q. And the hat, itself, became SLED item #40. Is that
12 right?

13 A. That's correct.

14 Q. So, the decimal places after the number would be an
15 offshoot of the original number?

16 A. Correct. It's what we consider a sub-item. Anytime a
17 cutting or a swab is taken from an item and passed on
18 for further testing, it's given a sub-item so that
19 particular item is specifically identified in our
20 system.

21 Q. So, the hat, itself, is item #40.

22 A. Yes.

23 Q. So, #40.1, is that a cutting?

24 A. It was.

25 Q. And #40.2, was a swab?

1 A. Correct.

2 Q. And #40.3 is, I believe, is debris.

3 A. That's correct.

4 Q. Is that the hair that you were referring to?

5 A. Correct. We were looking for possible hairs.

6 Q. Okay. Were you able to determine anything from either
7 the cutting or the debris, which would be #40.1 and
8 #40.3?

9 A. As far as the DNA profile developed from the cutting,
10 which is #40.1, that profile matches the profile of
11 Rayshawn Holmes and the probability of randomly
12 selecting an unrelated individual who could have DNA
13 profile matching this item is approximately one in three
14 hundred and twenty quadrillion.

15 Q. Rayshawn Holmes is one of the deceased in this case.
16 Right?

17 A. That's how it was identified in our submission
18 paperwork. Yes, sir.

19 Q. What about #40.3, which is the debris?

20 A. In terms of #40.3, there was no hair suitable for PCR
21 testing, the DNA testing that we perform.

22 Q. It didn't come back as anything that you could testify
23 to?

24 A. Correct. With debris, what we are looking for is a
25 possible hair with root material or skin cells that

1 would be available for us for testing and based on
2 microscopic examination, I didn't believe that any of
3 these materials were suitable for our testing purposes.

4 Q. Now, #40.2 is described, as what?

5 A. #40.2 is described as a swab from a red baseball cap.

6 Q. And do you know where that swab would have come from on
7 the baseball cap?

8 A. There is more detailed information in the serology
9 report and paperwork. I can get that out if you'd like
10 me to. It's not listed on my report.

11 Q. Please.

12 A. On the serology report, item #40.2, was described as
13 swab from scraping band and bill.

14 Q. Did you perform a DNA test on #40.2?

15 A. Yes, I did.

16 Q. When you perform a DNA test like that, is it compared to
17 individuals that are known?

18 A. We do if we are able to develop a DNA profile. That
19 profile is compared to the profile of any known
20 individuals that are submitted for that case.

21 Q. What about this CODIS thing that I've heard about? Tell
22 me about that.

23 A. CODIS is an electronic database that is available to us.
24 If we develop unidentified profiles that meet certain
25 criteria that are found at a crime scene or in evidence,

1 we may enter it into a database to allow it to be
2 searched against other items of evidence or known
3 individuals who may have been submitted. In this
4 particular case, this item was not suitable for a CODIS
5 entry.

6 Q. What does that mean?

7 A. The DNA profile that was developed from the swab was a
8 mixture. A major contributor to that mixture also
9 matched the profile of Mr. Holmes. I was able to develop
10 a minor profile. It consisted of DNA profiles from at
11 least two other individuals and just based on the amount
12 of information and the strength of the signal that that
13 information was giving us, it was just not suitable. It
14 didn't meet the criteria for database entry.

15 Q. So, you couldn't run it against CODIS.

16 A. That's correct.

17 Q. For the Court's purposes, what is in CODIS? When you run
18 it against the database, what's in the database?

19 A. I should say, too, that CODIS stands for "The Combined
20 Index System". The database is maintained by the FBI. It
21 consists of DNA profiles, again, of unidentified or
22 identified individuals that have been found at a crime
23 scene or on an item of evidence. It also consists of
24 convicted offenders who have been convicted of a certain
25 level of crime and now we can also run arrestees, so

1 individuals who have been arrested for a certain level
2 of crime can have their profile taken and entered into
3 the database.

4 Q. Were you subsequently -- were you ultimately able to
5 compare #40.2 against any known individuals?

6 A. Yes. I was.

7 Q. And who were those known individuals?

8 A. We compared the mixture from the swab from the hat from
9 Rayshawn Holmes, Willie Chatman, Jwain Francis and
10 Arsenio Colclough.

11 Q. What were you able to determine with regard to the known
12 individuals?

13 A. Again, the DNA profile developed from the major
14 contributor to this mixture of at least three
15 individuals matches the DNA profile of Rayshawn Holmes.
16 Again, the probability of randomly selecting an
17 unrelated individual having a profile matching this
18 major contributor is approximately one in three hundred
19 and twenty quadrillion. Arsenio Colclough cannot be
20 excluded as a possible minor contributor to this mixture
21 and the probability of randomly selecting an unrelated
22 individual who could have contributed to this mixture is
23 approximately one in sixteen. Willie Chatman and Jwain
24 Francis are excluded as possible minor contributors.

25 Q. So, there were only two people's DNA that you were able

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1 to find from the hat?

2 A. Well, there is DNA from at least three based on the
3 number of DNA types that are present on the item.

4 Q. All right. But you know Holmes was the major
5 contributor?

6 A. Correct. His matches the major contributor profile.

7 Q. Educate me some more on what it means that Arsenio
8 Colclough could not be excluded.

9 A. It means in comparing Mr. Colclough's DNA profile to the
10 mixture that was developed from the hat, there's enough
11 consistency that I believe it's possible that he could
12 have contributed. In checking each of the locations that
13 we test, if there is also present in the mixture it's
14 possible that that individual contributed. In looking at
15 the overall mixture, I believe it's possible that he
16 contributed and that one in sixteen means basically
17 means that if you randomly selected an unrelated
18 individual, the probability that they would possibly be
19 included as a possible contributor is approximately one
20 in sixteen.

21 Q. That's a far cry from the quadrillion that you were
22 saying for Mr. Holmes. Tell me about that difference.

23 A. The one in three hundred quadrillion is basically what
24 we would consider an identification. Within a reasonable
25 degree of scientific certainty, it is my opinion that

1 Mr. Holmes is the major contributor to this mixture.

2 Q. Okay. And what can you say with a reasonable degree of
3 scientific certainty with regard to Mr. Colclough?

4 A. Again, just that it is possible that Mr. Colclough is a
5 minor contributor. It is not an identification. Just
6 based on my comparison it is possible that he
7 contributed to that mixture.

8 Q. Okay.

9 MR. DONNALD: Beg the Court's indulgence. Your Honor,
10 that's all the questions that I have at this time.

11 THE COURT: Mr. Derieg.

12 MR. DERIEG: Thank you, Your Honor.

13 CROSS EXAMINATION

14 BY MR. DERIEG:

15 Q. When you said one out of sixteen of unrelated
16 individuals, is that in the world?

17 A. It is. The databases that we use provide us with just
18 enough approximate frequencies of those DNA types in the
19 general population.

20 Q. Okay. And what would happen to the probability if the
21 person was related to Mr. Colclough?

22 A. It could affect the overall probability of the
23 comparison, but again, this statistic relates to just
24 the evidence in this case and so it's the evidentiary
25 profile that we run the statistic on and so in this

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1 comparison, it is still just the one in sixteen for this
2 particular item.

3 Q. So, if you randomly selected say, ten members that were
4 related to Mr. Colclough, you would still expect one out
5 of sixteen?

6 A. That would be the statistic based on this evidentiary
7 profile. Again, the only way to know would be to compare
8 all of those individuals to see if they were represented
9 fully throughout the profile.

10 Q. And why is it, then, in the report is it designated
11 unrelated people in the one in sixteen?

12 A. It relates to just the general random selection of the
13 database. If you were to select from only fifty people,
14 this statistic would be based on a randomly generated
15 population, because you would have a smaller collection
16 of DNA types to choose from. Again, the statistic
17 relates to the evidentiary profile, itself, and that
18 database is generated using randomly selected
19 individuals.

20 Q. So, are there any statistics regarding not randomly
21 selected individuals, but selected individuals related
22 to Mr. Colclough?

23 A. No, there isn't. And again, the only way to know for
24 certain what that statistic would be or even if they
25 were included would be to run those profiles.

1 Q. But that wasn't done in this case?

2 A. It was not, no.

3 MR. DERIEG: That's all I have, Your Honor.

4 THE COURT: Any redirect?

5 MR. DONNALD: Yes, sir.

6 REDIRECT EXAMINATION

7 BY MR. DONNALD:

8 Q. With regard to the one in sixteen random possibility of
9 a related individual, if it were a first cousin, would
10 there still be differences?

11 A. You would expect there to be differences, yes, sir.

12 Q. Is there such a thing as being so close that there were
13 not differences?

14 A. An identical twin.

15 Q. An identical twin would be the only person that would
16 not have differences in what you evaluated?

17 A. That's what we would expect to see, yes, sir.

18 MR. DONNALD: That's all the questions I have, Your
19 Honor.

20 THE COURT: Any re-cross?

21 MR. DERIEG: Very briefly.

22 RE-CROSS EXAMINATION

23 BY MR. DERIEG:

24 Q. Regarding what Mr. Donald just asked you about the
25 first cousins and differences, would you expect to find

1 similarities between first cousins?

2 A. Not necessarily. It would just depend on the individual
3 profiles themselves. You may see more DNA types related
4 between first cousins than you would in randomly
5 selected individuals, but you may not. You may not be
6 able to tell at all that two people are related to that
7 extent, just by comparing their profiles.

8 Q. Thank you.

9 THE COURT: Thank you. You may step down.

10 MS. LEISY: Thank you.

11 MR. DONNALD: Your Honor, I don't have any other
12 witnesses with regard to Mr. Derieg's motion, I guess.

13 THE COURT: And I guess the question that I've got is,
14 what are you trying to prove with the hat? I mean, it seems
15 pretty obvious from the DNA testimony that it was Mr. Holmes'
16 hat.

17 MR. DONNALD: That's absolutely true. But I think that
18 proves that there is some connection ---

19 THE COURT: I mean, his mama said it couldn't have been
20 because it was a large hat. It could very easily have been
21 that they didn't have the extra large and so he bought the
22 large. That doesn't ---

23 MR. DONNALD: As an offer of proof, I think the testimony
24 will show that the hat was found in a pool of blood belonging
25 to Mr. Holmes and so the fact that Mr. Holmes' DNA was found

1 'on the hat does not mean it was his hat and that is kind of
2 what we are doing right here. My argument just is, Your
3 Honor, it shows there is some connection, if even
4 tangentially, with Mr. Colclough on an item that was found in
5 the home on the night of this unfortunate murder. I think, I
6 would say it's one in sixteen and we are used to hearing the
7 word "quadrillion" and "quintillion". I think that goes to
8 the weight of the evidence and not necessarily to the
9 existence of the evidence. I think the existence of the
10 evidence does exist as one in sixteen and the jury can make
11 of that whatever they want to, weight-wise.

12 THE COURT: Mr. Derieg?

13 MR. DERIEG: Your Honor, as I stated previously, the fact
14 that law enforcement was not in possession of this hat for
15 several ---

16 THE COURT: That doesn't bother me as much as I initially
17 thought it would, because we have testimony now that she says
18 she took it, you know, up in his room and in her house the
19 whole time. That does not bother me so much. Initially, I
20 thought it would. I mean, is there going to be some testimony
21 that somebody saw ---

22 MR. DONNALD: The State anticipates that there will be
23 testimony that Mr. Colclough mentioned to at least one other
24 individual that he was worried about the fact that he left
25 his hat at the scene and this is an individual that we

1 believe will testify to this jury that Mr. Colclough admitted
2 to them that he is the perpetrator of this murder and that he
3 was worried -- to say it better. The State has a witness, at
4 least one witness, that it believes, will testify that Mr.
5 Colclough testified to him or gave him a statement that he is
6 the person who perpetrated this crime and was especially
7 worried about it because he left his red hat at the scene.

8 THE COURT: On that particular piece of evidence, I think
9 I'm going to hold off on my ruling on that until I see what
10 other evidence is presented. It may be that it is pertinent.
11 It may be relevant. It may be, if nothing else is presented,
12 it may just confuse the jury and that could be the situation
13 and so I'm not going to rule on that at this particular point
14 in time. I'm going to wait to see what other evidence might
15 develop. All right?

16 MR. DONNALD: And I will try not to reference it until---

17 THE COURT: Right. You won't say anything about it in
18 opening argument at all.

19 MR. DONNALD: Thank you.

20 THE COURT: Are there any other issues that we need to
21 take up?

22 MR. DERIEG: Yes, Your Honor.

23 THE COURT: Okay.

24 MR. DERIEG: I have three or four motions left, Your
25 Honor. I'll start with the motion in limine to suppress any

1 mention of gangs or gang activity or gang affiliations in
2 this case. I'm unaware -- I know that Mr. Donnald told Your
3 Honor in chambers that there is at least one witness who says
4 or who is going to say that this is gang related. I'm not
5 aware of any such witness.

6 THE COURT: I believe Mr. Donnald said that he is unaware
7 of any and doesn't intend to -- I would just say that you are
8 going to need to caution your witnesses about that when you
9 call them.

10 MR. DONNALD: Yes, sir.

11 MR. DERIEG: Your Honor, next I'd like to make a motion
12 in limine to suppress the testimony of Christopher Robinson.
13 On May, on March 11th of this year I received a statement and
14 recorded interview of a gentleman by the name of Christopher
15 Robinson and it was an interview with Melissa Addison. In
16 that interview, Mr. Robinson alleges that Mr. Colclough
17 confesses to him while they were cell mates at The Sumter-Lee
18 Regional Detention center. What is worth noting about that
19 written statement is that he admits right off the bat that
20 having been able to read through all of Mr. Colclough's
21 discovery and when I met -- my private investigator, Jay
22 Phillips should be here at some point soon, but when Mr.
23 Phillips and I went and met with Mr. Robinson this past
24 Friday, approximately one week after we were served the
25 statement from April of last year, the first things out of

1 Mr. Robinson's mouth is this statement is a vendetta against
2 your client, meaning Mr. Colclough. So, based on the fact
3 that this is a vendetta against Mr. Colclough and he admitted
4 to Jay Phillips that he would be willing to do or say
5 anything that it took to get himself out of jail and
6 currently, as of last Friday, he wasn't planning on
7 cooperating with the State anymore because he didn't get any
8 help for his murder charge, but he admitted that and that he
9 would be, I think his example was, if the State was willing
10 to roll in a dump truck of money or they were willing to help
11 me get out of jail, then I would be willing to say or do
12 anything.

13 THE COURT: Well, I mean, isn't that more -- make it for
14 a ripe field for cross examination rather than just excluding
15 the testimony? I mean, you're making a very good argument
16 that they get to call whoever they want to and you just get
17 to cut them to pieces in cross examination. That ---

18 MR. DERIEG: But this statement being so admittedly
19 tainted, admittedly ---

20 THE COURT: But that's what evidence has to be -- they
21 need to put the witness on the stand and then you get to
22 cross examine them. I haven't heard the evidence and I'm not
23 going to exclude it at this point in time. He may change his
24 story again and give you even more ammunition for cross
25 examination. So, I'm not going to pre-judge potential

1 evidence on that. Your cross examination will take care of
2 that.

3 MR. DERIEG: Thank you, Your Honor. I've got two more.
4 One is a motion to dismiss or, in the alternative, compel
5 discovery. There is a vast number of pieces of discovery that
6 I've been told exists that I have not been allowed to, as
7 yet, to see, inspect, view any sort of discovery. You've
8 already heard about the video from the Defendant's interview
9 on October 1st.

10 THE COURT: They don't intend to put that into evidence.
11 There is evidence that they would need to - that if
12 exculpatory that they have to produce to you. If there is
13 something that they intend to use and it's not exculpatory,
14 then what is your complaint on that?

15 MR. DERIEG: Well, Your Honor, there is some potential
16 exculpatory things on that video based on my client's
17 recollection of what was said and who was there. I think that
18 some of the questions that I asked Lieutenant Addison can
19 give you some idea of what I believe were or what my client
20 believes would be on that videotape.

21 THE COURT: Mr. Donald?

22 MR. DONNARD: Your Honor, I don't know of any exculpatory
23 evidence that has not been turned over to Mr. Derieg.

24 THE COURT: And again, if he thinks he's given you
25 everything that he thinks he has, if you've got something

1 else and you want to put it in, then of course, you will be
2 allowed to. But you are telling me, as an officer of this
3 Court, that you have turned over everything. That he's had
4 the opportunity to see all the evidence that you know you
5 will be putting into trial?

6 MR. DONNALD: No, sir. That's not what I'm saying, but I
7 am saying he has seen everything that I feel he is entitled
8 to see prior to trial that is discoverable by the State. He's
9 seen the statement that is exculpatory, that was made by his
10 client, and that's everything that I know of with regard to
11 statements that his client has made. My concern, Your Honor,
12 is that Mr. Derieg has referenced, on a number of occasions,
13 items that I'm not aware of. Those items, though, I don't
14 think he would be entitled to prior to that person testifying
15 anyway, such as, some written statements by witnesses and an
16 example of that would be the statement that he just
17 referenced. I sent that along with the video because I really
18 don't know where a video falls into the rules of Court with
19 regards to when I have to turn it over. Just a written
20 statement, I have to turn that over when I call a witness to
21 the stand. I can't just expect somebody to watch a video as I
22 call somebody to the stand and so that may change. Out of an
23 abundance of caution, I went ahead and sent it along with the
24 statement. The long and short of it is, I've turned over
25 everything that I am aware of that I believe falls under Rule

1 5 or Brady.

2 THE COURT: Okay. I'm going to deny your motion at this
3 time to dismiss.

4 MR. DERIEG: Concerning the statement, Your Honor. If I
5 could be heard for just a second on that issue?

6 THE COURT: Yes, sir.

7 MR. DERIEG: I'm not alleging that Mr. Donnald is holding
8 back anything that is discoverable.

9 THE COURT: Okay.

10 MR. DERIEG: However, I do think the likelihood that the
11 Sheriff's department is holding stuff back from Mr. Donnald
12 is very, very real.

13 THE COURT: That's a whole different ball game. You're
14 talking about a possible conspiracy or something like that.
15 If you want to call witnesses concerning that, you are
16 welcome to do that, but I don't think they have to go along
17 with that at all. Mr. Donnald, as an officer of the Court,
18 says he's given you everything that he believes is
19 discoverable. If you have something else at some point in
20 time that shows the Sheriff's office is doing something
21 improper, that is a different trial and that's a different
22 angle. You can start subpoenaing the Sheriff and everything
23 like that, but that wouldn't come in at this trial, but that
24 would be your responsibility to subpoena them.

25 MR. DERIEG: Your Honor, the most important thing that's

1 on my list is incredibly exculpatory. I've been told by
2 multiple inmates at the Sumter-Lee Regional Detention Center
3 that several letters, what they call "Kites" were sent to
4 Melissa Addison regarding this situation that is very
5 exculpatory.

6 THE COURT: Well, once you present that evidence on the
7 stand, then I'll take that into consideration, but at this
8 point in time, you are just giving people's statements that
9 are not under oath or anything like that and, you know, I
10 don't know that's the case. When she gets on the stand, you
11 can certainly ask her about it.

12 MR. DERIEG: And finally, Your Honor, my last motion
13 would be to dismiss all charges based on my client's speedy
14 trial motion being violated, particularly where Judge King
15 made his ruling based on repeatedly at multiple hearings, at
16 least on February the 8th of this year and October 28th of
17 last year, the State told Judge King that the reason my
18 client was not tried any of the three times that Judge King
19 ordered my client being tried by was because they discovered
20 new information. They had new information that Jwain Francis,
21 besides being a witness, might actually be the murderer and
22 so they actually went and tested the DNA on Jwain Francis and
23 they told -- and Judge King was told over and over again that
24 they did not have that information until October. October 15
25 is, I believe, the exact date that this particular witness,

1 Mr. John Colclough told, allegedly told Mr. Donnald and Ms.
2 Addison that Arsenio Colclough and Jwain Francis were
3 together. However, that is not the case.

4 The first motion that we made for a speedy trial, and
5 was granted, was on April 17, 2015. The video and the
6 statement from Christopher Robinson that we were just talking
7 about occurred on April 6, 2015. So, approximately six days
8 before we made our first motion we made our motion for a
9 speedy trial and it was granted and Judge King ordered it,
10 the State had 180 days to try my client. Five days before
11 they had this information, and it wasn't until the 180 days
12 ran out, October 14, we came in front of Judge King and I
13 asked for the case to be dismissed for failure to obey a
14 speedy trial order. Judge King denied that, but reduced my
15 client's bond and he ordered that he be tried the week of
16 October the 19th. The very next day after Judge King made
17 that order is when the State went and talked to John
18 Colclough and then when they didn't try my client the week of
19 October the 19th, we went back in front of Judge King the
20 week of October 28th and they said, "We just got this new
21 information. We've got to test Jwain Francis' DNA against
22 everything even though Jwain Francis had been in custody
23 since August of 2013 and they told Judge King over and over
24 again that they just got this new information and they had to
25 have the continuances in order to have the DNA tests done and

1 that is just not true.

2 On April 6th, five days before we made our speedy trial
3 motion, the State had this same information from another
4 person who they just turned over to me and is on their
5 witness list and so if they feel reliable enough about his
6 testimony to put him on a witness list and bring him into
7 court, they certainly could have gone and gotten the DNA of
8 Jwain Francis and had it run well before now. I mean, we are
9 eleven months since the initial order of 180 days was made
10 and I just don't believe Your Honor that the State should be
11 allowed to benefit from misrepresenting things from just
12 explaining why it is they violated the judge's order.

13 THE COURT: Mr. Donnald?

14 MR. DONNALD: I don't believe that it is helpful at this
15 point to deal with it tit for tat on what the Judge ordered,
16 but it's not my recollection that he ever ordered the State
17 to try the case. He ordered that the case be tried within a
18 certain number of days on each occasion or it would come back
19 before him to be listened to. During that period of time,
20 because of the State's inability to get the case tried
21 because it was waiting on the DNA evidence, Mr. Colclough has
22 had his bond reduced and, ultimately, was given a \$5000.00 PR
23 bond and is out of jail now because of the delay of the
24 trial.

25 The State versus Reeves, Your Honor, which was just

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1 ruled on this February 18th, ruled on this motion on February
2 18th. State versus Reeves' consideration has a four-part test
3 and we found none of those four parts were violated in his
4 order and I rely on Judge King's ruling with regard to this
5 order, but specifically that the Defendant has not been
6 prejudiced, the fact that he's been rewarded by the delay by
7 having his bond reduced. I'd like to hand up Judge King's
8 order at this time, Judge. I don't know if you've had a
9 chance to look at this file with regard to this.

10 THE COURT: I have not, but I also had a case ruled
11 similarly on this last month, State versus Palmer out of the
12 Court of Appeals. (Looks at document) Mr. Derieg, my concern
13 in this is, Judge King has had this matter for a long time
14 and, again, he made a ruling in this order on May 18th and
15 here we are just a little over 30 days out of that and he did
16 not dismiss the case at that point and all I'm dealing with
17 is just the 30 days, because he's had that before that. For
18 me to do anything other than that would be to overrule Judge
19 King. He's had multiple opportunities to dismiss the case. He
20 did not dismiss it and so now I'm really just dealing with
21 the last 30 days when he last ruled on it so, I mean, we've
22 got a lengthy delay, but some of it was DNA. The reason for
23 the delay was furtherance of the evidence. The Defendant
24 obviously asserted his rights throughout. He obviously wasn't
25 lax on that and didn't wait two years and then assert his

1 right, but what would be the prejudice to your client at this
2 point in time 30 days after Judge King just ruled on that
3 matter and could have dismissed it at that point, but didn't?

4 MR. DERIEG: Well, Your Honor, first of all when we
5 argued this before Judge King, we never got into the four-
6 factor test. It was always about whether or not the State
7 should be able to violate the Judge's order repeatedly and I
8 agree with Mr. Donnald that ---

9 THE COURT: I mean, it came back in front of the same
10 judge and he obviously didn't hold somebody in contempt and
11 ultimately chose not to dismiss the case. Correct?

12 MR. DERIEG: Correct. However, he did not have the
13 information that I presented to the Court today that instead
14 of October of 2015 being the first time that they had the
15 opportunity to, that they had anyone say that Jwain Francis
16 was a part of this, in fact, it happened six months prior to
17 Judge King even granting the speedy trial motion.

18 And with regards to the four factors, clearly, the
19 length of delay. The reason for the delay, I don't know what
20 the reason is that they've waited until April to October to
21 initiate anything on the DNA for Jwain Francis and maybe that
22 needs to be fleshed out a bit whether it be intentional or
23 negligence, the State had the information that it claims it
24 didn't get first until October. Your Honor, may I approach?

25 THE COURT: You may.

1 (Mr. Derieg hands document to Judge Young)

2 THE COURT: What have we here?

3 MR. DERIEG: Your Honor, that is the transcript from one
4 of the hearings that we had before Judge King. Your Honor, I
5 have another transcript that Mr. Donnald does say that he's
6 seen that I think probably will be more enlightening than
7 that one. This is one from the October 28th hearing in
8 Kingstree in front of Judge King. (Hands another document to
9 Judge Young)

10 THE COURT: All right, sir. And what is your point on
11 these?

12 MR. DERIEG: The State's assertion in its own words, if
13 you want to go tit for tat with me we don't have to because
14 the words are right there on the page that they asserted to
15 Judge King over and over and over again that they didn't have
16 the information until October and that's simply not true..
17 They had the information in April.

18 Now, in regards to the four-factor test in the case
19 cited by Solicitor Finney to Judge King in State v. Reeves,
20 it talks about -- and I have a copy of that, Your Honor, if
21 you'd like it.

22 THE COURT: Actually, I think I have a newer one that
23 they talk about it in State versus Palmer. This was a
24 February of this year case. It was my case where I was
25 affirmed on failure to rule on a speedy trial.

1 MR. DERIEG: And so, in regards to everyone of the speedy
2 trial cases that I've seen talks about when you get to the
3 second factor, the reason for delay, if you did something
4 intentional on the part of the State, then it has to weigh
5 much heavier than something like carelessness or negligence.

6 And to answer your question, specifically, about the
7 four points which appears to be the only case law that I've
8 read, it seems that this fourth factor is the most important,
9 prejudice to the Defendant.

10 THE COURT: Well, that's always the most important part
11 of any motion.

12 MR. DERIEG: And the three factors in the damage to the
13 Defendant, one, you've got oppressive pre-trial
14 incarceration. I don't think that there is any question that
15 23 months of pre-trial incarceration when you are begging for
16 your day in court is oppressive. It's very self-explanatory.

17 THE COURT: But what I'm talking about is, how is he
18 prejudiced by the delay? He's still going to get his day in
19 court. How has it hurt your ability to try this case? I mean,
20 that's what it hinges on.

21 MR. DERIEG: And I'm saving the best for last, Your
22 Honor. The last part talks about the possibility of the
23 Defense being impaired. As I told Your Honor in chambers this
24 morning, if the Defense is forced to withdraw its notice of
25 intent to present an alibi defense because of two people.

1 One, you have Christine Amber Bryant, who, in fact shortly
2 after this happened, could remember the night that she was
3 hanging out with Mr. Colclough was the night that this
4 incident happened, but you fast forward almost three years,
5 then ---

6 THE COURT: But didn't you have an opportunity to
7 memorialize that in some way? I mean, couldn't you have taken
8 an affidavit from her?

9 MR. DERIEG: Sure.

10 THE COURT: Or taken her statement or something like
11 that? I mean, that was -- you could have preserved that
12 testimony so that if she took the stand, you would have that
13 available. Correct?

14 MR. DERIEG: Correct. But it doesn't change the fact that
15 her memory is suspect. It's not what it was closer to the
16 event and in all the case law I've read, that is one of the
17 things that justices talk about in terms of the events being
18 damaged is that length of time makes people forget things.

19 Additionally, Your Honor, there was a period of time
20 that we weren't able to find Amber, or Ms. Bryant.

21 A second person that would have been able to provide an
22 alibi for Mr. Colclough is a woman by the name of Cassidy
23 Beasley. In fact, Your Honor, I have a letter that Ms.
24 Beasley wrote my client while he was in jail talking about
25 you couldn't have possibly have done it. I was with you that

1 night. I have pictures from that night on my iPad. Well, Your
2 Honor, that iPad is missing and we've never been able to get
3 those pictures from Ms. Beasley and back closer to the period
4 of time that this letter was written and certainly around the
5 period of time that the incident happened, Ms. Beasley would
6 have had that iPad still and would have been able to produce
7 those pictures, but three years later, she no longer has that
8 iPad or certainly, to this point, can't find it. She's still
9 looking for it and she's been looking for it for quite some
10 time, but as of now, Ms. Bryant doesn't remember clearly and
11 Ms. Beasley has lost the pictures, which destroys Mr.
12 Colclough's ability to present an alibi in court.

13 THE COURT: Well, I mean, just because she doesn't have
14 pictures doesn't mean she can't come testify that she was
15 with him. Correct? I mean, pictures are just an extension of
16 the evidence. A picture is worth a thousand words, yes, but
17 you have to have some words to start off to kind of set the
18 stage. I just -- because Judge King, and maybe if I was
19 looking at this the first time I may feel differently, but
20 this has been monitored by another circuit court judge all
21 the way up to a little over thirty days ago. He has had total
22 exclusive jurisdiction over this and for me to say, you know,
23 if this was August or something like that and he had
24 relinquished jurisdiction in February, I would have a
25 different opinion, but here we are thirty days out from that

1 and so I am going to respectfully deny your motion to dismiss
2 the charges based on a speedy trial motion. Thank you.

3 MR. DERIEG: Thank you, Your Honor.

4 THE COURT: Anything else?

5 MR. DERIEG: Beg the Court's indulgence.

6 MR. DONNALD: Your Honor, just for the record. Should,
7 ultimately, this case end up in an appellate situation, would
8 you incorporate all the exhibits that were put before Judge
9 King with regard to Judge King's ruling ---

10 THE COURT: That's going to have to happen. For them to
11 rule on that, what Judge King did by not dismissing the case,
12 really, becomes a part of this case, as well.

13 MR. DONNALD: That was what I was asking. The exhibits
14 that were a part of the last hearing that I would want should
15 the Court look at this argument.

16 THE COURT: And that was not before me. Judge King had an
17 opportunity to review all that evidence and he chose not to
18 dismiss it a little over thirty days ago and so I'm not going
19 to dismiss it thirty days later based on that.

20 MR. DONNALD: I would like to put on the record that the
21 only thing that's changed from the State's perspective is
22 that this is the first term of court since Judge King's
23 ruling and this is the first term of court since the DNA
24 evidence came back from SLED. In fact, it came back last
25 week.

1 THE COURT: Yes, I heard her testify about that.

2 MR. DONNALD: I just wanted to put that on the record.

3 THE COURT: Okay. You need to be out of here by 4:30. Is
4 that right?

5 MR. DERIEG: Yes, Your Honor.

6 THE COURT: How long do you think -- and I don't want you
7 to miss your -- I may release this jury until tomorrow
8 morning. Would y'all want me to do that? I will do whatever
9 y'all want to do on this and we can do my pre-trial charge,
10 which usually only takes about a half hour. I don't want
11 y'all to be hindered in any way because opening statements
12 are very important. I don't think this jury would mind being
13 turned loose and ordered to be back here at 9:00 tomorrow
14 morning, but I don't want you to miss your engagement. I
15 think it's very important that you be there for that.

16 MR. DERIEG: Thank you, Your Honor.

17 MR. DONNALD: Thank you Your Honor.

18 THE COURT: Any objection to me doing that?

19 MR. DONNALD: No, Your Honor.

20 THE COURT: All right. Let's bring the jury in and let me
21 explain to them and then we will hold off having them sworn
22 until tomorrow morning. Let me see the attorneys up here.

23 (Bench Conference off the record)

24 (Jury in at 3:37 p.m.)

25 THE COURT: Well, ladies and gentlemen, I was

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1 anticipating that we would start the trial this afternoon,
2 but some of the pre-trial matters have taken longer than I
3 anticipated and we had some other constraints on the other
4 end and so what I'm going to do is, I'm going to dismiss you
5 for the afternoon with strict instructions that you not speak
6 to anyone concerning this case. You haven't been sworn yet
7 and I will have you sworn in as jurors tomorrow morning, but
8 I don't know whether the news media was here, but we have
9 some things going on pre-trial and so if you see the Item
10 tomorrow morning, please do not read anything about this case
11 in the Item and I would encourage you not to look tomorrow
12 morning at the Item at all. So, ladies and gentlemen, have a
13 nice evening. Do not discuss the case with anyone and if you
14 could be back here just a little bit before nine so we can
15 start right at 9:00. All right? Thank you, ladies and
16 gentlemen. Have a wonderful evening. Get a good night's rest
17 because we will have a long day tomorrow.

18 (Jury out at 3:39 p.m.)

19 THE COURT: Mr. Donnalld, concerning the bond issue?

20 MR. DONNALD: Your Honor, we would move to revoke the
21 bond for the duration of this trial.

22 THE COURT: All right. Mr. Derieg?

23 MR. DERIEG: Your Honor, first of all, my client is on
24 GPS monitoring and house arrest that is being monitored
25 through the jail and the jury has not been sworn yet. I think

1 it's, well, in my experience, it tends to happen after the
2 jury gets sworn, which is why I was appreciative that you
3 didn't swear the jury and told me prior to our hour-and-a-
4 half break.

5 THE COURT: Well, we hadn't started our pre-trial motions
6 yet; but in all cases like this -- usually we start cases on
7 Tuesday around here anyway, but out of an abundance of
8 caution, I'm going to go ahead and revoke his bond. I don't
9 think I've ever had a murder case or something of this
10 potential magnitude where I've allowed the Defendant to
11 remain out on bond once the trial has started and since we've
12 already started pre-trial motions, I consider it started and
13 I am going to revoke his bond at this time. Thank you.

14 TUESDAY MORNING - MARCH 22, 2016

15 (Jury in at 10:14 a.m.)

16 THE COURT: Good morning, ladies and gentlemen. I'm sorry
17 for the delay. We had some other matters we had to do and I
18 appreciate y'all being here on time this morning. Mr.
19 Bradley, would you please swear the jury?

20 MR. BRADLEY: Yes, sir, Your Honor. Ladies and gentlemen
21 of the jury, please stand and raise your right hand to be
22 sworn.

23 (Mr. Bradley administers the oath to the jurors)

24 THE COURT: Thank you, Mr. Bradley.

25 MR. BRADLEY: Yes, sir.

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1 INTRODUCTORY REMARKS TO THE JURORS

2 THE COURT: Ladies and gentlemen, before we begin this
3 trial, I want to tell you that this trial will probably be
4 different from what you might expect. You know, most people
5 never have the opportunity to sit and be in an actual court
6 as y'all are today and you may think from watching T.V.,
7 watching movies or reading in books that trials are always
8 full of high drama, intense action and riveting
9 circumstances, and while all these things might be true at
10 times, this trial is not for entertainment. This is a real
11 trial which is a fundamental part of our democracy and is a
12 search for the truth to ensure that justice is done. In
13 searching for the truth and ensuring that justice is done is
14 often slow, repetitive and deliberate. It's the exact
15 opposite that you've seen on T.V., in movies, or read in
16 books.

17 Now, ladies and gentlemen, this courtroom is a place of
18 honor that is dedicated to the protection and the
19 preservation of our citizens rights through what is often
20 called and what I truly believe in the bottom of my heart to
21 be the greatest justice system ever created by mankind.

22 The attorneys who are appearing before you are the
23 advocates for the parties they represent, but first and
24 foremost, ladies and gentlemen, they are officers of this
25 court who are sworn to uphold the integrity and the fairness

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1 of our judicial system and to help you in the search for the
2 truth.

3 Now, ladies and gentlemen, you should expect, and I'm
4 sure that you will see, that they are professional,
5 competent, and ethical in the representation of their
6 client's interests and remember ladies and gentlemen, you
7 just took an oath to listen to the evidence in this case and
8 reach a fair and just verdict and you are expected to be
9 professional, reasonable and ethical, as well. Again, think
10 you for accepting this very important responsibility of jury
11 duty and your contribution to our justice system.

12 Now, ladies and gentlemen, what I'm going to tell you
13 now is just intended to serve as an introduction to the trial
14 in this case. These remarks are not a charge on the law. I
15 will charge you the law that is to be applied to this
16 particular case at the end of all the evidence. This is
17 merely an explanation of the procedures we will follow so
18 that you may better understand what is happening. Let me say
19 up front, ladies and gentlemen, that you will not be allowed
20 to take notes in this trial, therefore, it is very important
21 that you listen closely throughout this trial.

22 Ladies and gentlemen, the Defendant is charged by
23 indictments filed in this court with two counts of murder and
24 two counts of possession of a weapon during the commission of
25 a violent crime. The specific elements of these charges will

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1 be explained to you later, but I remind you as I did earlier,
2 that the indictment charging the Defendant is simply the
3 document in which this case is brought into court and is not
4 in any sense evidence of any of the charges contained
5 therein.

6 The Defendant has pled not guilty to the charges in the
7 indictment and so the State has the burden of proving all of
8 the elements of the charges in the indictment beyond a
9 reasonable doubt and ladies and gentlemen, it will be your
10 responsibility to decide whether the State has met that
11 burden.

12 Now, ladies and gentlemen, your purpose is to determine
13 the facts in this case and you will determine the facts from
14 the testimony, the sworn testimony that you will hear from
15 the witness stand, and any other evidence that is introduced
16 here in court and it will be up to you, as jurors, to
17 determine the inferences that you feel may be properly drawn
18 from the evidence.

19 Now, ladies and gentlemen, it is especially important
20 that you perform your duties diligently and conscientiously
21 because ordinarily, there is no way to correct an erroneous
22 determination of fact by a jury.

23 On the other hand, but with equal emphasis, the same law
24 that makes you the judges of the facts makes me the judge of
25 the law and the law as given to you by me is the only law

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1 that you may consider. You must accept the law as I give it
2 to you and follow it even though you might disagree and I
3 will make an agreement with you right now, I will not tell
4 you what the facts are and you cannot disagree with me about
5 what the law is or what the law ought to be. Your job as
6 jurors is to take the law as I give it to you and apply it to
7 the facts that you find, based upon the testimony and other
8 evidence, and after hearing that evidence, you will
9 deliberate and render a just verdict under the solemn oath
10 that you just took as jurors.

11 Now, ladies and gentlemen, until I advise you to begin
12 your deliberations at the conclusion of this trial, you must
13 not discuss the case with anyone else, including your fellow
14 jurors, except when authorized to do so by me. You may not
15 use a computer, a cellular phone, or other electronic device
16 with communication capabilities while in attendance or during
17 your deliberations. These devices may be used when we break
18 for lunch or you go home for the evening, but even then, they
19 cannot be used to obtain or disclose any information about
20 the case when you're not in court. Information about the case
21 would include and certainly not be limited to any information
22 about a party, a witness, an attorney, or a court officer,
23 any news accounts about the case or any information collected
24 by juror research on any topics related or any testimony
25 offered by any witness or any information collected through

1 your research that you think would be helpful in deciding
2 this case. Ladies and gentlemen, until the case is submitted
3 to you, you must not discuss it in the jury room with your
4 fellow jurors.

5 The attorneys and the parties of this case are advised
6 they are not to talk to you at all and so if you see somebody
7 who is involved in this case and see them in this small
8 courthouse square and they don't say hello, they are not
9 being rude or unfriendly. They are just following my
10 instructions.

11 Now, ladies and gentlemen, it's very important that you
12 keep an open mind throughout this trial and that you listen
13 to all of the evidence and once it's all presented, the
14 attorneys will make their closing arguments and I will
15 instruct you on the law to be applied to this case and then
16 you will go back for your deliberations. And ladies and
17 gentlemen, it is your solemn responsibility to determine the
18 guilt or the innocence of the Defendant and your verdict must
19 be based solely on the evidence as it has been presented
20 during this trial and on the law as I present it to you at
21 the close of this trial.

22 Now, in just a moment, ladies and gentlemen, the
23 Solicitor will make what is called an opening statement in
24 which he will explain to you what he believes the issues are
25 in this case. The attorney for the Defendant may also make an

1 opening statement, although he is not required to do so, but
2 I will remind you that what the attorneys say during their
3 opening statements is not evidence. It is only their
4 contention as to what they believe the issues are in this
5 case.

6 Now, from time to time during this trial, you may hear
7 one of the attorneys say something like, "Your Honor, I
8 believe we have a question or a matter of law to discuss with
9 you", or "Your Honor, may we approach the bench," or
10 sometimes I might find it necessary to excuse you from the
11 courtroom for a short period of time while the attorneys and
12 I discuss a matter of law. The reason for this is, as I said,
13 you are the judges of the facts and sometimes when I'm
14 discussing matters of law with the attorneys, it may be
15 necessary for me to make some comment on the facts in
16 connection with ruling whether a particular law applies or
17 not. I've said, I'm not supposed to tell you what the facts
18 are and so I will excuse you from the courtroom while these
19 conversations take place and so you will in no way be
20 influenced by anything I might say or do in connection with
21 the facts.

22 Also, during the trial, ladies and gentlemen, you may
23 hear one of the attorneys make an objection to certain
24 evidence that is about to be presented. Now, whether I
25 sustain, which would be to grant the objection, or overrule,

1 which would be to deny the objection, should not be construed
2 that I favor one side over the other. I do not. Nor should
3 you infer that the objecting party is trying to hide
4 something from you.

5 Now, ladies and gentlemen, this court, as in all
6 situations in life, there are specific rules that must be
7 followed and the attorneys, as officers of the court, are
8 merely trying to follow the rules of evidence in making their
9 objections and I am only ruling based on what I believe the
10 laws of this state to be concerning evidence being presented.

11 In determining what the facts are in this case, you must
12 decide whether or not the testimony of a witness is
13 believable. It will be my responsibility to rule as a matter
14 of law whether certain testimony is admissible, but once the
15 testimony is admitted, whether or not you decide to believe
16 it is solely for you to determine.

17 Ladies and gentlemen, in deciding to believe a witness
18 you have a right to consider: the interest of any witness,
19 the bias of any witness, the prejudice of any witness, and
20 the opportunity for the witness to actually have observed the
21 matters and things by which the witness might testify. You
22 may also consider the way the witness acts on the witness
23 stand. Ladies and gentlemen, you have a right to consider
24 anything that is in the record that will help you evaluate
25 the testimony of the witness. That means as jurors, it's your

1 duty to pay attention to the witnesses, to observe the
2 witnesses, and to listen to the witnesses and to pay close
3 attention to the attorneys and to the Court.

4 Ladies and gentlemen, please do not let your thoughts
5 wander but give strict attention to the testimony so that at
6 the end of all the testimony and after the arguments of
7 counsel and the charge on the law by me, you will then be in
8 a position to determine what the facts are, to apply those to
9 the law as I give it to you, thus be able to render a true
10 and just verdict.

11 Now, in addition, Madam Forelady, it will be your
12 responsibility to preside in the jury room and be the jury
13 spokesperson here in court. It will also be your duty to
14 write down the verdict on the verdict form that I give you,
15 but I will give you further instructions on that at the
16 appropriate time.

17 Now, in order to preserve everyone's rights, I will give
18 the parties a right to object to anything that I have just
19 stated to this jury. Does the State have any objection to
20 anything that I've stated?

21 MR. DONNALD: Nothing from the State, Your Honor.

22 THE COURT: Does the Defense have any objection?

23 MR. DERIEG: None from the Defense, Your Honor.

24 THE COURT: Very well. We will now begin the trial. Mr.
25 Donnald?

1 MR. DONNALD: Thank you, Your Honor. May it please the
2 Court?

3 THE COURT: Yes, sir.

4 OPENING STATEMENT BY MR. DONNALD

5 On April 12, 2013, at Confederate Road here in
6 Sumter County out in the Cherryvale area, Rayshawn Holmes and
7 Willie Chatman lived in a house together. By the early
8 morning hours of April 13, 2013, they were both dead lying in
9 a hallway having been gunned down. My job during the course
10 of this trial is to prove to you beyond a reasonable doubt
11 that Arsenio Colclough is the person who caused the death of
12 Rayshawn Holmes and Willie Chatman.

13 My name is Eddie Donald. It is my honor to represent
14 the County of Sumter and the State of South Carolina to work
15 for Mr. Chip Finney who sits right here beside me who is the
16 chief prosecuting agent, chief prosecuting officer of the
17 Third Judicial Circuit which includes Sumter, Clarendon and
18 Williamsburg Counties.

19 As I said before, it is my job to prove beyond a
20 reasonable doubt there are generally speaking a couple of
21 different kinds of cases that end up going to trial. There
22 are cases where you know what happened but you don't know
23 who. The State has to prove who did that thing and there are
24 cases where you know who did something, but the State has to
25 prove whether or not it was a crime or not. This is the first

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1 of those cases. We know that Rayshawn Holmes and Willie
2 Chatman were shot inside their home in 2013 and as I started
3 out, my job is to prove to you who did that beyond a
4 reasonable doubt and I believe that our evidence is going to
5 show that Arsenio Colclough is the person who did that beyond
6 a reasonable doubt.

7 How do I intend to show that to you? As the Judge said,
8 your job is to determine what the facts are. That makes you,
9 in legal terms, what is called the trier of facts. The Judge
10 is the trier of the law. He makes all those decisions. You re
11 solely the trier of fact which means that your job during the
12 course of this trial is to determine whether or not beyond a
13 reasonable doubt that the State has proven that it is a fact
14 that Arsenio Colclough is the person who shot Rayshawn Holmes
15 and/or Willie Chatman.

16 He's charged with four different charges. Two charges of
17 murder. Murder is simply the killing of another human being
18 with malice aforethought. One charge for each dead person in
19 that hallway.

20 He is also charged with possession of a firearm during
21 the commission of a violent crime. What qualifies as a
22 violent crime? This murder occurred with a firearm and so
23 that's one count for each one of those dead persons laying in
24 that hallway.

25 Now, it's not an unreasonable doubt. It is a reasonable

1 doubt. That is the standard and that means as you listen to
2 the testimony that is coming before you, don't let things in
3 your head that might sound unreasonable. It's a reasonable
4 doubt and we will get more into that as testimony comes and
5 in final summation.

6 But how do I intend to prove to you what my burden is? I
7 will tell you. Mr. Colclough was betrayed, Mr. Arsenio
8 Colclough, was betrayed by the one thing that fails all men
9 and that was his own mouth. He couldn't help but brag to
10 others about what he had done. So, he told people what he had
11 done and those people are going to come before you and we
12 expect that after their testimony, you will understand that
13 Mr. Colclough bragged about it to others and that's how we
14 know what happened and that's how we are going to present to
15 you what happened and after you hear that testimony along
16 with some other expert-type testimony, if you pay attention
17 and listen to the Judge's instruction, I'm confident that you
18 will come back with a verdict of guilty for the two counts of
19 murder and the two counts of possession of a weapon during
20 the commission of a violent crime.

21 I ask you to listen and I thank you for your time and
22 your attention.

23 THE COURT: Thank you, Mr. Donald. Mr. Derieg?

24 MR. DERIEG: Thank you, Your Honor. May it please the
25 Court, Your Honor.

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1 OPENING STATEMENT BY MR. DERIEG:

2 Ladies and Gentlemen, this case is entirely about
3 credibility and believability and as jurors one of your most
4 important jobs is to view what happens in that chair and the
5 evidence that will be presented.

6 As the State puts up its case, I submit to you that you
7 are going to have to battle an internal conflict as you try
8 to make sense of everything that happened. You will have a
9 choice. Do you believe in evidence and science or are you
10 going to believe a group of people, just a couple of people,
11 who are in prison serving lengthy sentences and are looking
12 for a way out of jail? The Defense will submit to you that
13 the evidence and the science is going to contradict
14 everything these jailhouse snitches are going to say. And so,
15 your job will be to listen to the people who get on the stand
16 and decide if each person, you can look at their demeanor,
17 you can look at if they seem nervous, if they fill confident
18 in what they are saying or if it seems they are searching for
19 answers. But when it comes down to it, ladies and gentlemen,
20 this case is entirely about credibility and whether you
21 believe evidence or whether you believe jailhouse snitches
22 looking for a way out of jail, because you are going to hear
23 from that witness stand that my client, Mr. Arsenio
24 Colclough, was friends with Willie Chatman, but he was
25 cousins and best friends with Rayshawn Holmes. You'll hear

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1 that while Willie Chatman was pretty good friends of Mr.
2 Colclough, Rayshawn Holmes was like Arsenio Colclough's right
3 hand. The two of them were inseperablle. You'll hear how they
4 grew up together. You'll hear how they took baths together.
5 You'll hear how they shared meals together. You'll hear how
6 they shared clothes with each other. You'll hear about the
7 lifelong bond these two individuals had and you'll have to
8 ask yourself whether or not you believe the evidence, which
9 we submit to you will go along with the not guilty plea that
10 Mr. Colclough has been professing for close to three years
11 now or you can believe the jailhouse snitches.

12 The Judge told you just a little while ago that you only
13 have one shot to get this right and this is Mr. Colclough's
14 one shot to be able to stand up and have his day in court.
15 He's pled not guilty and he's presumed not guilty unless he's
16 proven by the State through jailhouse snitches and they are
17 able to convince you firmly, beyond a reasonable doubt, and
18 if they fail to do that the only, only verdict that justice
19 will allow is not guilty. Hold the State to that burden,
20 question the credibility of every one of their witnesses,
21 look at every piece of evidence and I submit that when you do
22 that you will come to the only answer that there can possibly
23 be in this case which is, Arsenio Colclough is not guilty of
24 the murder of Rayshawn Holmes and Willie Chatman. Thank you.

25 THE COURT: Thank you Mr. Derieg. Mr. Donnald, you may

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1 call your first witness.

2 MR. DONNALD: Thank you, Your Honor.

3 MR. DERIEG: May we approach?

4 THE COURT: You may.

5 (Bench conference off the record)

6 MR. DONNALD: Your Honor, the State calls Janice Chatman.

7 THE COURT: All right. Ms. Chatman, come forward and be
8 sworn.

9 MR. BRADLEY: Place your left hand on the Bible, raise
10 your right hand, state your name for the record.

11 MS. CHATMAN: Janice Chatman.

12 (After being duly sworn by Mr. Bradley, JANICE CHATMAN
13 testified as follows:)

14 MR. BRADLEY: State your full name and spell your last
15 name for the record.

16 MS. CHATMAN: Janice Denise Chatman, C-H-A-T-M-A-N.

17 DIRECT EXAMINATION

18 BY MR. DONNALD:

19 Q. Ms. Chatman, where do you live?

20 A. Yankee Drive, Sumter, South Carolina.

21 Q. I'm sorry, I couldn't hear you. Say it again?

22 A. Yankee Drive in Sumter.

23 Q. What's the name of that drive?

24 A. Yankee Drive.

25 Q. Yankee Drive. Where is that?

1 A. In Cherryvale.

2 Q. This is an awful question to ask, but I don't have any
3 choice but to ask it. Do you remember the early morning
4 hours of April 13, 2013?

5 A. Yes.

6 Q. Okay. Tell me where you were that morning, as April the
7 12th turned into April 13th of 2013.

8 A. Home in my bed.

9 Q. Out on Yankee Drive?

10 A. Yes.

11 Q. Now, what got you out of bed that night?

12 A. Eric came up to my house knocking, beating my door down,
13 and I jumped up and he was telling me that there was a
14 shooting at Rayshawn's house.

15 Q. Okay. Now, you said it happened at Rayshawn's house?

16 A. Yes.

17 Q. Who was Rayshawn to you?

18 A. My only son.

19 Q. Okay. You found out there was a shooting at Rayshawn's
20 house.

21 A. Yes.

22 Q. Where was Rayshawn's House?

23 A. Around the corner on Confederate. Right down the street,
24 really.

25 Q. How far from you was it?

DIRECT EXAMINATION OF JANICE CHATMAN BY MR. DONNALD

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- 1 A. Less than a mile.
- 2 Q. Less than a mile. Okay. Did you go to that house?
- 3 A. Yes.
- 4 Q. Did you go in that house?
- 5 A. Yes.
- 6 Q. Were you one of the first people to go into that house?
- 7 A. Yes.
- 8 Q. Did you find out whether or not there had been a
- 9 shooting?
- 10 A. Yes.
- 11 Q. Please tell this jury what you found when you went into
- 12 the house.
- 13 A. I found my only son and nephew dead in the hallway.
- 14 Q. You said your only son and your nephew?
- 15 A. Yes.
- 16 Q. Who was your nephew?
- 17 A. Willie Chatman.
- 18 Q. Did you recognize him on sight?
- 19 A. Yes.
- 20 Q. And, of course, you recognized Rayshawn on sight..
- 21 A. Yes.
- 22 Q. When you walked into that house that day, they had
- 23 already passed away?
- 24 A. Yes.
- 25 Q. Ms. Chatman, I'm going to show you what's been marked as

DIRECT EXAMINATION OF JANICE CHATMAN BY MR. DONNALD

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1 State's Exhibits #1 and #2. Let me ask you if you know
2 what that is a picture of?

3 A. My son's house.

4 Q. Confederate Drive or Confederate Road?

5 A. Yes.

6 Q. Look at #2. What is that?

7 A. A picture of his house, still, with the tape around it.

8 Q. Okay. Is that in Sumter County?

9 A. Yes.

10 Q. In the Cherryvale area, right?

11 A. Yes.

12 Q. Is that an accurate description of what that house
13 looked like in April of 2013?

14 A. Yes.

15 MR. DONNALD: Your Honor, I would move to have State's
16 Exhibits ---

17 THE COURT: Any objection, Mr. Derieg?

18 MR. DERIEG: Without objection, Your Honor.

19 THE COURT: All right. Without objection, State's
20 Exhibits #1 and #2 are admitted.

21 (Whereupon, two 8x10 photocopies are entered into
22 evidence as State's Exhibits #1 and #2, without objection)

23 THE COURT: Any objection?

24 MR. DERIEG: No, sir, Your Honor.

25 THE COURT: What numbers are these, #3 and #4?

DIRECT EXAMINATION OF JANICE CHATMAN BY MR. DONNALD

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1 MR. DONNALD: #3 and #4, Your Honor.

2 THE COURT: Without objection.

3 (Whereupon, two 8x10 photocopies are entered into
4 evidence as State's Exhibits #3 and #4, without objection)

5 Q. Ms. Chatman.

6 A. Yes?

7 Q. I've got to show you State's Exhibit #3 and I've got to
8 ask you, is that what you found when you went into that
9 house on Confederate Road?

10 A. Yes.

11 Q. Please describe for the jury what you see in that
12 picture as it relates to the night you went in there.

13 A. My son and nephew on the floor, head to toe.

14 Q. Your son and your nephew.

15 A. Yes.

16 Q. Can you tell from that photograph which one is your son,
17 Rayshawn and which one is your nephew?

18 A. Rayshawn is the one with the dreads.

19 Q. Okay.

20 A. And Willie is the one with his shirt pulled up in the
21 back and in the camouflage.

22 Q. All right. In that photograph, Willie is the one at the
23 top of that photograph and your son is the one at the
24 bottom?

25 A. Yes.

DIRECT EXAMINATION OF JANICE CHATMAN BY MR. DONNALD

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1 Q. Can you hold that up to the jury so they can see what
2 you are talking about? (Complies) That's good. Thank
3 you. Ms. Chatman, who had the job of cleaning up that
4 house once the investigation was all done?

5 A. Me and Evelyn Chatman.

6 Q. I'm going to show you what's been marked as State's
7 Exhibit #4. Is that a part of how it looked while you
8 were cleaning it up?

9 A. Yes. Except for the bodies.

10 Q. Yes, ma'am. I think by that time the bodies had been
11 removed. Is that right?

12 A. Yes.

13 Q. Who called the police?

14 A. I did.

15 Q. Did they come out and process the scene later on that
16 night?

17 A. Yes.

18 Q. How long was it between when the police processed the
19 scene and you cleaned up the house?

20 A. The next day. Well, that same day, but later on that
21 day.

22 Q. Because this happened in the early morning hours.

23 A. Yes.

24 Q. After the sun had risen ---

25 A. Yes.

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1 Q. --- later on April the 13th. Was that Rayshawn's house?

2 A. Yes.

3 Q. Did he own it or rent it or do you know?

4 A. He was renting it, but he was in the process of moving
5 that morning.

6 Q. Okay. When you went in the house, did you turn the
7 lights on?

8 A. No, the lights was off.

9 Q. Do you know why the lights were off?

10 A. The electricity was off.

11 Q. Okay. So, when you cleaned up, was it during the day the
12 next day?

13 A. Yes.

14 Q. What did you do with the things that you cleaned?

15 A. Everything that was left in the house, I either throwed
16 it away, gave it away, or kept it.

17 Q. Did you find articles of clothing belonging to your son?

18 A. Yes.

19 Q. And did you, in particular, did you find any hats
20 belonging to your son?

21 A. Yes.

22 Q. What did you do with the hats that you found?

23 A. I kept them all. I put them on his hat rack in the
24 bedroom at his room at my house.

25 Q. Okay. In particular, I'm asking you to look at State's

CROSS EXAMINATION OF JANICE CHATMAN BY MR. DERIEG

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1 Exhibit #4. In that photograph is a hat. Is that
2 correct?

3 A. Yes.

4 Q. Do you recall finding that hat?

5 A. Yes.

6 Q. Tell the jury what you did with that hat.

7 A. With all his hats, I took them home, because he still
8 had a room in my house and he had a hat rack that hangs
9 from the ceiling in his bedroom. So, I placed all his
10 hats back on his hatrack.

11 Q. As far as you know, did anyone disturb those hats?

12 A. No.

13 Q. Ultimately, what did you do with the red hat?

14 A. After I found out about the red hat, I called Detective
15 Wesley Gardner and give it to him.

16 Q. It was in your possession from the time that you cleaned
17 the house up until you gave it to Wesley Gardner. Is
18 that right?

19 A. Yes.

20 Q. Did you see anyone go in and disturb it during that time
21 period?

22 A. No. It was in his room at the house.

23 MR. DONNALD: Your Honor, beg the Court's indulgence.

24 THE COURT: Yes, sir.

25 Q. Ms. Chatman, how long did Rayshawn live in that house?

CROSS EXAMINATION OF JANICE CHATMAN BY MR. DERIEG

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1 A. About two years.

2 Q. Thank you.

3 MR. DONNALD: Your Honor, that's all the questions I
4 have.

5 THE COURT: All right. Mr. Derieg?

6 MR. DERIEG: Thank you, Your Honor.

7 MR. DONNALD: And Your Honor, excuse me, I think they are
8 already in, but just to make sure, I move to have State's
9 Exhibits ---

10 THE COURT: I already put them in. They came in without
11 objection.

12 MR. DONNALD: Thank you.

13 CROSS EXAMINATION

14 BY MR. DERIEG:

15 Q. Good morning, Ms. Chatman.

16 A. Good morning.

17 Q. I'd just like to start by saying how sorry I am for your
18 loss. I can't imagine how difficult the last three years
19 have been for you. Can you tell this jury how my client,
20 Arsenio, was related to your son?

21 A. They were not related. They was just friends. No
22 relation, whatsoever.

23 Q. There's no relation between them through their fathers?

24 A. No. That's his father right there.

25 Q. How often did you have a chance to see Arsenio with your

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1 son?

2 A. A lot when they were growing up. Arsenio used to come by
3 the house all the time.

4 Q. And can you describe for the jury what their
5 relationship was like while they were growing up?

6 A. They were friends, just like his other friends. Just
7 friends.

8 Q. Would you consider them close friends?

9 A. They was like close friends.

10 Q. And, in fact, Arsenio used to live with Rayshawn, didn't
11 he?

12 A. No, he never lived at Rayshawn's house nor at my house.
13 No.

14 Q. You don't know about Arsenio living at the Confederate
15 house?

16 A. He never lived there. I was there all the time. I even
17 went by there and washed dishes. I can tell you who
18 lived there. Clay Bolt(ph) was one of them and Willie
19 Chatman and Eric. Never Arsenio.

20 Q. What day was it that you were able to retrieve that red
21 hat?

22 A. That same day, but later on in the day time.

23 Q. The same day, so, on the 13th?

24 A. No, not really on the 13th. I think it was like a day,
25 the day of the 13th or the 14th. I think it was like the

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1 day of the 13th or the 14th. I'm not exactly sure.

2 Q. You waited until sometime in November when you gave that
3 hat to Detective Gardner. Right?

4 A. Yes. I think it was in November, I'm not sure about
5 that, either, but I had that hat in my possession the
6 whole time.

7 Q. How many people would you say have been in and out of
8 your house between April 13 of 2013 and the first week
9 in November in 2013?

10 A. I don't know. Like I say earlier, I'm a very private
11 person. I don't entertain company. That's why I stay in
12 the country.

13 Q. So, even after the funeral you didn't have anybody over?

14 A. Yes, but almost everybody was outside. It was hot during
15 the time.

16 Q. Did Arsenio ever spend the night with your son at your
17 house?

18 A. When they was around about seven or eight, something
19 like that. But other than that, no.

20 Q. And was there occasions for your son to spend the night
21 with Arsenio?

22 A. No. We never played that. Our kids don't stay with
23 nobody but us until they grown.

24 Q. Did Rayshawn go over to Arsenio's mama's house sometimes
25 for meals to eat with Arsenio?

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RE-CROSS EXAMINATION OF JANICE CHATMAN BY MR. DERIEG

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1 A. He probably stopped over there once and a while, but he
2 never stayed.

3 Q. How secure would you say Rayshawn's room was?

4 A. You talking about at my house?

5 Q. Yes, ma'am.

6 A. Very. Nobody goes back there. Just like just like my
7 family and me, we the only ones that goes back there.

8 MR. DERIEG: Court's indulgence, Your Honor.

9 THE COURT: Yes.

10 MR. DERIEG: Nothing further, Your Honor.

11 THE COURT: Any redirect, Mr. Donnald?

12 MR. DONNALD: Yes, sir, Your Honor. Just a moment.

13 Court's indulgence.

14 REDIRECT EXAMINATION

15 BY MR. DONNALD:

16 Q. Ms. Chatman, that hat that's in that photograph, you
17 stated on the record that it went directly from the
18 scene of the shooting to your house.

19 A. Yes.

20 Q. And was kept in Rayshawn's room?

21 A. Yes, on his hat rack.

22 Q. Until the time it was turned over to Wesley Gardner?

23 A. Yes.

24 Q. Is there any way, to your knowledge, that Arsenio
25 Colclough could have had access to that room during that

DIRECT EXAMINATION OF RODNEY HOLMES BY MR. DONNALD

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1 time period?

2 A. No. Definite. No.

3 MR. DONNALD: That's all the questions that I have.

4 THE COURT: Any re-cross?

5 MR. DERIEG: Just one.

6 RE-CROSS EXAMINATION

7 BY MR. DERIEG:

8 Q. Is it possible that anyone at all could have had access
9 to that room?

10 A. No, just us.

11 Q. And when you say, us, who is that?

12 A. Me, his father, his two sisters and his son. And they
13 very seldom go back there. It took my baby a long time
14 before he just ride back down that road.

15 Q. But there are points of time when other people besides
16 yourself go into your son's room, right?

17 A. No. No.

18 Q. Not his father or ---

19 A. His father probably go back there once in a while, but
20 he played with Jacada(ph), because we made it out like
21 Jacada's toy room, but Jacada is only four and his hats
22 are in the ceiling. He can't even reach them.

23 Q. Thank you, ma'am.

24 MR. DERIEG: I have nothing further.

25 THE COURT: Thank you, ma'am. You may step down. You may

1 call your next witness.

2 MR. DONNALD: Your Honor, the State calls Rodney
3 Holmes.

4 (After being duly sworn by Mr. Bradley, RODNEY
5 HOLMES testified as follows:)

6 MR. BRADLEY: Thank you, sir. Have a seat if you would,
7 please. Please state your full name and spell your last name
8 for the record.

9 MR. HOLMES: Rodney Steven Holmes. H-O-L-M-E-S.

10 DIRECT EXAMINATION

11 BY MR. DONNALD:

12 Q. Thank you for being here, Mr. Holmes. You've heard the
13 names Willie Chatman and Rayshawn Holmes already
14 mentioned here this morning. Are you related to either
15 one of those two?

16 A. Yes, sir.

17 Q. Tell the jury how you're related.

18 A. Rayshawn my son and Willie Chatman my nephew.

19 Q. Where do you live?

20 A. Cane Savannah Road, Wedgefield.

21 Q. You live out in Wedgefield?

22 A. Yes, sir.

23 Q. Did you hear about the shooting the night that it
24 happened?

25 A. Yes, sir.

CROSS EXAMINATION OF RODNEY HOLMES BY MR. DERIEG 125

1 Q. Did you go out to the house the night that it happened?

2 A. Yes, sir. I did.

3 Q. Did you go in the house?

4 A. No, sir.

5 Q. Rayshawn was your son.

6 A. Yes, sir.

7 Q. Had anything happened between you and Rayshawn in the
8 couple of days prior to, prior to April the 12th, 2013?

9 A. Well, that morning he called me and told me his lights
10 was out and I gave him eighteen hundred dollars.

11 Q. So, you had personally given him eighteen hundred
12 dollars earlier that day?

13 A. Yes, sir, I did.

14 Q. And the eighteen hundred dollars you gave him, in what
15 form was it? Was it a check or was it cash money?

16 A. Cash money.

17 Q. Okay. How long before the shooting did that take place?

18 A. That was that same day.

19 MR. DONNARD: Your Honor, that's all the questions I have
20 for Mr. Holmes.

21 THE COURT: All right. Mr. Derieg.

22 MR. DERIEG: Thank you, Your Honor, may it please the
23 Court?

24 THE COURT: Yes, sir.

25 CROSS EXAMINATION

THE STATE OF SOUTH CAROLINA VERSUS ARSENIO COLCLOUGH

1 BY MR. DERIEG:

2 Q. Good morning, Mr. Holmes.

3 A. Sir.

4 Q. Just like with Ms. Janice, I'd like to first take a
5 moment to tell you how sorry I am for your losses. Are
6 you related to the Walkers?

7 A. Yes, sir.

8 Q. Would you be related to Mr. Colclough?

9 A. No, sir.

10 Q. Do you know whether Mr. Colclough is related to the
11 Walkers?

12 A. I'm not sure.

13 Q. Do you know what happened to that eighteen hundred
14 dollars that he had?

15 A. He said he paid the light bill with it and he was
16 waiting for them to come out and cut the light on. I
17 asked him to go spend the night that night with his
18 mother but he said he'd be all right. They was supposed
19 to come out the next day. That's all I know.

20 MR. DERIEG: I beg the Court's indulgence.

21 THE COURT: Yes.

22 Q. Are you related to Mary Walker?

23 A. No, sir.

24 MR. DERIEG: That's all I have, Your Honor.

25 THE COURT: All right. Any redirect?

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1 MR. DONNALD: No, Your Honor.

2 THE COURT: All right. Thank you. You may step down.
3 Who are your next witnesses?

4 MR. DONNALD: Bobby Richardson. He's with the Sheriff's
5 department. I would ask to go ahead and publish State's
6 Exhibits #1 through #4. Mr. Richardson's out of the
7 courtroom. I will go get him ---

8 THE COURT: Here he comes right now.

9 MR. DONNALD: Your Honor, I stand ---

10 THE COURT: How long will he be? It may be a good time
11 for a break.

12 MR. DONNALD: Maybe twenty minutes, Your Honor. This may
13 be a good time to take a break.

14 THE COURT: If he's going to be twenty minutes, we'll go
15 ahead and continue.

16 MR. DONNALD: Okay.

17 THE COURT: Y'all okay?

18 THE JURY: (Nod heads).

19 THE COURT: Good. Okay.

20 MR. DONNALD: I still think this would be a good time to
21 publish the pictures.

22 THE COURT: Well, you may publish, certainly. They're in
23 evidence.

24 MR. DONNALD: Your Honor, the reason I asked is because I
25 don't like to hand something to a jury and then start doing

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DIRECT EXAMINATION OF BOBBY RICHARDSON BY MR. DONNALD

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1 testimony.

2 (Whereupon, State's Exhibit #1, #2, #3, and #4 were
3 published to the jury.)

4 (Mr. Bobby Richardson administered the oath by the Mr.
5 Bradley)

6 MR. DONNALD: Your Honor, I want to take this occasion
7 and go ahead and get some exhibits marked.

8 THE COURT: All right.

9 MR. DERIEG: No objection, Your Honor.

10 THE COURT: What exhibits are these?

11 MR. DONNALD: I haven't had them marked yet, Your Honor.

12 THE COURT: Okay. This would be #5 through #13?

13 MR. DONNALD: They would be #5 through #13, yes, sir.

14 THE COURT: And no objection. Is that correct, Mr.

15 Derieg?

16 MR. DERIEG: None, Your Honor.

17 THE COURT: State's Exhibits #5 through #13 are admitted,
18 without objection.

19 (Whereupon, nine 8x10 photocopies are entered into
20 evidence as State's Exhibits #5, #6, #7, #8, #9, #10, #11,
21 #12, and #13, without objection.

22 MR. DONNALD: Your Honor, I beg the Court's indulgence at
23 this time. I've been observing and approximately half of the
24 jurors have seen the exhibits that were published and the
25 State's position is those may be the most important exhibits

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DIRECT EXAMINATION OF BOBBY RICHARDSON BY MR. DONNALD

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1 I can put in. I thank the Court for its indulgence in
2 allowing the entire jury to look at them.

3 THE COURT: You know, in the future we've got electronics
4 where we can publish them, as well.

5 MR. DONNALD: Yes, sir.

6 THE COURT: Let me see the attorneys up here for a
7 second.

8 (Bench conference off the record)

9 THE COURT: All right. You may proceed.

10 MR. DONNALD: Thank you, Your Honor.

11 DIRECT EXAMINATION

12 BY MR. DONNALD:

13 Q. Mr. Richardson, tell the jury who you are.

14 A. I'm Robert W. Richardson, also known as Bobby
15 Richardson. I'm retired law enforcement with thirty-four
16 years experience.

17 Q. Who do you work for now?

18 A. Basically, my wife.

19 Q. You said that you were retired. Where are you retired
20 from?

21 A. Sumter County Sheriff's office.

22 Q. What were your duties at the Sumter County Sheriff's
23 office?

24 A. The last duties that I had was as a crime scene
25 investigator.

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1 Q. And as a crime scene investigator, did you work a scene
2 at Confederate Road?

3 A. Yes, sir. I did.

4 Q. In April of 2013?

5 A. Yes, sir.

6 Q. Specifically, in the shooting death of Willie Chatman
7 and Rayshawn Holmes?

8 A. Yes, sir. That's correct.

9 Q. Do you recall where, in the sequence of events, you
10 arrived on the scene?

11 A. When I arrived on the scene, Sergeant Mike Bean(ph), who
12 was also a crime scene investigator and was already
13 present on scene, along with several responding deputies
14 and investigators.

15 Q. What role was Sergeant Bean playing at this crime scene?

16 A. At the beginning, he was already there and processing
17 the scene when I arrived.

18 Q. Did you assist him? Was the lead processor or how does
19 that work?

20 A. Usually two -- we try to have two crime scene
21 investigators on scene. One takes the lead and one
22 assists; collecting evidence, putting down markers. Just
23 an extra set of eyes, basically.

24 Q. So, did you assist -- I never got a good answer for who
25 was the lead and who was the assistant.

DIRECT EXAMINATION OF BOBBY RICHARDSON BY MR. DONNALD

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- 1 A. I'm sorry. Sergeant Mike Bean was the lead.
- 2 Q. And you assisted Mike Bean?
- 3 A. Yes, sir.
- 4 Q. All right. I'm going to show you State's Exhibit #5 and
- 5 ask you if that's the way Confederate Road looked
- 6 when you entered the house?
- 7 A. Yes, sir. This is the way it was once I entered and this
- 8 is the living room. I call it the living room area.
- 9 Q. Okay. Now, I'm going to show you State's Exhibit #6. Can
- 10 you describe that, please?
- 11 A. Yes, sir. That's the living room area again with the
- 12 markers that had been placed down marking evidence.
- 13 Q. Now, you say markers. Describe the markers for me.
- 14 A. The markers are little plastic numbers, little triangle
- 15 numbers that sit next to the evidence. These particular
- 16 ones actually have a scale on them so that we would know
- 17 which piece of evidence was where and what we were
- 18 picking up.
- 19 Q. And when you say scale, you mean something that weighs
- 20 something or ---
- 21 A. No, sir. A scale. It's actually like a little small
- 22 ruler going in both directions.
- 23 Q. Now, who would have placed the markers that are shown in
- 24 that picture?
- 25 A. That would have been Sergeant Bean.

1 Q. Did you see him do that?

2 A. Yes, sir.

3 Q. I'm going to show you State's Exhibits #7, #8, #9, #10,
4 and #11. Can you tell me what those are?

5 A. Yes, sir. These are all closeups of the markers that
6 were mentioned in the previous photograph, closeups of
7 them.

8 Q. Okay. Can you tell me what's in each one of the markers?

9 A. State's Exhibit #7 is photo marker number two and it's a
10 shell casing. State's Exhibit #8 is marker number three
11 and it is also a shell casing. State's Exhibit #9 is
12 photo marker number four, also a shell casing. State's
13 Exhibit #10 is photo marker number five and I honestly
14 cannot tell you what it is without a photo log. I can't
15 see what's in there. It looks like a bullet fragment,
16 but I'm not positive. State's Exhibit #11 is photo
17 marker number six, also a shell casing. State's Exhibit
18 #12 is photo marker number eleven, also a shell casing.

19 Q. I show you now State's Exhibit #13. Can you describe
20 that for the jury, please?

21 A. Yes, sir. State's Exhibit #13 is the hallway with photo
22 marker numbers twenty and twenty-one. Both of those were
23 shell casings and a large pool of blood, which came from
24 the victims. The victims' bodies had been removed at
25 this point.

DIRECT EXAMINATION OF BOBBY RICHARDSON BY MR. DONNALD

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1 Q. Were you in the house when the victims' bodies were
2 laying in the hallway?

3 A. Yes, sir, I was.

4 Q. So, you recognize it as the same hallway?

5 A. Yes, sir.

6 Q. Can you tell me what number twenty-one is there to mark?

7 A. Number twenty-one is a shell casing.

8 Q. All of the things that were marked, would you have seen
9 whether or not they were taken into evidence?

10 A. Yes, sir. Everything that was marked was collected by
11 Sergeant Bean and myself and transported to the law
12 enforcement, to the Sheriff's Office Annex on North Main
13 Street for packaging and most of them were prepared to
14 be sent to SLED.

15 Q. Okay. Were there other shell casings found on the scene?

16 A. Yes, sir.

17 Q. The items that you have, do they all represent shell
18 casings from the .40 millimeter or from a .40 caliber
19 pistol?

20 MR. DERIEG: Objection, Your Honor.

21 THE COURT: What's your objection?

22 MR. DERIEG: Leading.

23 THE COURT: Re-phrase your question.

24 Q. Do you recall what the exhibits, or the item numbers
25 that are before you, represented with regard to a

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1 certain kind of shell casing?

2 A. No, sir. Not without looking back at the notes. I cannot
3 tell you from looking at the photos.

4 Q. Did you take notes?

5 A. I'm sorry?

6 Q. Without regard to what caliber they might have been, but
7 you say you actually, physically, saw those items taken
8 into evidence or you would have done so yourself?

9 A. Yes, sir. That's correct.

10 Q. What's standard protocol for evidence once its taken --
11 or items once they're taken into evidence?

12 A. Once we take it into evidence, we take it back to our
13 office on North Main Street where it's packaged and
14 whatever the item may be is held for court or it is sent
15 for analysis to SLED.

16 Q. Do you know, as we sit here today, what happened with
17 those items?

18 A. Those items were sent to SLED.

19 Q. Why are they packaged?

20 A. Well, the shell casings are wrapped. They're usually put
21 into a tin can to prevent any additional markings or
22 getting mashed in any way.

23 Q. What's the purpose of excluding them that way?

24 A. To protect the integrity of them so that they can go to
25 the ballistics lab over at SLED for analysis.

CROSS EXAMINATION OF BOBBY RICHARDSON BY MR. DERIEG

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1 Q. Thank you.

2 MR. DONNALD: Your Honor, that's all the questions I
3 have.

4 THE COURT: Mr. Derieg, any cross examination questions?

5 MR. DERIEG: Yes, Your Honor.

6 CROSS EXAMINATION

7 BY MR. DERIEG:

8 Q. Good morning Mr. Richardson.

9 A. Good morning.

10 Q. So, as the crime scene investigator, are you charged
11 with marking all the evidence and then collecting it and
12 preserving it?

13 A. Yes, sir.

14 Q. Do you do any testing yourself?

15 A. No, sir, not as far as shell casings.

16 Q. Well, in that job generally, what testing might you do?

17 A. Fingerprints, mainly.

18 Q. Was any of that done at this Confederate house?

19 A. Not to my knowledge, no, sir. I did not do any.

20 Q. Do you recall collecting any knives from the incident
21 location?

22 A. I know a knife was collected. Yes, sir.

23 Q. Do you remember where that was?

24 A. I believe that it was outside.

25 Q. And would that have been collected by you or Bean?

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CROSS EXAMINATION OF BOBBY RICHARDSON BY MR. DERIEG

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1 A. Sergeant Bean collected that, I'm positive. I know I did
2 not.

3 Q. And only one knife?

4 A. I don't recall. I remember one large knife.

5 Q. Who made the decision not to collect the red hat?

6 A. That would have been Sergeant Bean.

7 Q. But it's fair to say that red hat wasn't collected that
8 night at the incident location?

9 A. I do not believe it was. No, sir.

10 MR. DERIEG: May I approach, Your Honor?

11 THE COURT: You may.

12 Q. You see what's been marked as State's #13?

13 A. Yes, sir.

14 Q. Is that a streak of blood that comes down the hallway?

15 A. It appears to be some type of blood, like a drag mark of
16 some sort. Yes, sir.

17 Q. Would that have been from the bodies being moved by --
18 after law enforcement came in and secured the scene?

19 A. It's possible. I mean, it could have been when the
20 bodies were removed.

21 Q. Do you recall any other trails of blood anywhere else in
22 the house?

23 A. Some blood on the walls. I don't remember anything else
24 in particular.

25 Q. Particularly on the floor, there were no other drag

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1 marks than right there?

2 A. No, sir. Not that I'm aware of.

3 Q. And that's where the bodies were found, right?

4 A. Yes, sir. This is the spot where the bodies were found.

5 Q. And you observed the bodies before they were removed,
6 right?

7 A. Yes, sir.

8 Q. Do you recall seeing that drag mark there before they
9 were moved?

10 A. No, sir. I can't. It was dark. I can't tell you whether
11 it was there or not.

12 Q. How many shell casings, in all, were collected?

13 A. Without counting through the evidence, I can't tell you
14 right off the top of my head.

15 Q. Do you take notes when you're doing a crime scene
16 investigation?

17 A. Sometimes, we do. Sometimes, we don't. Normally, the
18 lead crime scene investigator's making notes.

19 Q. So, it was Sergeant Bean who was the lead that night,
20 correct?

21 A. That's correct.

22 Q. So, it would have been Sergeant Bean that would have
23 taken notes, right?

24 A. Yes, sir. And he would have prepared a written report
25 later.

1 Q. Did you take any notes that night?

2 A. No, sir.

3 MR. DERIEG: I beg the Court's indulgence.

4 THE COURT: Yes, sir.

5 MR. DERIEG: That's all I have, Your Honor. Thank you.

6 THE COURT: Any redirect?

7 MR. DONNALD: No, Your Honor.

8 THE COURT: All right. Thank you. You may step down.

9 THE WITNESS: May I be excused, Your Honor.

10 THE COURT: Any objection to this witness being excused?

11 MR. DONNALD: None at all.

12 MR. DERIEG: No, Your Honor.

13 THE COURT: You are excused.

14 THE WITNESS: Thank you, sir.

15 THE COURT: Thank you.

16 All right. Ladies and gentlemen, this is a good time for
17 a recess. We'll take a fifteen minute recess. If any of you
18 are smokers or need to smoke, I will have one of the bailiffs
19 accompany you to a smoking area. All right. Thank you. Please
20 do not discuss anything about the case. You will get tired of
21 me saying that, but I'm going to say it every time you go
22 back there. Thank you.

23 (Jury out at 11:25 a.m.)

24 THE COURT: All right. Court will be in recess until
25 11:40 by that clock. Thank you.

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1 MR. DONNALD: Yes, Your Honor.

2 (Short break)

3 THE COURT: Thank you. Please take your seats. All right.
4 Let's bring our jury back in.

5 MR. BRADLEY: Yes, sir.

6 (Jury in at 11:43 a.m.)

7 MR. BRADLEY: Your Honor, we have all the jurors present
8 in the courtroom.

9 THE COURT: All right. Very well. Please take your seats.
10 You may call your next witness.

11 MR. DONNALD: Your Honor, the State calls John Colclough.

12 (John Colclough enters the courtroom)

13 MR. BRADLEY: Place your left hand on the Bible. Raise
14 your right hand best you can. State your name, please.

15 MR. JOHN COLCLOUGH: John Colclough.

16 MR. BRADLEY: Do you solemnly swear or affirm the
17 testimony to the Court will be the truth, the whole truth and
18 nothing but the truth, so help you God?

19 MR. JOHN COLCLOUGH: No, sir. I don't plan on saying
20 nothing.

21 MR. BRADLEY: You don't affirm?

22 MR. JOHN COLCLOUGH: No, sir.

23 MR. BRADLEY: All right, sir. Judge.

24 MR. JOHN COLCLOUGH: I told them yesterday before they
25 brought me down here.

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1 THE COURT: Let me see the attorneys for a second.

2 (Bench conference off the record)

3 THE COURT: Mr. Colclough, are you saying at this point
4 in time that you will not affirm that you will tell the truth
5 if you are on the stand?

6 MR. JOHN COLCLOUGH: I won't say nothing.

7 THE COURT: So, you're invoking your Fifth Amendment?

8 MR. JOHN COLCLOUGH: Yes, sir.

9 MR. DONNALD: Your Honor, he has no pending charges.

10 THE COURT: Oh, he has no pending charges.

11 MR. DONNALD: No, sir.

12 THE COURT: All right. Well, I mean, he's saying he will
13 not tell the truth if he's on the stand. Let me talk to y'all
14 for a second.

15 (Bench conference off the record)

16 THE COURT: All right. Ladies and gentlemen, we're going
17 to take a short break. I'm going to send you back to the jury
18 room. If you'd like a Coca-Cola or something like that, we'll
19 be glad to ---

20 MR. BRADLEY: We just gave it to them, Judge.

21 THE COURT: You just gave it to them. Okay.

22 (Jury out at 12:45 a.m.)

23 THE COURT: All right. Have a seat Mr. Colclough. You may
24 be seated. What is Mr. Colclough currently incarcerated for?

25 MR. DONNALD: Assault and battery of a high and

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1 aggravated nature.

2 THE COURT: Okay. Now, Mr. Colclough, you have no pending
3 charges in front of you. Is that correct?

4 MR. JOHN COLCLOUGH: No, sir.

5 THE COURT: So, you're refusing to testify?

6 MR. JOHN COLCLOUGH: Yes, sir.

7 THE COURT: Because you have no Fifth Amendment right
8 because you -- basically, you don't have any charges that
9 would be incriminating against you. Do you understand that?

10 MR. JOHN COLCLOUGH: Yes, sir.

11 THE COURT: So, you're not going to take any oath and you
12 refuse to answer any questions from anyone?

13 MR. JOHN COLCLOUGH: Right.

14 THE COURT: All right. Mr. Donald would you like to
15 question him?

16 MR. DONNALD: Mr. Colclough, what did you do to your leg?

17 MR. JOHN COLCLOUGH: Basketball. Sprung my knee.

18 MR. DONNALD: You just answered a question.

19 MR. JOHN COLCLOUGH: About a sprained knee.

20 MR. DONNALD: So, are you willing to answer some
21 questions and not other questions?

22 MR. JOHN COLCLOUGH: Okay. Say anything and I won't
23 answer nothing else. I'll go back where I come from.

24 MR. DONNALD: Did you plead guilty to assault and battery
25 of a high and aggravated nature?

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1 MR. JOHN COLCLOUGH: (No response).

2 MR. DONNALD: Can you tell me why you won't answer any
3 questions?

4 MR. JOHN COLCLOUGH: (No response).

5 MR. DONNALD: Your Honor, I have to ask that you instruct
6 him to answer questions.

7 THE COURT: Right.

8 MR. DONNALD: Would you please instruct him to answer the
9 question?

10 THE COURT: Mr. Colclough, you can be held in contempt of
11 court at this point in time for not answering questions. Do
12 you understand that?

13 MR. JOHN COLCLOUGH: (No response)

14 THE COURT: Do you want me to hold you in contempt of
15 court?

16 MR. JOHN COLCLOUGH: (No response)

17 THE COURT: What's his ---

18 MR. DONNALD: I would ask that you also instruct him that
19 any contempt of court citation or punishment that he'd get
20 would be required to be served consecutive to the time ---

21 THE COURT: Yeah, do you understand that? If I sentence
22 you to a year for contempt of court, that that will be tacked
23 onto your current sentence.

24 MR. JOHN COLCLOUGH: (No response).

25 THE COURT: All right. All right. Would you like to ask

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1 him any questions, Mr. Derieg?

2 MR. DERIEG: No, sir.

3 THE COURT: I hereby sentence you to one year of contempt
4 of court to be attached to the sentence he currently has. All
5 right. He may leave. That's all I can do.

6 MR. DONNALD: Sir?

7 THE COURT: That's all I can do to him.

8 MR. DONNALD: I would like to ask him if he would
9 reconsider answering questions after that.

10 THE COURT: Well, he'll tell us on the way out if he's
11 going to do that.

12 MR. DONNALD: Will you reconsider answering questions?

13 MR. JOHN COLCLOUGH: (No response)

14 THE COURT: Let me see the attorneys.

15 (Bench conference off the record)

16 THE COURT: All right. Let's bring our jury back in.

17 MR. DONNALD: Your Honor?

18 THE COURT: Yes, sir.

19 MR. DONNALD: The next witness will be an inmate of the
20 Department of Corrections.

21 THE COURT: Is he going to testify?

22 MR. DONNALD: I didn't know this one was going to do what
23 he did.

24 THE COURT: Okay.

25 MR. DONNALD: As a precaution, I would like to get the

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1 next witness up to see.

2 THE COURT: Well, let's go ahead and bring him up and see
3 if he's going to testify as well.

4 MR. DONNARD: Can we approach?

5 THE COURT: You may.

6 (Bench conference off the record)

7 (Mr. Robinson enters the courtroom)

8 THE COURT: Go ahead and see if you can place Mr.
9 Robinson under oath and I'll just tell the jury he's already
10 under oath if he...

11 MR. BRADLEY: Place your left hand on the Bible, raise
12 your right hand and state your name, please.

13 MR. ROBINSON: Christopher Robinson.

14 MR. BRADLEY: Do you solemnly swear or affirm the
15 testimony to the Court shall be the truth, the whole truth,
16 nothing but the truth, so help you God?

17 MR. ROBINSON: No, sir. I'm not testifying.

18 MR. BRADLEY: Your Honor.

19 THE COURT: Does he have any charges against him?

20 MR. DONNARD: Not that I'm aware of, Your Honor.

21 THE COURT: Mr. Robinson, is that correct?

22 MR. ROBINSON: Yes, sir.

23 THE COURT: Mr. Robinson, you have no charges against you
24 so, therefore, your Fifth Amendment rights, it would not
25 incriminate you to testify. Do you understand that?

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1 MR. ROBINSON: Uh-huh.

2 THE COURT: If you do not testify, I can hold you in
3 contempt of court and any sentence that I give you will be
4 added onto the sentence you currently have. Do you understand
5 that?

6 MR. ROBINSON: Yes, sir.

7 THE COURT: Knowing that, do you still refuse to testify?

8 MR. ROBINSON: Yes, sir.

9 THE COURT: All right. Would you like to ask him any
10 questions, Mr. Donald?

11 MR. DONNALD: Beg the Court's indulgence, Your Honor.
12 Mr. Robinson?

13 MR. ROBINSON: Uh-huh.

14 MR. DONNALD: Can you tell me why you're refusing to
15 answer any questions?

16 MR. ROBINSON: I don't want nothing to do with it.

17 MR. DONNALD: Your Honor, a couple of things. I'd ask
18 that he be held in contempt and instructed that -- well, I
19 think you've already instructed him on his Fifth Amendment
20 rights.

21 THE COURT: I have.

22 MR. DONNALD: I do think it's important as he is a
23 witness and is on my witness list that if he is going to
24 choose to refuse to testify that the jury be able to see him
25 refuse to testify.

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1 THE COURT: As they did with Mr. Colclough?

2 MR. DONNALD: As they did with Mr. Colclough. But also,
3 Mr. Robinson is even more important because he also gave a
4 statement to Melissa Addison. Now, that statement, unlike
5 Mr. Colclough's, has been reduced to writing and videotape.
6 And which, if he refuses to testify, I do intend to put his
7 videotape and the written statement into evidence through
8 Sergeant Addison.

9 THE COURT: Yes, sir.

10 MR. DERIEG: And I would intend to introduce the
11 statement, oral statement, that he made through my private
12 investigator.

13 THE COURT: If he gave a statement to your investigator,
14 unlike the last witness, you would be entitled to do that if
15 he's not here. So okay, we'll let him refuse to in front of
16 the jury and then we'll send him back out. But I will tell
17 you at this time if you refuse to testify I will sentence you
18 to one year and that will be added on to your current
19 sentence. Do you understand that?

20 MR. ROBINSON: Yes, sir.

21 THE COURT: Okay.

22 MR. DONNALD: So, you're bringing the jury out?

23 THE COURT: Yeah. That's what we're going to do. We're
24 going to bring the jury in.

25 MR. DONNALD: Because the next witness is also going to

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1 be from the Department of corrections or we can take a lunch
2 break, if you'd like, and see what's going to happen with
3 that. I haven't had -- this has gone a lot faster than I
4 anticipated.

5 THE COURT: Well, yeah.

6 MR. DONNALD: I haven't checked to see that Mr. Corie
7 Simon has made it from the Department of Corrections yet.

8 DEPUTY SHERIFF: He is here.

9 MR. DONNALD: He is here. Then, he would be next, Your
10 Honor. And we can -- would you like to bring the jury in,
11 have him refuse, go out and then see what Mr. Simon's going
12 to do or would you like to go ahead and find out what Mr.
13 Simon's going to do?

14 THE COURT: Let's go ahead and find out what Mr. Simon's
15 going to do.

16 DEPUTY SHERIFF: Do you want them both brought up?

17 MR. DONNALD: We're going to do them both at the same
18 time.

19 THE COURT: Let's go ahead and do them both. Bring them
20 up. That's what I thought we were going to do. And then we
21 will take a lunch break after this.

22 (Mr. Simon enters the courtroom)

23 THE COURT: Which witness is this?

24 MR. DONNALD: Corie Simon, Your Honor

25 THE COURT: All right. This is Mr. Corie Simon. Is that

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1 correct?

2 MR. SIMON: Yes.

3 THE COURT: Please place Mr. Simon under oath.

4 MR. BRADLEY: Place your left hand on the Bible, raise
5 your right hand. State your name, please.

6 MR. SIMON: Corie Simon.

7 MR. BRADLEY: Raise your hand best you can.

8 MR. SIMON: (Complies).

9 MR. BRADLEY: Do you solemnly swear or affirm the
10 testimony to the Court shall be the truth, the whole truth,
11 and nothing but the truth, so help you God?

12 MR. SIMON: I affirm.

13 MR. BRADLEY: All right. Have a seat, please.

14 THE COURT: All right. I'll deal with him -- Well, let's
15 bring the jury in and then put Mr. Simon over here and then
16 we'll call him back and swear him in front of the jury.

17 MR. BRADLEY: All right, sir.

18 MR. DONNARD: I was thinking Judge, did he refuse to
19 testify?

20 THE COURT: No. He said he would testify.

21 MR. DONNARD: Your Honor, may we approach?

22 THE COURT: You may.

23 (Bench conference off the record)

24 (Jury in at 12:09 p.m.)

25 THE COURT: All right. Mr. Christopher Robinson.

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1 (Mr. Robinson comes forward)

2 THE COURT: Place Mr. Robinson under oath.

3 MR. BRADLEY: All right, sir. Place your hand on the
4 Bible, raise your right hand and state your name, please.

5 MR. ROBINSON: Christopher Robinson.

6 MR. BRADLEY: Do you solemnly swear or affirm the
7 testimony to the court shall be the truth, the whole truth,
8 and nothing but the truth, so help you God?

9 MR. ROBINSON: Yes, sir.

10 THE COURT: Mr. Robinson, do you intend to testify?

11 MR. ROBINSON: No, sir.

12 THE COURT: All right. Any other questions? He's not
13 going to testify.

14 MR. DONNALD: No, further questions, Your Honor.

15 THE COURT: Okay. Thank you. You may take him back to the
16 jail. I believe your next witness is Mr. Corie Simon?

17 MR. DONNALD: Corie Simon, that's correct.

18 THE COURT: Mr. Simon.

19 MR. DONNALD: Thank you, Your Honor.

20 MR. BRADLEY: Please state your full name and spell your
21 last name for the record.

22 MR. SIMON: My name is Corie Simon. My last name is S-I-
23 M-O-N.

24 THE COURT: Mr. Donald, your witness.

25 DIRECT EXAMINATION

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1 BY MR. DONNALD:

2 Q. Good morning, Mr. Simon.

3 A. Good morning.

4 Q. My name is Eddie Donnalld. Have we ever met before?

5 A. No.

6 Q. Have you ever talked with me in any way before?

7 A. No, sir.

8 Q. Have you ever talked to anybody on my behalf?

9 A. No.

10 Q. Have I ever sent somebody to talk to you?

11 A. No.

12 Q. Where do you live now?

13 A. Well, I'm down in Ridgeland right now, but I still stay
14 in Clarendon County, down there in Manning, South
15 Carolina, Clarendon County.

16 Q. Okay. Tell me about that outfit you've got on.

17 A. Huh?

18 Q. Tell me about that outfit you've got on.

19 A. Right here?

20 Q. Yes.

21 A. I'm in ---

22 Q. I mean, you're incarcerated?

23 A. I'm incarcerated.

24 Q. In the Department of Corrections?

25 A. Yeah.

DIRECT EXAMINATION OF CORIE SIMON BY MR. DONNALD

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1 Q. In The South Carolina Department of Corrections?

2 A. Uh-huh.

3 Q. What are you in the Department of Corrections for?

4 A. I caught a drug charge and assault and battery first
5 degree.

6 Q. Do you know when your projected max-out date is?

7 A. February, 2017.

8 Q. Are your charges out of Clarendon County?

9 A. Uh-huh.

10 Q. And did you do your pre-trial time in Clarendon County?

11 A. Yeah.

12 Q. While you were in Clarendon County, did you have
13 occasion to run into Arsenio Colclough?

14 A. Yeah. I seen Arsenio. Arsenio is a good guy. Yeah, I
15 seen Arsenio.

16 Q. Was he in, doing time with you pending trial here in
17 Clarendon County?

18 A. Well, he got in a little trouble in Sumter and they
19 brought him to Clarendon County. We was in lockup
20 together down in lockup.

21 Q. Did you have time to talk to him?

22 A. Yeah, I talked to him.

23 Q. Did you talk to him?

24 A. Uh-huh.

25 Q. Did y'all get along?

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1 A. Yeah. We get along fine.

2 Q. Okay. How long were y'all in Clarendon County together?

3 A. I was there first and then he came. I believe I was the
4 on -- I believe he stayed in down there about, probably
5 about forty-five, sixty days together. Forty-five, sixty
6 days together.

7 Q. Tell me about the housing facility in Clarendon County.
8 Are y'all in one big pod or are y'all in individual
9 cells?

10 A. Well, we was in one big pod and I got into some trouble
11 and they took me back there to lockup and lockup got
12 like four cells on each side. It's very small back
13 there. Yeah, there was about six of us was back there
14 together.

15 Q. Where were you with Mr. Colclough?

16 A. Huh?

17 Q. Where were you with Mr. Colclough? In a pod or in the
18 lockup?

19 A. We was in the -- it was a little -- like I said, they
20 ain't got nothing but six rooms with three doors on each
21 side. So, when they let us out, all of us in the little
22 teeny area together for our little rec, all us come out
23 together.

24 Q. All right. And I asked the question and I should have
25 understood the answer but I didn't. Were you and Mr.

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DIRECT EXAMINATION OF CORIE SIMON BY MR. DONNALD

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1 Colclough in the pod or in the lockup?

2 A. We was in the same lockup.

3 Q. How many people are in a pod at one time, usually?

4 A. In the pod?

5 Q. On average.

6 A. On average? I'd say probably about -- in the whole pod
7 probably about seventy. Seventy.

8 Q. And describe that for me. Is that a big room?

9 A. Yeah. That's the big room. But where we was, we was in a
10 little lockup area that was real small.

11 Q. How many people were in that lockup area?

12 A. Probably about seven or eight. I'd think about seven,
13 probably.

14 Q. Including Arsenio Colclough who's sitting at the table
15 over here. Is that right?

16 A. Yeah. He was there with us, too.

17 Q. How were y'all able to talk back and forth to one
18 another?

19 A. I mean, when we come out, I believe they give us like an
20 hour a day on rec. All of us come out, sit up at the
21 table together.

22 Q. All right. And were y'all ever in the pod together when
23 you weren't in some more open environment?

24 A. In the pod together?

25 Q. Yeah?

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1 A. No. The little teeny pod is on the lockup. That's it.

2 Q. Now, is it normal for people awaiting trial to talk
3 about their pending charges?

4 A. Huh?

5 Q. Is it normal for people who are in the detention center
6 to talk about their pending charges?

7 A. No.

8 Q. Y'all don't talk about pending charges?

9 A. I mean, yeah, we talk about 'em.

10 Q. So, you do talk about pending charges?

11 A. Yeah.

12 Q. Did you talk to Mr. Colclough about his pending charges?

13 A. Who? Mr. Colclough?

14 Q. Mr. Arsenio Colclough.

15 A. I mean, I talked to him about -- he ran these couple
16 things by me. They wasn't too serious. He ran a couple
17 of little incidents by me. It wasn't too serious.

18 Q. And you knew he was in lockup pending two murders in
19 Sumter County, right?

20 A. Uh-huh.

21 Q. What did he tell you about those two murders?

22 A. It was just a thing. I know he got his little motion for
23 discovery or something like that. The only thing Arsenio
24 told me something about somebody's cousin or somebody's
25 cousin's hat or something, somebody's cousin hat was

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1 left at the crime scene and they tried to frame him for
2 it and he said he was nowhere, he was nowhere to be at
3 the crime scene. He said he was nowhere at the crime
4 scene. He told me this. And so when they try to claim
5 him about a hat or something, about a hat or something,
6 he said he didn't know what they was talking about.

7 Q. What did he tell you about the hat? Did he ever tell you
8 what color it was?

9 A. No. He ain't told me what color it was.

10 Q. He just told you there was a hat that was at the crime
11 scene?

12 A. The hat was at the crime scene they found. That's all.

13 Q. That's all he told you about it?

14 A. That's it.

15 Q. He told you it wasn't his hat?

16 A. Huh?

17 Q. He told you it wasn't his hat?

18 A. Yeah. He said he didn't know nothing about that hat. He
19 say he didn't know nothing about that hat, you know.
20 That that's the only thing, that's the only thing I
21 talked to him about. That was it.

22 Q. You're sure that he told you he knew nothing about that
23 hat?

24 A. (Nods head)

25 Q. Answer yes or no. She's got to ---

1 A. Yeah. Yes. Yeah. That's it.

2 Q. And that's all he told you about the charges, the two
3 murder charges, that he was in jail pending in Clarendon
4 County?

5 A. Yeah.

6 Q. When he was with you?

7 A. That's right.

8 Q. Mr. Simon...

9 MR. DONNALD: I'm going to ask Sergeant Melissa Addison
10 to stand up for me in the courtroom and I'm saying that for
11 the record.

12 Q. Do you recognize Sergeant Addison?

13 A. No, I don't recognize her.

14 Q. You ever talk with her before?

15 A. Huh-uh.

16 Q. Okay. How about a Wesley Gardner? Do you know a Wesley
17 Gardner?

18 A. Yeah. I talked to Wesley Gardner.

19 Q. Did you talk to him about Arsenio's charges?

20 A. Who that?

21 Q. Did you talk to Wesley Gardner about Arsenio's charges?

22 A. He was -- he been asked me certain things. Yes, I did
23 talk to Wesley Gardner. He even asked me certain things.

24 Q. What did you tell him that Arsenio had told you with
25 regard to his charges?

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1 A. I didn't told him nothing.

2 Q. Mr. Simon, I'm showing you what's been previously marked
3 as State's Exhibit #14. I'm going to ask you to look at
4 that carefully, please.

5 MR. DONNALD: And I'll hand Your Honor a copy as well.

6 And I'd ask for the Court's indulgence. I expect it'll take
7 him a minute to read that.

8 A. I ain't know what Wesley Gardner did. I didn't sign that
9 there, brother. I didn't sign that. And no Wesley out
10 there. I didn't sign that.

11 MR. DONNALD: Are you ready, Your Honor?

12 THE COURT: Yes.

13 Q. With regard to State's Exhibit #14. Do you still have it
14 in front of you?

15 A. Uh-huh.

16 Q. Your testimony to this jury is, that's not your
17 signature?

18 A. That's not my signature.

19 Q. Did you read the statement?

20 A. I read it.

21 Q. Did you make those statements?

22 A. No, I didn't.

23 Q. You do know that if you lie to this court and this jury
24 you can be charged with perjury. Is that right?

25 A. Well, I ain't lying. I ain't signed nothing and no

1 lawyer was, informed me. So, I didn't sign that.

2 Q. What do you mean by ain't no lawyer informed you?

3 A. I mean, like I say, I did talk to Wesley Gardner. And
4 like I say, I didn't sign nothing.

5 Q. The statement contained in there, is that what you told
6 Mr. Gardner?

7 A. No.

8 Q. You didn't tell Mr. Gardner -- well, I will retract that
9 question. So, you're telling this Court and this jury
10 that that's not your statement and that's not your
11 signature?

12 A. No, sir.

13 MR. DONNALD: I beg the Court's indulgence.

14 THE COURT: Yes, sir.

15 Q. When you met with Mr. Gardner, was there anyone with Mr.
16 Gardner?

17 A. Huh?

18 Q. Was there anyone with Mr. Gardner when you met with Mr.
19 Gardner?

20 A. Was there somebody with him?

21 Q. Yeah.

22 A. I didn't see nobody.

23 Q. You didn't see another investigator there with Mr.
24 Gardner?

25 A. No.

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1 Q. Where did you meet with Mr. Gardner?

2 A. At the sheriff department.

3 MR. DONNALD: Your Honor, that's all the questions I have
4 of Mr. Simon.

5 THE COURT: All right. Mr. Derieg, do you have any
6 questions?

7 MR. DERIEG: No, Your Honor, no questions.

8 THE COURT: All right. Thank you. You may step down.

9 All right. I think now is a good time to take our lunch
10 break. Ladies and gentlemen, we'll take an hour-and-a-half
11 lunch break. We'll resume testimony at 2:00. So, if you could
12 be back here just a little bit before that so we can start
13 right on time. Thank you. Please do not discuss anything
14 about the case while you're off on your break.

15 (Jury out at 12:23 p.m.)

16 THE COURT: All right. Court's in recess until 2:00.

17 (Lunch recess)

18 MARCH 22, 2016 - AFTERNOON

19 THE COURT: Don't we have one more matter to put on the
20 record concerning the DNA?

21 MR. DONNALD: Your Honor.

22 THE COURT: Yes, sir.

23 MR. DONNALD: In regard to the DNA. A hat has been made a
24 Court's Exhibit at pre-trial. It was not identified by a
25 witness, other than through a photograph. There was DNA taken

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1 from that hat and Your Honor did not rule on the admission of
2 that DNA evidence pre-trial because you wanted to hear some
3 more testimony. It is my contention is that the, with the
4 exception of any gaps in the chain, which will be proven this
5 afternoon, I believe, that the testimony about the DNA that
6 was given to you by Catherine Leisy at the pre-trial hearing
7 would now be admissible and relevant due to the fact, among
8 other things, that Corie Simon testified that Arsenio
9 Colclough told him he didn't know anything about a hat. This
10 particular hat, we believe, was found on the scene. And we
11 believe that testimony will be that, at least there's a one
12 in sixteen -- the testimony that Catherine Leisy will give
13 will relate and there will be a connection between this hat
14 that was found and the DNA that was found on that and the
15 Defendant Arsenio Colclough.

16 THE COURT: Yes, sir. Mr. Derieg.

17 MR. DERIEG: Your Honor, you heard my arguments yesterday
18 and they would be the same today. I think the one out of
19 sixteen and combined with the fact that there was seven
20 months that it was out of custody of law enforcement after
21 this incident, would make it, on balance of 403, more
22 prejudicial than it would be probative and potentially
23 confuse the jury.

24 THE COURT: All right. I think I am going to allow it.
25 There was some testimony that he said the hat wasn't his. And

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1 it is, it's an area that's going to be ripe for you on cross
2 examination, but I think that they've got enough to allow it
3 in and the jury can do with it what it wants to. So I'm going
4 to overrule your objection.

5 MR. DERIEG: Thank you, Your Honor.

6 THE COURT: All right. Thank you. Now, let's bring our
7 jury back.

8 (Jury in at 2:15 p.m.)

9 MR. BRADLEY: Your Honor, we have all the jurors present.

10 THE COURT: All right. Very well. Ladies and gentlemen, I
11 hope you had a nice lunch. It's certainly a nice day. It's
12 going to get better as the week goes on. Are you ready to
13 call your next witness?

14 MR. DONNALD: We are, Your Honor.

15 THE COURT: All right.

16 MR. DONNALD: The State would call Dr. Janice Ross.

17 MR. BRADLEY: State your name, please.

18 DR. ROSS: Janice Edwards Ross.

19 (After being duly sworn by Mr. Bradley, JANICE ROSS
20 testified as follows:)

21 MR. BRADLEY: Please have a seat over there.

22 THE COURT: Hello, Dr. Ross.

23 MR. BRADLEY: Please state your name and spell your last
24 name for the record.

25 DR. ROSS: Janice Edwards Ross. R-O-S-S.

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DIRECT EXAMINATION

BY MR. DONNALD:

Q. Do you have a professional title?

A. Yes.

Q. And what is it?

A. I'm a forensic pathologist.

Q. And you commonly go by Dr. Ross?

A. Correct.

Q. What is the doctorate in?

A. I have a four-year degree from the University of South Carolina and four years of medical school, then training in the field of pathology.

Q. It's not a Ph.D. doctor, it's a medical doctor? Right?

A. Correct.

Q. And tell me what pathology is?

A. Pathology is the study of disease. Pathology -- during residency we learn how to identify cancers and different diseases by looking at tissue under the microscope and by using the laboratory in the hospital. We learn how to do an autopsy to find the cause of death. I did further training in forensic pathology. The word forensic means legal and deals with deaths from homicide, suicides, accidents, along with natural deaths and also things like rapes. So, as a forensic pathologist I've learned how to identify patterns of injury, how to document

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- 1 injuries, how to take fluids for the court of law for
2 the toxicology purposes and I put together a reason for
3 death, a cause of death, and a manner of death.
- 4 Q. How long have you been doing this kind of work?
- 5 A. Forty years.
- 6 Q. How many times have you testified in court?
- 7 A. In South Carolina, over two hundred.
- 8 Q. How many times have you testified in Sumter County?
- 9 A. I don't know.
- 10 Q. A lot? Would you call it a lot?
- 11 A. Several times.
- 12 Q. Where is your office based?
- 13 A. In Newberry, South Carolina.
- 14 Q. And I ask you that because you don't work for the Sumter
15 County Sheriff's Office or the police department?
- 16 A. No, I do not.
- 17 Q. Who do you work for?
- 18 A. Myself.
- 19 Q. And you do work for various counties throughout the
20 State?
- 21 A. Yes. Newberry Pathology Associates does autopsies for
22 any coroners that request it. We don't have contracts
23 except for the South Carolina Department of Corrections.
- 24 Q. Okay. Have you ever been qualified as an expert?
- 25 A. Yes.

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1 Q. How many times?

2 A. Over two hundred.

3 Q. Have you testified as an expert?

4 A. Yes.

5 Q. What have you been qualified as an expert in?

6 A. Forensic pathology.

7 MR. DONNALD: Your Honor, at this time I would move to
8 have Dr. Ross declared to be an expert in forensic pathology.

9 THE COURT: All right. Would you like to voir dire her?

10 MR. DERIEG: No, Your Honor. I'm well experienced with
11 Dr. Ross's work and I've even made the same motion that Mr.
12 Donnalld is making right now to have her qualified as an
13 expert.

14 THE COURT: So, you have no objection?

15 MR. DERIEG: No objection.

16 THE COURT: All right. Well, ladies and gentlemen -- and
17 I am going to deem her to be an expert in forensic pathology.
18 Now, ladies and gentlemen, ordinarily a witness can only
19 testify as to what they heard, saw, smelled, tasted or felt.
20 They can't give conclusions or opinions. However, because I
21 have ruled that she is an expert, she can give an opinion and
22 a conclusion because, again, she's an expert. Now, whether or
23 not you as jurors decide you want to accept her opinion, that
24 will be something completely up to you. And, again, you don't
25 have to accept it and you shouldn't give it any greater

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1 weight simply because I deemed her to be an expert, but give
2 it the weight that you think it deserves along with all the
3 other evidence in this case. All right. Thank you. You may
4 proceed with your questioning.

5 MR. DONNALD: Thank you.

6 Q. Dr. Ross, in connection with your profession were you
7 asked to do an autopsy on a case out of Sumter from
8 April 13th of 2013?

9 A. Yes.

10 Q. And were the bodies that you -- did you perform an
11 autopsy with regard to that investigation?

12 A. Yes.

13 Q. And were the autopsies performed on an individual by the
14 name of Willie Chatman and another individual by the
15 name of Rayshawn Holmes?

16 A. Yes.

17 Q. Were you able to determine the manner of death for those
18 two individuals?

19 A. Yes.

20 Q. Was it the same manner of death?

21 A. Yes.

22 Q. What was the manner of death for Willie Chatman and
23 Rayshawn Holmes?

24 A. Homicide.

25 Q. And I asked you what was it, but to a reasonable degree

1 of medical certainty, what was the manner of death of
2 Willie Chatman and Rayshawn Homes?

3 A. Homicide.

4 Q. Okay. Now, what did you find with regard to Willie
5 Chatman, specifically?

6 A. Mr. Chatman was shot once in the left back. The bullet
7 went through both chest cavities, hit both lungs and hit
8 the aorta, which is the main artery coming off the heart
9 and then it went out the right back.

10 Q. Okay. What were your findings with regard to Rayshawn
11 Holmes?

12 A. He was shot a total of seven times. Two, of which, were
13 fatal.

14 Q. Tell me about the two fatal shots.

15 A. Okay. One fatal shot went into the chest. It went on the
16 left side of the chest and went downward, hit the left
17 lung and went down and hit the spleen and was found in
18 the, one of the lumbar vertebrae of the lower back,
19 which would have probably caused him to collapse and
20 become paralyzed. The other fatal shot came in the back,
21 went back to front and slightly downward and that one
22 hit the heart and the left lung.

23 Q. Now, for demonstration purposes, would you be willing to
24 come down and show who on me where the bullets went on
25 each of these individuals?

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1 A. Yes.

2 MR. DONNALD: Your Honor, I'd ask permission to have the
3 witness step from the stand, so that she can ---

4 THE COURT: The witness will be given permission. Please
5 speak up, Dr. Ross.

6 A. (Witness leaves the witness stand)

7 Q. I had you testify in this order, Willie Chatman first
8 and then Rayshawn Holmes. So, can you show using me
9 where Willie Chatman was shot?

10 A. Yes. He was shot in the left back. The bullet went to
11 the right back and on the way through it hit both lungs
12 and that major artery, the aorta.

13 Q. Are you able to give testimony with regard to how long
14 he was likely to have lived after suffering a shot like
15 that?

16 A. Just minutes. He could been conscious for maybe seconds
17 and moved around a little bit, actually. But once you
18 lose blood and you lose consciousness, then you die
19 within four or five minutes.

20 Q. Does it have any particular impact that this shot went
21 through the aorta? Tell me about the aorta. Where is the
22 aorta on a person?

23 A. The aorta comes off of the heart and turns around goes
24 back behind the heart and goes down. It spreads blood
25 down through all the organs. The wound, Mr. Chatman's

1 wound, went through the arterial aorta, which is close
2 to the heart and the blood there is under high pressure.
3 It would have bled pretty quickly.

4 Q. Now, we'll go to Rayshawn Holmes to demonstrate on me
5 where the fatal bullets were, where the fatal shots
6 struck him.

7 A. Yes. There are three shots in the left arm. One went in
8 the upper arm, came out the upper arm and went back into
9 the chest where it stayed just underneath the skin and
10 it was going sort of downward and came out of the skin.
11 One went in the back of the forearm. And that stayed in
12 the arm. We were able to take that out and take pictures
13 of it. One went in the anterior forearm. This went in
14 and out. Then there were two more wounds into the chest.
15 One was pretty close because it had soot around it. That
16 wound, that bullet went downward through the lung and
17 into the spleen and that's the one that ended up in the
18 vertebral column. There was another shot in the chest
19 that just stayed superficial under the chest. This went
20 under the skin and came out below the chest.

21 Q. Which two were fatal?

22 A. The one that went in the chest that was near contact.

23 Q. When you say near contact, what does that mean?

24 A. When a bullet comes out a gun, so does soot and powder.

25 So, if you see soot and powder you know the range was

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1 close by, because the soot and powder only go a certain
2 distance, maybe a couple of feet as opposed to a bullet
3 that will go many feet.

4 Q. Go ahead and take the stand back, please.

5 A. Two more wounds.

6 Q. Oh, I'm sorry. I thought you were through.

7 A. No. There were two wounds in the back.

8 Q. Okay.

9 A. One went in the left back and came out the left front,
10 and that would have hit the heart.

11 Q. And that's why, when I asked which ones were fatal, you
12 hadn't gotten to that part yet.

13 A. That is correct.

14 Q. Now, tell me about the fatal shots.

15 A. So, he had the two shots; one shot in the chest, one
16 shot in the back. Those two by themselves could be
17 fatal. The other, the last shot in the back, was
18 actually in the left buttock. It went upward and it
19 stayed underneath the skin and came out the middle or
20 mid back.

21 Q. Okay. Now, someone who was shot in the leg, if it was
22 the only shot, are you able to give any testimony with
23 regard to how long they were likely to live?

24 A. I'm sorry?

25 Q. Well, you can go ahead and take the stand back.

1 A. Okay. (Witness takes stand)

2 Q. I asked you with regard to Mr. Chatman, how long someone
3 with that injury is likely to have lived. I'm asking you
4 the same thing with Mr. Holmes if you are able to give
5 that kind of testimony.

6 A. It would still be minutes. The bleeding came out of the
7 lungs and the heart and he was young, didn't have any
8 other heart disease, so he might have been conscious for
9 a few seconds but then died from bleeding out within
10 four or five minutes.

11 Q. And you said that Rayshawn was struck in the spine so he
12 was likely to have been paralyzed and collapsed. Is that
13 right?

14 A. Yes.

15 Q. Okay. I'm going to ask you just two more questions and
16 these are mainly for the record and I think I've already
17 asked them. But to a reasonable degree of medical
18 certainty, what caused the death of Willie Chatman?

19 A. Willie Chatman's was bleeding out. It's called
20 exsanguination, to bleed out, due to the laceration of
21 the aorta and lungs, due to the gunshot wound to the
22 back.

23 Q. And to a reasonable degree of medical certainty, what
24 caused the death of Rayshawn Holmes?

25 A. That would be exsanguination, bleeding out again, due to

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1 laceration of the lung and heart, due to the gunshot
2 wounds of the chest and back.

3 Q. Thank you, Dr. Ross. That's all the questions I have of
4 you.

5 THE COURT: Mr. Derieg ?

6 MR. DERIEG: Thank you, Your Honor. Very briefly.

7 CROSS EXAMINATION

8 BY MR. DERIEG:

9 Q. Good afternoon, Dr. Ross.

10 A. Good afternoon.

11 Q. Good to see you again. In regards to Willie Chatman,
12 what was the bullet path direction?

13 A. It was left to right. Let me just make sure. Basically,
14 it was just left to right.

15 Q. And would it have been on the same plane or ascending or
16 descending?

17 A. It would have been slightly downward.

18 Q. Slightly downward?

19 A. Yes.

20 Q. Okay. And can you tell me where it was on Mr. Chatman
21 that the bullet entered?

22 A. The left back.

23 Q. And exactly how far down on the back did it happen?

24 A. Nineteen inches below the top. We measure from the top
25 of the head.

1 Q. And Mr. Chatman was five-seven, correct?

2 A. Yes.

3 Q. So, that injury would have been nineteen-and-a-half
4 inches below five-seven?

5 A. Correct.

6 Q. And where was the exit?

7 A. The right back, twenty-one inches below the top of the
8 head.

9 Q. Twenty-one inches.

10 MR. DERIEG: I beg the Court's indulgence.

11 THE COURT: Yes.

12 Q. And the shots regarding Mr. Holmes, they were in various
13 directions, correct?

14 A. That's correct.

15 Q. And I know you testified that Mr. Chatman got shot one
16 time. How many bullet holes did you find in Mr. Holmes,
17 or entry wounds?

18 A. In Mr. Holmes?

19 Q. Yes, ma'am?

20 A. Well, there were a total of seven shots. One was a
21 reentry. We had -- there would be seven entrance wounds
22 and five exit wounds.

23 Q. And there's only five exit wounds because some of the
24 bullets got lodged underneath the skin?

25 A. One bullet was found in the lumbar spine, the spinal

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1 cord, column. And one was found in the left forearm.

2 Q. And Mr. Holmes received or got shot from the front and
3 the back, correct?

4 A. That's correct.

5 Q. You prepared autopsies in this case, correct?

6 A. Yes.

7 Q. I'm just trying to find on Mr. Chatman where it talks
8 about the exit wound being at twenty-one inches. Is that
9 in your report?

10 A. It's not in the report, but it was on my -- I'm sorry,
11 it went upward. It's on my diagram. The entrance wound
12 was nineteen-and-a-half inches below the top of the head
13 and the exit wound was sixteen inches below the top of
14 the head. I correct myself.

15 Q. So, left to right, going up?

16 A. Slightly upward, yes.

17 MR. DERIEG: That's all I have.

18 THE COURT: Okay. Any redirect?

19 MR. DONNALD: No, Your Honor.

20 THE COURT: All right. Thank you, Dr. Ross. Any objection
21 to Dr. Ross being excused?

22 MR. DONNALD: No, Your Honor.

23 MR. DERIEG: None, Your Honor.

24 THE COURT: Have a safe trip back to Newberry.

25 THE WITNESS: Thank you.

DIRECT EXAMINATION OF JOHANNA ALECK BY MR. DONNALD

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1 THE COURT: Mr. Donnalld?

2 MR. DONNALD: Your Honor, the State calls Johanna Aleck.

3 MR. BRADLEY: State your name for the record, please.

4 MS. ALECK: Detective Johanna R. Aleck.

5 (After being duly sworn by Mr. Bradley, JOHANNA
6 ALECK testified as follows:)

7 MR. BRADLEY: Thank you. Have a seat, please. Please
8 state your full name, spell your last name for the record.

9 DETECTIVE ALECK: Johanna R. Aleck. A-L-E-C-K.

10 THE COURT: You may proceed.

11 MR. DONNALD: Thank you, Your Honor.

12 DIRECT EXAMINATION

13 BY MR. DONNALD:

14 Q. Ms. Aleck, where do you work?

15 A. For the Sumter Police Department.

16 Q. And what do you do for the Sumter Police Department?

17 A. I'm a detective.

18 Q. Where do you -- it sounds flippant and I don't mean it
19 that way, but what do you detect? What do you do as a
20 detective for the Sumter Police Department?

21 A. One of the things I do is I work forensics unit. I also
22 work criminal domestic violence cases.

23 Q. Have you always worked with domestic violence?

24 A. I started working domestic violence in December of 2012.

25 Q. And what else did you say you worked? You say you worked

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1 forensics?

2 A. I work forensic cases. I still do. I've been working
3 forensic cases since August of 2009.

4 Q. What does it mean when you say you work forensic cases?

5 A. I respond to crime scenes and process crime scenes.

6 Q. Okay. Did you respond to a crime scene on May the 30th,
7 2013 in the City of Sumter?

8 A. I did.

9 Q. And did you respond to a crime scene where the victims
10 were Mautrice Mickens and Peggy Laurens(ph)?

11 A. I did.

12 Q. Okay. Did you recover any evidence at that crime scene?

13 A. I recovered some shell cartridge casings and some
14 clothing.

15 Q. Do you know whether an arrest was ever made with regard
16 to that crime?

17 A. I didn't make an arrest, but there was an arrest made.

18 Q. Okay. And do you know whether or not the case was
19 subsequently adjudicated?

20 A. Yes.

21 Q. What did you do with the shell casings you took into
22 evidence?

23 A. I placed them in evidence.

24 Q. Do you know whether they were ever analyzed?

25 A. Yes, they were.

1 Q. Okay. Do you know what subsequently came of the charges
2 from that incident?

3 A. I don't know what he pled to or all the details about
4 that.

5 Q. Do you know who was, ultimately, charged?

6 A. Yes.

7 Q. Who was?

8 A. I can't tell you the name.

9 Q. Was it John Colclough?

10 A. Yes.

11 MR. DERIEG: Objection, Your Honor.

12 THE COURT: Overruled.

13 MR. DONNALD: Your Honor, may I approach?

14 THE COURT: You may.

15 Q. I'm going to show you this. Detective, do you know what
16 that is?

17 A. I've seen this before. I don't really -- I don't handle
18 them that much.

19 MR. DONNALD: Your Honor, I'd ask the Court to take
20 judicial notice that what she is holding is a sentencing
21 sheet and that on that sentencing sheet John Colclough pled
22 to an offense on March the 30th of 2013 and that the arrest
23 warrant corresponds to the arrest warrant which she has
24 previously spoke of.

25 THE COURT: The Court will take judicial notice. It's an

CROSS EXAMINATION OF JOHANNA ALECK BY MR. DERIEG

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1 official document. It's self-proving. Thank you.

2 MR. DONNALD: That's all the questions I have for this
3 witness, Your Honor.

4 THE COURT: Mr. Derieg?

5 MR. DERIEG: Yes, Your Honor, may it please the Court.

6 CROSS EXAMINATION

7 BY MR. DERIEG:

8 Q. Who was it that was arrested for this crime that you
9 just testified to?

10 MR. DONNALD: Objection, Your Honor. The case has been
11 adjudicated. He was arrested as well.

12 THE COURT: Yeah. You can only question her concerning
13 this. Sustained.

14 MR. DERIEG: May I take a look at this?

15 THE COURT: You may.

16 Q. Whose name is on that sentencing sheet?

17 A. John Charles Colclough, Jr.

18 Q. Were you in the courtroom today when Mr. Colclough, Jr.,
19 was brought into the courtroom?

20 A. No, sir.

21 Q. And who was it that collected the gun?

22 A. I don't know. I did not collect the gun.

23 Q. You just know that it was collected?

24 A. I don't know a gun was collected. I know I did not
25 collect a gun.

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1 Q. What do you know that was collected in that case?

2 A. I know what I collected. I collected four shell casings
3 and some clothing.

4 Q. Four shell casings and clothing?

5 A. Yes, sir.

6 Q. Was the clothing, ultimately, processed?

7 A. I don't know.

8 Q. Thank you. That's all.

9 THE COURT: Any redirect?

10 MR. DONNALD: No redirect, Your Honor.

11 THE COURT: All right. Thank you.

12 THE WITNESS: Yes, sir.

13 THE COURT: Any objection to this witness being excused?

14 MR. DERIEG: None, Your Honor.

15 THE COURT: All right. Mr. Donald.

16 MR. DONNALD: Your Honor, the State calls Chad Smith.

17 MR. BRADLEY: State your name, please.

18 MR. SMITH: Chad Smith.

19 (After being duly sworn by Mr. Bradley, CHAD SMITH
20 testified as follows:)

21 MR. BRADLEY: Thank you, sir. Have a seat, please. Please
22 state your full name and spell your last name for the record.

23 MR. SMITH: My name is Chad Smith. S-M-I-T-H.

24

25

DIRECT EXAMINATION

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DIRECT EXAMINATION OF CHAD SMITH BY MR. DONNALD

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1 BY MR. DONNALD:

2 Q. Agent Chad Smith, right?

3 A. Yes, sir.

4 Q. Is that what you go by, is Agent?

5 A. Sometimes, yeah.

6 Q. What do you prefer to be called, professionally?

7 A. It's just forensic scientist.

8 Q. Who are you a forensic scientist for?

9 A. South Carolina Law Enforcement Division, which is also
10 known as SLED.

11 Q. Are there certain qualifications that you have to meet
12 in order to be called a forensic scientist?

13 A. Yes, sir. I work for the firearms department at the
14 forensic services laboratory in Columbia and our
15 department requires a four-year college degree, which I
16 have a bachelor's of science degree in biological
17 sciences from Clemson University. And when I started on
18 SLED in November of 2008, I began my training as a
19 firearms examiner. This training process lasts between
20 three to five years and it is supervised by the court
21 qualified examiners of the firearms department. It
22 involves extensive reading and studying. There are
23 multiple examinations and tests given during this
24 period. I got to tour other laboratories, firearm
25 manufacturing facilities, and later in my training

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1 program I was able to help other examiners prepare their
2 casework. And at the end of my training program I
3 received a comprehensive multi-part examination, which I
4 successfully passed and then I began to receive my own
5 casework.

6 Q. Have you ever testified in court before?

7 A. Yes, sir.

8 Q. How many times?

9 A. Twenty-one times.

10 Q. Have you ever been qualified as an expert before?

11 A. Yes, sir.

12 Q. How were you qualified when you've been qualified
13 before?

14 A. Firearms identification.

15 Q. An expert in firearms identification?

16 A. Yes, sir.

17 Q. Does that include testimony or expertise about bullet
18 identification?

19 A. Yes, sir. It does.

20 Q. Tell me, have you had any -- tell me about your
21 specialized training in firearms or bullet
22 identification.

23 A. Right. With the training program that I mentioned before
24 at SLED, we get various programs on firearms
25 identification, which includes; examination of firearms,

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1 ammunition components, such as bullets and cartridge
2 casings. We study -- well, with other examiners, looking
3 under the microscope, because what we do, we actually
4 compare fired ammunition components with each other and
5 that takes a lot of time and effort to get used to
6 looking under the microscope and see what you're looking
7 for.

8 MR. DONNALD: Your Honor, I'd move to have Forensic
9 Scientist Chad Smith declared as an expert in firearm and
10 bullet identification.

11 MR. DERIEG: Without objection.

12 THE COURT: Without objection. And ladies and gentlemen,
13 just like the last, Dr. Ross, you will give his testimony the
14 weight that you think it deserves in relation to all the
15 other evidence presented in this case. All right. Thank you.
16 You may proceed to question him as a firearm identification
17 expert.

18 Q. Did you receive any evidence from Sumter County with
19 regard to a shooting on April the 13th or April the
20 12th, 2013?

21 A. Yes, sir, I did. I received five bullets and fifteen
22 cartridge cases.

23 Q. Okay.

24 Q. What kind of bullets did you receive?

25 A. During my analysis I determined that there were two

1 separate calibers. I've got .9mm Luger caliber bullets
2 and .40 Smith & Wesson caliber bullets.

3 Q. How about shell casings? What kind of shell cases did
4 they use?

5 A. The same, .40 Smith & Wesson caliber and .9mm Luger.

6 Q. Is it normal for someone with your expertise to compare
7 bullets or casings to a particular firearm?

8 A. Yes, sir. The majority of what I do is try to determine
9 if a particular firearm fired an ammunition component,
10 such as a bullet or cartridge case.

11 Q. Did you have a firearm in this case at all? At any time?

12 A. No, sir. No firearm was submitted.

13 Q. That answers my next question which would have been,
14 have you been given any firearm to compare these bullets
15 or cases to?

16 A. Right. No, sir.

17 Q. Okay. Were you able to determine whether or not the same
18 gun fired the bullets?

19 A. On several of the bullets I was. The .40 Smith --

20 Q. Actually, Mr. Smith, I apologize. Let me back you up. I
21 do this enough to know kind of what it means, the
22 difference between a bullet or a bullet casing, and I
23 can't assume that of everybody else. What is a bullet
24 casing?

25 A. Okay. A unit of ammunition, you've got a round of

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1 ammunition that's called a cartridge. That's an unfired
2 round of ammunition. A lot of times people just call
3 them bullets but technically, that's inaccurate. So
4 you've got a cartridge, which is made up of: a bullet,
5 it's got gunpowder, and then it's got a primer
6 component, which ignites the gunpowder. So, the
7 cartridge case is basically the container for all the
8 other components and that's usually what's left over
9 after a cartridge is fired. You know, you hear of spent
10 casings, things like that. That's what a fired cartridge
11 case is. So, the actual projectile that goes towards the
12 target, that's the bullet.

13 Q. Now, I'm going to hand you two envelopes. It appears by
14 the tape that's on the back that they're sealed by SLED.
15 Can you tell me who sealed those?

16 A. Yes, sir. Both of these were sealed by me.

17 Q. Okay. Do you know what's in the envelope without opening
18 it?

19 A. Yes, sir. I've got written down on the containers which
20 envelope contains which items of evidence.

21 Q. Tell me, are the items that you inspected with regard to
22 this particular incident in those envelopes?

23 A. Yes, sir.

24 Q. Since I've got you talking about casings and bullets,
25 are the casings and bullets that you inspected in those

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1 envelopes?

2 A. Yes, sir. Without opening it, you know, but it says
3 written on here that when I sealed them up, I wrote
4 exactly what was supposed to be in each envelope. So,
5 according to what markings are on here, the evidence
6 that I looked at are in these containers.

7 Q. Can I ask you to open the one that has the bullets and
8 the casings in it that you performed your examination
9 on?

10 A. I would need some sort of scissors or...

11 (Court reporter hands witness scissors)

12 Q. I can see what you pulled out. It appears to be in a
13 clear plastic bag?

14 A. Yes, sir. Everything ---

15 Q. I don't need to go through each and every individual
16 piece. I just wanted to give some kind of visual show.
17 You can leave that sealed as far as I'm concerned and
18 I'll have that marked as one exhibit.

19 A. Okay.

20 Q. But can you show the difference between a casing and a
21 bullet from that envelope?

22 A. Yes. Right here would be a fired bullet and these up
23 here would be the fired cartridge cases. You can clearly
24 see that they are different.

25 MR. DONNALD: For the record, Your Honor, I'm having it

DIRECT EXAMINATION OF CHAD SMITH BY MR. DONNALD

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1 marked as State's Exhibit #16.

2 THE COURT: Okay.

3 MR. DERIEG: Without objection.

4 THE COURT: Without objection, State's Exhibit #16 is
5 admitted.

6 (Whereupon, bullets and bullet casings are entered
7 into evidence as State's Exhibit #16, without objection)

8 Q. What was in the other envelope that you ---

9 A. Two bullets.

10 Q. Okay.

11 MR. DONNALD: Your Honor, for the record I've had the
12 other envelope marked as State's Exhibit #17.

13 THE COURT: Any objection?

14 MR. DERIEG: Without objection, Your Honor.

15 THE COURT: All right. Without objection State's Exhibit
16 #17 is admitted.

17 (Whereupon, two bullets are entered into evidence as
18 State's Exhibit #17, without objection)

19 Q. Now, using the bullets, which are the projectiles in
20 this envelope, you stated you didn't have a gun to
21 compare it to.

22 A. Right.

23 Q. Were you able to learn anything scientifically from the
24 bullets themselves?

25 A. Yes. I can actually compare them with each other even

1 though I don't have a gun to compare them to, but I can
2 try to determine if they were fired by the same gun. Do
3 you want me to go into ---

4 Q. Yes, please.

5 A. The three bullets that I determined to be .9 mm Luger
6 caliber, actually the comparisons with each other were
7 inconclusive. So, I couldn't tell if they were fired by
8 one firearm or multiple firearms in regards to the .9mm
9 Luger caliber bullets. However, the two .40 Smith &
10 Wesson caliber bullets that I received, I was able to
11 determine that they were both fired by the same firearm.
12 And the cartridge cases, eight of the -- I'm sorry. All
13 of the .40 Smith & Wesson caliber cartridge cases were
14 fired by the same firearm. With regards to the .9mm
15 Luger caliber cartridge cases, six were fired by one gun
16 and then the -- there was one that was fired by a
17 totally different gun.

18 Q. Agent Smith, without the actual guns, is there any way
19 to tell what gun a bullet may have been fired by or that
20 a cartridge might have been ejected from?

21 A. Not without having a firearm to compare it to, I
22 couldn't determine, narrow it down to a specific
23 firearm.

24 Q. Okay. But were you asked in this particular case to
25 compare these casings to the casings from another

CROSS EXAMINATION OF CHAD SMITH BY MR. DERIEG

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1 offense?

2 A. Yes, sir..

3 Q. Tell me about that.

4 A. A Sumter Police Department case was also submitted and
5 they wanted a cross-reference analysis done. So, that
6 means like one case against the other to see if the
7 actual evidence was related. So, I received four .40
8 Smith & Wesson caliber cartridge cases in the other case
9 to compare with the .40 Smith & Wesson caliber cartridge
10 cases in the Sumter County case.

11 Q. Do you know what the date was on the Sumter City case?

12 A. An incident date of May 30th, 2013.

13 Q. Okay. So, you can't say what gun this came from. Can you
14 say whether this gun was used on two different dates?

15 A. Right. During my comparisons I was able to determine
16 that the .40 Smith & Wesson caliber cartridge cases in
17 each case were fired by the same firearm.

18 MR. DONNALD: Your Honor, thank you. That's all the
19 questions I have.

20 THE COURT: Mr. Derieg?

21 CROSS EXAMINATION

22 BY MR. DERIEG:

23 Q. Good afternoon Agent Smith.

24 A. Good afternoon.

25 Q. So, from the casings and the bullets that you received

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1 from this case, specifically, am I correct that at least
2 three guns were going off in that house?

3 A. That would be correct. According to the cartridge cases,
4 you've got three different guns. And I can't say that --
5 there could be more if you take into account that the
6 bullets were fired by different guns, as well.

7 Q. So, at least three. How many could there possibly be?

8 A. Well, I guess up to -- since I couldn't determine if the
9 .9mm bullets were fired by the same gun, if you figure
10 that they were all fired by different guns, then that
11 would be up to seven, I suppose.

12 Q. Up to seven? So, between three and seven guns?

13 A. Right. Right. Because we don't do an analysis to try to
14 determine if a bullet came from a specific cartridge
15 case. So, we can't tell that they were fired by the same
16 gun or not.

17 Q. Do you know whether the casings or the bullets were
18 tested any other way besides what you did?

19 A. I believe the only requests were firearm requests on the
20 evidence.

21 Q. So, no request for fingerprints or DNA?

22 A. Not that I know of.

23 MR. DERIEG: I beg the Court's indulgence.

24 THE COURT: Yes, sir.

25 MR. DERIEG: Thank you, Your Honor. That's all I have.

1 THE COURT: Any redirect?

2 MR. DONNALD: No, Your Honor.

3 THE COURT: All right. Thank you. You may step down.

4 Any objection to this witness being excused?

5 MR. DONNALD: No, sir.

6 THE COURT: Why don't we take a fifteen minute recess at
7 this point in time.

8 MR. DONNALD: Yes, sir.

9 THE COURT: Ladies and gentlemen, please do not discuss
10 anything about the case while you're back there. Grab a Coca-
11 Cola or a cup of coffee or something like that. That would be
12 good. They will make it available for you. Please do not
13 discuss anything about the case while you're back there.

14 (Jury out at 2:56 p.m.)

15 THE COURT: The court's in recess for fifteen minutes.
16 We'll just say quarter after 3:00 on that clock.

17 (Break)

18 THE COURT: Mr. Donald, you want to get your victims'
19 families in here, please? I want to talk to everybody.

20 MR. DONNALD: Yes, Your Honor.

21 THE COURT: All right. It's been brought to my attention
22 that there's been some disharmony between the families of the
23 victims and the family of the Defendant, that cross words
24 have been said and possible threats. Let you all be under the
25 understanding that this Court looks very poorly on that and

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1 if it should happen again, I will have no hesitancy in
2 holding someone in contempt of court and sending them to
3 jail. If you don't think you can be nice to somebody on the
4 other side, and I understand there's high tensions here, but
5 keep your mouth shut. Otherwise, like I said, I will hold you
6 in contempt. So, I am restraining y'all from talking to each
7 other on the courthouse grounds. Does everyone understand
8 that? If you do not understand or your staying in the
9 courtroom tells me that you do understand it. So, therefore,
10 if it happens again, I will have no hesitancy in holding you
11 in contempt of court. I think I've made myself clear on that.
12 Thank you. Please bring the jury back in.

13 MR. BRADLEY: Yes, sir.

14 (Jury in at 3:17 p.m.)

15 MR. BRADLEY: Your Honor, all of the jurors are present
16 in the courtroom.

17 THE COURT: Thank you. All right. Mr. Donnald, you may
18 call your next witness.

19 MR. DONNARD: Your Honor, the State calls Courtney
20 Thompson. Your Honor, may we approach?

21 THE COURT: You may.

22 (Bench conference off the record)

23 MR. BRADLEY: Place your left hand on the Bible and raise
24 your right and state your name, please.

25 MS. THOMPSON: Courtney Thompson.

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(After being duly sworn by Mr. Bradley, COURTNEY THOMPSON testified as follows:)

MR. BRADLEY: Please state your full name and state your last name for the record.

MS. THOMPSON: Courtney Thompson. T-H-O-M-P-S-O-N.

DIRECT EXAMINATIONBY MR. DONNALD

Q. Ms. Thompson, who do you work for?

A. I work for the South Carolina Law Enforcement Division, also referred to as SLED.

Q. What do you do for SLED?

A. I am a forensic serologist in the DNA casework department.

Q. What does that mean you do?

A. Forensic serology is the identification of various types of body fluids.

Q. How do you go about identifying various types of body fluid?

A. We have a variety of different tests that we can use to screen different items of evidence. Typically, what we're screening for is blood, semen, and saliva as, typically, they are good sources for DNA.

Q. Have you testified in court before?

A. I have.

Q. How many times?

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DIRECT EXAMINATION OF COURTNEY THOMPSON BY MR. DONNALD 192

1 A. I've testified five times before.

2 Q. How many counties?

3 A. I believe it's four different counties.

4 Q. Is this your first time testifying in Sumter County?

5 A. It is.

6 Q. Have you ever been qualified as an expert before?

7 A. Yes, I have.

8 Q. What were you qualified as?

9 A. Forensic serology. An expert in forensic serology.

10 Q. Do you have any specialized training or education in
11 forensics or serology?

12 A. I do. I have a bachelor's degree from Southern Wesleyan
13 University in forensic science and biology, as well as
14 graduate-level course work that I've completed through
15 the University of Florida in biological evidence
16 screening and serology. I was trained in-house at SLED
17 underneath a court-qualified analyst who taught me
18 evidence handling, body fluid identification, evidence
19 screening, chain of custody, report writing and
20 courtroom testimony.

21 Q. Are you familiar with SLED lab number 13-5064?

22 A. I am.

23 Q. Did you prepare any reports with regards to that lab
24 number?

25 A. Yes, I have.

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1 Q. Did you prepare a serology report?

2 A. Yes, I did.

3 Q. Did you sign it as Courtney Webster?

4 A. Yes, I did.

5 Q. Who is Courtney Webster?

6 A. I am also Courtney Webster. I was married after this
7 report was issued.

8 Q. Congratulations.

9 A. Thank you.

10 Q. You still married?

11 A. Yes, sir.

12 Q. Good. Do you have an item identified as SLED item #40?

13 A. Yes, I did.

14 Q. And what was #40 described as in your report?

15 A. On my report it's described as a cap.

16 Q. I'm going to hand you what's been previously marked as
17 State's Exhibit #18. Can you identify that?

18 A. Yes, sir. I can identify that as the item of evidence
19 that I examined. I know that it is the evidence I
20 examined because I wrote the item number, the SLED lab
21 number, my initials and the date on the exterior
22 packaging as well as the SLED lab number, item number
23 and my initials on the inside of the item, as well.

24 Q. The pen marks on that hat, whose pen marks are those?

25 A. Those are from me.

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1 Q. Okay. So any writing that's on that hat came from you?

2 A. That is correct.

3 Q. There's no question in your mind you've seen that hat
4 before?

5 A. Yes, sir.

6 Q. What did you do to that?

7 A. I processed this item for ownership and for blood.

8 Q. Processed it for what and blood?

9 A. Ownership. Ownership is basically me trying to process
10 this item and identifying potential areas of who would
11 ever have worn this item, essentially. Since it is an
12 article of clothing, what I'm looking for and trying to
13 collect is DNA or possible DNA from whoever the wearer
14 of this item was.

15 Q. Did you perform certain activities to that hat in
16 particular?

17 A. Yes, I did.

18 MR. DONNALD: Your Honor, at this point, I would move to
19 have State's Exhibit #18 admitted into evidence.

20 THE COURT: Any objection?

21 MR. DERIEG: Yes, Your Honor. Subject to previous
22 objections I made.

23 THE COURT: All right. And I'm going to have to overrule
24 that, so I'm going to overrule it again. This will be State's
25 Exhibit #18.

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1 (Whereupon, a red hat is entered into evidence as

2 State's Exhibit #18, over objection)

3 Q. Did you take a swab from that hat?

4 A. Yes, I did.

5 Q. And did you take a cutting from that hat?

6 A. Yes, I did.

7 Q. And I wish I had asked before you put the gloves on.

8 Take the gloves off or put them on, but I want to ask

9 you to show the jury how you went about taking the swab

10 from the hat. In other words, tell me and the jury what

11 that means.

12 A. Okay. With regards to processing this hat, for blood

13 processing, I try and identify areas that look like

14 potential blood stains and then we have a quick chemical

15 test that in the possible presence of blood, it will

16 turn a color which can indicate to us that blood might

17 possibly be present and that we need to forward that

18 particular area of interest on for further testing. In

19 this case, the item was actually taken right here on the

20 edge of the headband of the hat. That's where I found a

21 positive area. I cut it and I forwarded it for DNA

22 analysis.

23 And as regards for processing for ownership, I try to

24 identify areas that are most likely to have come in

25 contact with the potential wearer. So, in this case, I

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1 typically will scrape a hat around the headband area,
2 which is the part that will be on a person's head. And
3 then I will additionally scrape the bill area, as a lot
4 of people adjust their hat with their hand, and will
5 potentially leave DNA behind there. After I scrape those
6 areas, I take a wet swab and I swab that area that I
7 just scraped in order to collect any potential DNA.

8 MR. DONNARD: Your Honor, that's all the questions I have
9 at this time.

10 THE COURT: All right. Mr. Derieg, do you have any cross
11 examination?

12 MR. DERIEG: Yes, Your Honor. May it please the Court?

13 THE COURT: Yes, sir.

14 CROSS EXAMINATION

15 BY MR. DERIEG:

16 Q. What is item 40.2 in your report?

17 A. Item 40.2 is a swab from scraping the headband and bill
18 area of the hat.

19 Q. Is that what you just described to us with the scraping
20 and then getting the wet swab and going through?

21 A. That is correct.

22 Q. Was there any blood indicated from 40.2?

23 A. No. And because I'd previously tested areas around this
24 hat, I tried to avoid any possible areas that looked
25 like potential blood stains when I was processing the

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1 hat and scraping it and swabbing it.

2 Q. So, where would potential DNA evidence come from in the
3 headband of a hat, other than blood?

4 A. Well, a person typically sheds skin cells routinely, as
5 well as with a lot of hat wearers, sweat. And both of
6 those can be potential sources of DNA and articles of
7 clothing are good at picking up and holding onto that
8 potential DNA and so those are where, whenever I'm
9 processing a hat, those are the areas that I am trying
10 to isolate and process.

11 Q. And you processed several items in this case, right?

12 A. That is correct.

13 Q. Item 36, what was that?

14 A. Item 36 was a pair of pants.

15 Q. Was there any blood indicated?

16 A. No. There was no blood indicated.

17 Q. So, when no blood is indicated, are they further tested
18 after that?

19 A. Not for blood, no. There was no further testing for
20 blood done. After my screening is done, we do not
21 continue any blood analysis, basically.

22 Q. Would there have been any DNA analysis done on the
23 pants?

24 A. Well, I took a swab from the waistband of the interior
25 of the pants, and I forwarded that on for DNA analysis.

1 Q. Item 37, what was that?

2 A. It was a shirt.

3 Q. And, again, was there any blood indicated on the shirt?

4 A. No, there was no blood indicated.

5 Q. But you took swabs of that shirt as well before it goes
6 onto the DNA analysis section as well, right?

7 A. That is correct.

8 Q. And where were those swabs taken on that shirt?

9 A. Whenever I process shirts, I will typically scrape the
10 underarm and the collar or neck areas and swab them.

11 Q. 38, is a tee shirt, right?

12 A. Yes.

13 Q. And kind of the same thing as 37, no blood, but you took
14 scraping from the underarm and neck and forwarded it to
15 the DNA analysis section, right?

16 A. That's correct. No blood was indicated and then I
17 swabbed the underarm and neck areas.

18 Q. What's item 45?

19 A. Item 45 is a knife.

20 Q. And what was done with item 45?

21 A. I swabbed the handle of that knife.

22 Q. And forwarded it on to DNA analysis?

23 A. Yes, that's correct.

24 Q. 46, the same thing, right?

25 A. That's correct. I swabbed the handle and forwarded it on

CROSS EXAMINATION OF COURTNEY THOMPSON BY MR. DERIEG

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1 to the DNA section.

2 Q. Does your report indicate any difference between 45 and
3 46?

4 A. Yes. I did differentiate them by saying that item 45 has
5 a wooden handle and item 46, the knife had a black
6 handle.

7 Q. Would that have been plastic?

8 A. I believe it was a plastic-like material, yes.

9 Q. In items 45 and 46 -- well, excuse me. Strike that.

10 MR. DERIEG: I beg the Court's indulgence.

11 THE COURT: Yes, sir.

12 Q. Once you've swabbed and forwarded on to the DNA section,
13 do you have any more contact or any more testing to do
14 with any of the items that we talked about?

15 A. No. After I do my initial processing and swabbing of
16 those items, I package them up and send it to the DNA
17 section and that's all that I did in this case.

18 Q. And just to be clear, 40.2 there was no blood indicated,
19 right?

20 A. That is correct. There was no blood indicated.

21 Q. And that was from the inside of that hat right there,
22 correct?

23 A. That is correct. That is from processing, scraping and
24 swabbing the interior of this hat.

25 Q. Could you show the jury where it was that you scraped

REDIRECT EXAMINATION OF COURTNEY THOMPSON BY MR. DONNALD 200

1 that headband?

2 A. Yes. So, typically, where I will scrape is going to be
3 the interior part of this headband. And with regards to
4 this case, I had already made this cutting right here.
5 So, there was not any way that I would have accidentally
6 scraped the area that was potentially blood. And then
7 there are some additional areas that I tested that were
8 negative. So, no blood indicated in these areas. So,
9 then I also scraped this bill area on the bottom and
10 then I scraped the bill area here on the top and then I
11 took a wet swab and swabbed those areas behind it.

12 Q. So, is it fair to say that, basically, the whole hat was
13 swabbed for DNA?

14 MR. DONNALD: Objection, Your Honor. That's not her
15 testimony.

16 Q. Would it be fair to say that?

17 THE COURT: Re-phrase your question.

18 Q. Would it be fair to say that you tested or swabbed
19 almost all, if not all, of the hat?

20 A. I would not necessarily say that is fair just because I
21 do have specific areas of the hat that I processed.

22 Q. But it's fair to say you tested multiple areas on the
23 hat?

24 A. That would be a fair statement, yes.

25 Q. Thank you, ma'am.

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1 MR. DERIEG: That's all I have and I have no objection to
2 her being excused.

3 THE COURT: Okay. Any redirect?

4 MR. DONNALD: I do have a couple of questions, Your
5 Honor.

6 THE COURT: Okay.

7 REDIRECT EXAMINATION

8 BY MR. DONNALD:

9 Q. You took a cutting from that hat. That's 40.1. Is that
10 right?

11 A. That's correct.

12 Q. Show me or show the jury where the cutting came from.

13 A. Okay. The cutting is right here on the exterior part of
14 the headband and so the exterior part is the part that
15 tested positive for possible blood.

16 Q. And so blood was found on that hat, but not on the
17 scrapings that became 40.2 or the swabbings that became
18 40.2?

19 A. That's correct.

20 Q. Thank you, ma'am.

21 MR. DONNALD: That's all the questions I have.

22 MR. DERIEG: Nothing further, Your Honor.

23 THE COURT: All right. Thank you. And you are excused.

24 THE WITNESS: Thank you, sir.

25 MR. DONNALD: Your Honor, the State next calls Catherine

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1 Leisy.

2 THE COURT: All right.

3 MR. BRADLEY: Lay your left hand on the Bible, raise your
4 right and state your name, please.

5 MS. LEISY: Catherine Leisy.

6 (After being duly sworn by Mr. Bradley, CATHERINE
7 LEISY testified as follows:)

8 MR. BRADLEY: Thank you ma'am. Have a seat, please. State
9 your full name and spell your last name for the record.

10 MS. LEISY: Catherine Leisy. L-E-I-S-Y.

11 DIRECT EXAMINATION

12 BY MR. DONNALD:

13 Q. Ms. Leisy, who do you work for?

14 A. I work for the South Carolina Law Enforcement Division.

15 Q. And what do you do for SLED?

16 A. I'm a forensic scientist assigned to the DNA and
17 serology unit.

18 Q. Do you have to have any kind of special education to be
19 called a forensic scientist?

20 A. I have a bachelor of science degree in genetic
21 engineering from Cedar Crest College in Allentown,
22 Pennsylvania.

23 Q. What do you do for SLED?

24 A. I am responsible for developing DNA profiles from
25 biological materials that may be found on items of

DIRECT EXAMINATION OF CATHERINE LEISY BY MR. DONNALD

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1 evidence or at crime scenes and comparing them to DNA
2 profiles developed from known individuals to try and
3 determine whether or not that known individual could
4 have contributed the DNA material related to the
5 particular crime in question. I'm responsible for
6 generating reports based on the tests that I perform and
7 my results and then testifying to those reports as
8 necessary.

9 Q. Have you received any specialized training with regard
10 to DNA?

11 A. Yes, sir. I've received training on all the different
12 types of tests and analysis that we perform at SLED by
13 other court-qualified analysts. I was required to run
14 several sets of practice tests as well as complete
15 competency tests before I was allowed to perform those
16 tests at the laboratory. I am required to perform
17 proficiency testing twice a year to show that I am
18 performing a test appropriately. I am also required to
19 participate in continuing education, which would consist
20 of seminars or training sessions related to the types of
21 analysis I perform on my job.

22 Q. Have you ever testified in court before?

23 A. Yes, sir.

24 Q. How many times?

25 A. On over fifty occasions.

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1 Q. Have you ever been qualified as an expert?

2 A. Yes, sir.

3 Q. Have you ever testified in Sumter County before?

4 A. Yes, sir.

5 Q. When you've been qualified as an expert, what were you
6 qualified as?

7 A. A expert in forensic DNA identification testing.

8 Q. How many times have you been qualified as an expert?

9 A. Over fifty.

10 MR. DONNALD: Your Honor, at this point, I would move to
11 have Ms. Leisy, a forensic scientist, qualified as an expert
12 in forensic DNA identification.

13 THE WITNESS: Yes, sir.

14 THE COURT: Any objection?

15 MR. DERIEG: No objection.

16 THE COURT: All right. Ladies and gentlemen, like the
17 other experts we've had in this case, I am going to deem her
18 to be an expert. And, therefore, she can give you her opinion
19 as to what she has done work -- where she's done her work.
20 Whether you choose to accept it, that would be up to you and
21 what weight you decide to put on it would be up to you, as
22 well. All right. Thank you. You may proceed to question her
23 as an expert in DNA identification.

24 Q. What do you prefer to be called professionally? Agent?

25 A. That's fine.

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1 Q. Agent Leisy, are you familiar with SLED lab #13-5061?

2 A. Yes, sir.

3 Q. And have you done any analysis with regard to that lab
4 number?

5 A. I have.

6 Q. And have you prepared a report for that lab number?

7 A. Yes, I have.

8 Q. How many items did you look at under that lab number?

9 A. There are quite a few sets of swabs, cuttings, as well
10 as fingernail scrapings. Approximately, a dozen or so
11 samples.

12 Q. And in the dozen or so samples, did anything come back
13 as anyone other than the deceased Willie Chatman or
14 Rayshawn Holmes?

15 A. Not as an identification. As a particular full DNA
16 profile match from one individual to a particular item.

17 Q. So, there was one match for someone other than the
18 deceased, Rayshawn Holmes and Willie Chatman. Does that
19 repeat what you said?

20 A. There was a potential inclusion. They're not necessarily
21 a match.

22 Q. Okay. I'm going to show you what's been entered into
23 evidence as State's Exhibit #18. Do you recognize that?
24 Have you ever seen that?

25 A. Not before yesterday. I did not see it during my

1 testing.

2 Q. Now, that's item number 40 under SLED's number. And a
3 swab for that or a cutting from that was 40.1 and the
4 swab was 40.2. Is that how you would have seen the
5 evidence is 40.1 and 40.2?

6 A. That's correct. Once, what we call sub-items are
7 collected, be it a swab or a cutting from a larger item
8 such as the hat, those sub-items are passed on to me for
9 DNA testing.

10 Q. Now, item 40.1 refers to what?

11 A. According to the SLED lab numbering it refers to a
12 cutting taken from a red baseball cap.

13 Q. What were your -- were you able to do any tests on 40.1?

14 A. I was. I was able to develop a DNA profile. And the DNA
15 profile developed from this item matches the DNA profile
16 of Rayshawn Holmes.

17 MR. DONNALD: I beg the Court's indulgence, Your Honor.

18 THE COURT: Yes.

19 Q. And did you perform a test on 40.1?

20 A. Yes, I did.

21 Q. And what did your test determine?

22 A. The DNA profile developed from SLED item 40.1, a cutting
23 from a red baseball cap, matches the DNA profile of
24 Rayshawn Holmes. And the probability of randomly
25 selecting an unrelated individual who could have

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1 contributed a DNA profile matching this item is
2 approximate one in three hundred and twenty quadrillion.

3 Q. Okay. Now, were you able to perform -- well, before I
4 ask if you were able to perform it, tell me what 40.2
5 is.

6 A. SLED item 40.2 is identified as a swab from a red
7 baseball cap.

8 Q. Were you able to perform any tests on 40.2?

9 A. I was.

10 Q. Tell me what those tests revealed.

11 A. The DNA profile developed from the Swab from the red
12 baseball cap is a mixture of at least three individuals.
13 The DNA profile developed from the major contributor to
14 this mixture matches the DNA profile of Rayshawn Holmes.
15 The probability of randomly selecting an unrelated
16 individual having a DNA profile matching this major
17 contributor is approximately one in three hundred and
18 twenty quadrillion. I determined that Arsenio Colclough
19 cannot be excluded as a possible minor contributor to
20 this mixture and that the probability of randomly
21 selecting an unrelated individual having a DNA profile
22 that could have contributed to this mixture is
23 approximately one in sixteen. Willie Chatman and Jwain
24 Francis are excluded as possible minor contributors to
25 this mixture.

1 Q. Who did you say was ---

2 A. Excuse me. Willie Chatman and Jwain Francis.

3 Q. Tell us some more about that one in sixteen.

4 A. Basically, it means that if you randomly selected a
5 random individual, the probability that they could have
6 included their DNA in that mixture is approximately one
7 in sixteen. It just gives us a measure of how strong or
8 weak their potential inclusion is as a possible
9 contributor to this mixture.

10 Q. Now, Arsenio Colclough's DNA was -- Arsenio Colclough's
11 DNA was excluded on every other test that you made,
12 right?

13 A. That's correct.

14 Q. But on this particular cutting it came back that he
15 could not be excluded?

16 A. Correct. As a possible minor contributor to the mixture.

17 Q. What does minor contributor mean?

18 A. When we have DNA from more than one individual in a
19 mixture, if one individual contributes significantly
20 more DNA than the other contributors, we can determine
21 what we call a major contributor. Basically, we can pull
22 that individual's profile out because it's so much
23 stronger than the minor contributors and treat it as a
24 single source profile. A minor contributor would have
25 contributed a much lower level of DNA to the mixture.

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1 Q. Is there any way you can relate for me, mathematically,
2 what that one in sixteen chance -- I'm not, maybe not
3 even saying it right because it may not be a one in
4 sixteen chance. Is there any way you relate to me,
5 mathematically, what a one in sixteen means as it
6 regards to the identification or the inclusion of
7 Arsenio Colclough on this baseball hat?

8 A. Again, it just means that approximately one out of
9 sixteen unrelated individuals could possibly have been
10 included as a potential contributor.

11 Q. I'm showing you State's Exhibit #19. Is that the report
12 generated with regard to your testing?

13 A. Yes, it is.

14 MR. DONNALD: Your Honor, I move to have State's Exhibit
15 # 19 ---

16 THE COURT: Any objection?

17 MR. DERIEG: None, Your Honor.

18 THE COURT: All right. Without objection State's Exhibit
19 #19 is admitted.

20 (Whereupon, Ms. Leisy's report is entered into evidence
21 as State's Exhibit #19, without objection)

22 MR. DONNALD: Your Honor, that's all the questions I have
23 for Agent Leisy.

24 THE COURT: All right. Mr. Derieg.

25 CROSS EXAMINATION

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1 BY MR. DERIEG:

2 Q. Good afternoon Agent Leisy.

3 A. Good afternoon.

4 Q. Good to see you again. So, this one out of sixteen, that
5 would be one out every sixteen people out of the three
6 billion people on earth, right?

7 A. Mathematically, that's correct. That would assume that
8 all of those people had the same opportunity to
9 contribute. But we do just -- it gives us an approximate
10 weight to how common or rare it would be to find someone
11 with a profile that contributed to this mixture.

12 Q. So, this one out of sixteen would be much more common
13 than one out of three hundred and twenty quadrillion,
14 right?

15 A. Yes, it would.

16 Q. So, if we had a room full of approximately fifty people
17 that were randomly selected, am I right in that
18 statistically at least three of them ought to be able to
19 have the same identification or inclusion, possible
20 inclusion, that Mr. Donnald just talked about?

21 A. Again, statistically that's correct. It would be
22 possible. And once again, assuming everyone had the same
23 opportunity.

24 Q. And besides the red cap, you've tested several other
25 pieces of evidence, right?

CROSS EXAMINATION OF CATHERINE LEISY BY MR. DERIEG

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1 A. Yes, sir.

2 Q. What all did you test?

3 A. I received four known standards, blood standards from
4 Willie Chatman, as well as a blood standard from
5 Rayshawn Holmes. I also received buccal or oral swabs
6 from Arsenio Colclough and Jwain Francis. I received
7 sets of fingernail scrapings from Willie Chatman and
8 sets of fingernail scrapings from Rayshawn Holmes. I
9 received a swab from a pair of pants, a swab from a polo
10 shirt and a swab from a tee shirt. I also, as we've
11 already discussed, received a cutting, a swab, as well
12 as potential debris collected from a red baseball cap.
13 There were also swabs collected from a car, a total of
14 three swabs. And swabs from the handle of a wood handled
15 knife and swabs from the handle of a black handled
16 knife.

17 Q. And, in fact, the swab from the debris is 40.2 and the
18 possible inclusion, right?

19 A. The 40.2 is the swab from the headband and bill, which
20 is a possible inclusion. The debris is actually 40.3.

21 Q. Excuse me.

22 A. Which I would -- I microscopically examined for the
23 possible presence of hair and I didn't find anything
24 suitable for testing.

25 Q. What did you find when you tested the fingernail

1 clippings from Willie Chatman?

2 A. I found that there was no DNA profile foreign to Willie
3 Chatman developed from those items.

4 Q. What about the fingernail clippings from Rayshawn
5 Holmes?

6 A. From the left hand fingernail clippings of Rayshawn
7 Holmes, there was a DNA profile developed that was a
8 mixture of at least two individuals. The DNA profile
9 developed from the major contributor is attributable to
10 Rayshawn Holmes. And the DNA profile developed from the
11 minor contributor is insufficient for interpretation.

12 Q. What does that mean? There's not enough DNA there to be
13 able to identify anyone?

14 A. Correct. It's just too weak a signal for comparison:

15 Q. Two weak a signal?

16 A. Yes, sir.

17 Q. Gotcha. What about the light colored long pants?

18 A. That was identified as SLED item 36.1. And I was not
19 able to develop a profile from the swab taken from the
20 pants.

21 Q. What about the light colored polo-type shirt?

22 A. That was SLED item 37.1. And, again, no DNA profile was
23 developed.

24 Q. What about the swab from the light colored tee shirt?

25 A. That would be SLED item 38.1 and the partial DNA profile

CROSS EXAMINATION OF CATHERINE LEISY BY MR. DERIEG

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1 developed from that item is insufficient for
2 interpretation.

3 Q. What about the swab from the front passenger door?

4 A. The front passenger door is SLED item 41. And the
5 partial DNA profile developed from that item is
6 insufficient for interpretation.

7 Q. What about the swab from the front passenger seat?

8 A. The front passenger seat swab is item 42. From that item
9 I was able to develop a DNA profile that was a mixture
10 of at least two individuals. The DNA profile developed
11 from the major contributor to this mixture is from an
12 unidentified male individual and Willie Chatman,
13 Rayshawn Holmes, Arsenio Colclough and Jwain Francis are
14 excluded as possible minor contributors.

15 Q. Arsenio Colclough is excluded?

16 A. Yes, sir.

17 Q. And what about the swab from the rear passenger side
18 door?

19 A. It would be SLED item 43. The DNA profile developed from
20 this item is a mixture of at least two individuals. The
21 DNA profile developed from the major contributor to this
22 mixture is consistent with the DNA profile developed
23 from the major contributor to item 42. And Willie
24 Chatman, Rayshawn Holmes, Arsenio Colclough, Jwain
25 Francis are excluded as possible minor contributors.

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1 Q. 42 and 43 came from the same person or at least the
2 major contributor came from the same person?

3 A. In comparing the two, it would appear so. Yes, sir.

4 Q. What about the wooden handled knife, the swab from the
5 wooden handled knife?

6 A. It was identified as SLED item 45.1. The DNA profile
7 developed from this item is a mixture of at least three
8 individuals. Willie Chatman, Arsenio Colclough, Jwain
9 Francis and Rayshawn Holmes are excluded as possible
10 contributors.

11 Q. Is there anything else from item 45 that you can
12 discern?

13 A. Again from 45, just a mixture of three individuals. And
14 all four of the known standards I have were excluded.

15 Q. What about 46?

16 A. Item 46.1 is what I received from processing. It was a
17 swab from the handle of a black handled knife. The DNA
18 profile developed from this item is a mixture of at
19 least three individuals. The DNA profile developed from
20 the major contributor to this mixture is from an
21 unidentified female individual. And Willie Chatman,
22 Rayshawn Holmes, Arsenio Colclough and Jwain Francis are
23 excluded as possible minor contributors.

24 Q. How can you tell that the major contributor to 46 is a
25 female?

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1 A. When we develop DNA profiles, we test a location in our
2 DNA that's known as amelogenin. It tests for X and Y, so
3 the gender markers. And in this particular profile, the
4 X that is given by the female is significantly stronger
5 than the Y that would be present indicating that the
6 major contributor is female.

7 MR. DERIEG: Beg the Court's indulgence?

8 THE COURT: Yes.

9 MR. DERIEG: That's all I have, Your Honor. Thank you.

10 THE COURT: Mr. Donnald

11 REDIRECT EXAMINATION

12 BY MR. DONNALD:

13 Q. Yes, you said a couple of times with regard to item 40.2
14 that it depended on someone's opportunity to contribute.
15 What do you mean by that?

16 A. Just when you use a frequency like a one in sixteen and
17 say that if you have a group this large, this many
18 people could potentially have contributed. That assumes
19 in a situation like this that all of those people were
20 in the county or within a reasonable distance to have
21 potentially contributed to that profile. Are they an
22 infant? Are they incarcerated? Are they available to
23 have contributed that profile or that material to the
24 item at the time.

25 Q. Okay. And I guess with common sense it would go without

1 saying, the person that did contribute to 40.2 had to
2 have touched that item at some point?

3 A. There had to be some contact or some exchange of DNA
4 material at some point, yes.

5 Q. And your report or your analysis determined that it
6 would be a one in sixteen chance that it would be
7 someone that Mr. Colclough's DNA matched that swab?

8 A. It means that randomly selecting an unrelated individual
9 would give you a chance of approximately one in sixteen
10 that you would find someone who could have contributed.
11 And in this particular instance, Mr. Colclough cannot be
12 excluded as a possible contributor.

13 Q. Thank you.

14 MR. DONNALD: That's all I have, Your Honor.

15 MR. DERIEG: Nothing further, Your Honor, and I have no
16 objection to her being released.

17 THE COURT: Thank you. And you're excused. Have a safe
18 drive back to Columbia.

19 THE WITNESS: Thank you, sir.

20 THE COURT: Y'all want to take a break?

21 MR. DONNALD: May we approach?

22 THE COURT: Yes.

23 (Bench conference off the record)

24 THE COURT: All right. Ladies and gentlemen, I wanted to
25 work late into the night tonight, but these attorneys have

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1 begged me not to make you stay. No, I'm just teasing.

2 Actually, the next witness may be lengthy and rather than
3 going late tonight, I'm going to excuse you for the evening
4 with instructions to be back here just a little bit before
5 9:30 tomorrow morning, okay? Thank you, ladies and gentlemen.
6 Please do not discuss anything about the case over the
7 evening. Like I said, don't do any research and do not read
8 the Item tomorrow morning. Thank you.

9 (Jury out at 3:57 p.m.)

10 THE COURT: All right. Is there anything we need to take
11 up before we are excused for the evening?

12 MR. DONNALD: Nothing from the State, Your Honor.

13 MR. DERIEG: Nothing from the Defense.

14 THE COURT: I remind everyone that my order concerning
15 restraint between the victims' family and the Defendant's
16 family remain in full effect. All right. Thank you.

17 Court's adjourned until 9:30 tomorrow morning.

18 MORNING - MARCH 23, 2016

19 THE COURT: Thank you. Please take your seats. Good
20 morning. Is there anything we need to take up before we bring
21 out the jury?

22 MR. DONNALD: Nothing from the State, Your Honor.

23 MR. DERIEG: Nothing from the Defense, Your Honor.

24 THE COURT: All right. Let's bring our jury in.

25 MR. BRADLEY: Yes, sir.

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(Jury in at 9:56 a.m.)

MR. BRADLEY: Your Honor, we have all our jurors present in the courtroom.

THE COURT: Well, good morning ladies and gentlemen.

THE JURORS: Good morning.

THE COURT: I hope y'all had a nice evening. It's going to be a nice day today, but I've got a feeling you're going to be in here. At least we've got daylight savings time so you'll have some time. Is the State ready to proceed with its next witness?

MR. DONNALD: We are, Your Honor. The State calls Melissa Addison.

THE COURT: All right. Ms. Addison or Lieutenant Addison.

MR. BRADLEY: Place your left hand on the Bible and raise your right hand. State your name, please.

LT. ADDISON: Melissa Addison.

(After being duly sworn by Mr. Bradley, MELISSA ADDISON testified as follows:)

MR. BRADLEY: Thank you. Have a seat, please. Please state your full name and spell your last name for the record.

LT. ADDISON: Melissa Addison. A-D-D-I-S-O-N.

DIRECT EXAMINATION

BY MR. DONNALD:

Q. Ms. Addison, you work at the sheriff's department. Is that right?

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1 A. That's right.

2 Q. I recognize the uniform. What's your rank at the
3 sheriff's department?

4 A. I'm a lieutenant.

5 Q. How long have you been with the sheriff's department?

6 A. I've been with the sheriff's department since 1999.

7 Q. Is that all the -- have you worked anywhere else in law
8 enforcement?

9 A. I also worked as the evidence technician prior and also
10 was a 9-1-1 operator.

11 Q. What do you have to do -- what level of police officer
12 are you?

13 A. My rank is lieutenant.

14 Q. That's not what I meant. There's a level one, level two,
15 level three, level four?

16 A. Oh, we don't go by levels.

17 Q. But you have been to the police academy?

18 A. I have been.

19 Q. You have the power to make arrest.

20 A. I do.

21 Q. What kind of training do you have to have in order to
22 get the power to arrest someone?

23 A. Well, you have to attend the South Carolina Criminal
24 Justice Academy. I don't remember the approximate time,
25 the weeks at the time. It was several weeks. You have to

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1 pass various training classes, take written exams, as
2 well as some practicals, to include the driving range
3 and also firing range.

4 Q. And you said you've been with the sheriff's department
5 since 2009?

6 A. Actually, 1999.

7 Q. 1999. I apologize. I'm in the wrong decade even.

8 A. Yes, you are.

9 Q. With the sheriff's department the entire time?

10 A. Oh, yeah. The sheriff's department the entire time.

11 Q. The Sumter County Sheriff's Department?

12 A. Correct.

13 Q. Could you guess how many investigations you've worked
14 on?

15 A. No.

16 Q. Is it safe to say that it's a whole lot?

17 A. It's been several. Numerous.

18 Q. Okay. Were you involved in the investigation because of
19 a shooting that occurred at Confederate Road in
20 April of 2013?

21 A. Yes, I was.

22 Q. And what was your role with that investigation?

23 A. At the time I was a sergeant. I was initially called out
24 on the night of this incident due to being the
25 investigator on call. We have an on-call roster which

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1 rotates and it so happened it was my turn.

2 Q. Okay. Did you respond to Confederate Road?

3 A. Yes, I did.

4 Q. Where is that in Sumter County?

5 A. It's in the Cherryvale Community.

6 Q. Did you go into the house?

7 A. I did.

8 Q. I'm going to show you State's Exhibits #1 through #6.

9 They're already in evidence, but I want to ask you if

10 that's how the house appeared and what the inside of the

11 house looked like.

12 A. Yes, it appears so.

13 Q. And you stated you went into the house. Is that right?

14 A. That's right.

15 Q. Specifically, with regard to State's Exhibit #3, is that

16 how you found the bodies? Is that what the bodies looked

17 like when you went in?

18 A. Yes, sir.

19 Q. Okay. And who are those two individuals?

20 A. Rayshawn Holmes and Willie Chatman.

21 Q. How did you determine that?

22 A. Well, of course, I didn't know them at the time, but we

23 determined based upon identification of them by the

24 family members who gave a description. Again, Mr.

25 Rayshawn Holmes is the one with the dreads and Willie

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1 Chatman was the shorter of the two with the short
2 haircut.

3 Q. Were family members present?

4 A. They were.

5 Q. So, they could tell you who was in the home?

6 A. Correct. And who actually resided in the home at the
7 time.

8 Q. Now, there's been testimony from a forensic pathologist
9 that the cause of death to these two was a shooting. Was
10 there any question that a shooting had gone on when you
11 went into the house?

12 A. No, sir. There was no question.

13 Q. Tell me how you knew immediately there was a shooting.

14 A. Well, for one thing there were several cartridge casings
15 around the residence inside the home and there were
16 various injuries to the body.

17 Q. Injuries that, even though you're not a forensic
18 pathologist, you could tell were bullet wounds?

19 A. Most likely, yes, sir.

20 Q. And was there blood on the floor?

21 A. There was blood.

22 Q. Was there blood on the bodies?

23 A. Blood on the bodies.

24 Q. And I ask you that because there were bullets and
25 casings that were taken into evidence. That's been

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1 testified to already by Bobby Richardson. Were you
2 present when that was found?

3 A. I was there. There was a lot of activity going on. Yes,
4 sir.

5 Q. Who normally takes things into evidence?

6 A. It's normally the crime scene investigators that take
7 items into evidence from a crime scene if there's a
8 major crime.

9 Q. But that wasn't your role in this in this particular
10 instance?

11 A. No, sir. It was not my role.

12 Q. Okay. But you were present when it happened?

13 A. I was present.

14 Q. So, bullet casings were taken into evidence, bullet
15 fragments. And how many caliber of guns were taken into
16 evidence?

17 A. I believe there were two or three. Possibly, three.

18 Q. Okay. Now, were there or was there a firearm found at
19 that residence that night?

20 A. No, sir.

21 Q. And to your knowledge -- have you handled this
22 investigation from the beginning until today?

23 A. I have.

24 Q. And during the course of this entire investigation, has
25 a firearm ever been found ---

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1 A. No.

2 Q. --- that you could match the bullets to?

3 A. No.

4 Q. Do you have any -- have you received any information
5 about a firearm that may have been used in this
6 instance?

7 A. The information that I received was it was passed on to
8 someone known by a nickname. And where it went from
9 there, there was no information regarding that.

10 Q. Okay.

11 A. At least on that.

12 Q. You were in the courtroom yesterday when Chad Smith from
13 SLED testified that the bullets that were taken from
14 Confederate Road matched bullet casings that were
15 used in a crime in the city. Is that right?

16 A. That's right.

17 Q. Do you have information about who committed the crime,
18 the shooting in the city?

19 A. I do.

20 Q. Tell me about it.

21 A. John Colclough.

22 MR. DONNALD: Your Honor, the sentencing sheet for that
23 offense, you took judicial notice of it yesterday.

24 THE COURT: Right.

25 MR. DONNALD: In talking with the court reporter this

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1 morning she said it was not into evidence.

2 THE COURT: Okay.

3 MR. DONNALD: I don't know if I need to move it into
4 evidence if you've ---

5 THE COURT: Let's go ahead and put it in evidence.

6 MR. DONNALD: --- taken judicial notice, but at this
7 point I'd move it into evidence.

8 MR. DERIEG: Without objection.

9 THE COURT: Without objection. This would be ---

10 MR. DONNALD: I'm showing it as ---

11 THE COURT: --- #20?

12 MR. DONNALD: I'm sorry.

13 THE COURT: Would this be State's Exhibit #20?

14 MR. DONNALD: State's Exhibit #15.

15 THE COURT: 15?

16 MR. DONNALD: Yes, sir.

17 THE COURT: Okay.

18 MR. DONNALD: It was marked but I just didn't move it in
19 because you took judicial notice of it.

20 THE COURT: Okay.

21 (Whereupon, a sentencing sheet is entered into evidence
22 as State's Exhibit #15, without objection)

23 Q. Now, I'm handing you State's Exhibit #15. Do you
24 recognize that as a sentencing sheet?

25 A. Yes.

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1 Q. Are you able to tell -- I know, you don't look at those
2 all of the time.

3 A. No.

4 Q. Can you tell what date that occurred on?

5 A. Sentence date appears to be 7/21/2015.

6 Q. Okay. And John Colclough is the name that appears on
7 that sentencing sheet?

8 A. Yes.

9 Q. Now, the Defendant in this case is Arsenio Colclough.

10 A. Correct.

11 Q. Those are different people.

12 A. Yes.

13 Q. Are they related to one another? Do you know?

14 A. I was told they were cousins.

15 Q. Who told you that?

16 A. Actually, Arsenio, the Defendant, told me they were
17 cousins. And John did as well.

18 Q. You've talked to John and Arsenio?

19 A. Yes, I have.

20 Q. When you talked to Arsenio, was he in custody?

21 A. He was.

22 Q. And did you give him his Miranda rights when he was in
23 custody?

24 A. I gave him his Miranda rights. I spoke with the
25 Defendant, Arsenio Colclough, twice. I did, actually in

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1 regards to this arrest for this charge, I read him his
2 rights at that time.

3 Q. Ms. Addison, I'm showing you what's been previously
4 marked as Court's Exhibit #1. Do you recognize that?

5 A. Yes, I do.

6 Q. Tell me what that is.

7 A. This is the sheriff's department's Miranda warning form.

8 Q. And does it indicate who was given their Miranda rights?

9 A. It does.

10 Q. Who was it given to?

11 A. Arsenio Colclough.

12 Q. Can you read for me the rights that appear on that form?

13 A. I can. Number one -- this is a section that requests an
14 initial for understanding. You have a right to remain
15 silent. He initialed there with an AC. Anything you say
16 can and will be used against you in a court of law. He
17 initialed AC. Number three, you have a right to talk to
18 an attorney and have him present with you while being
19 questioned. Initialed AC. Number four, if you cannot
20 afford to hire an attorney one will be appointed to
21 represent you before any questioning if you wish.

22 Initialed AC. Number five, if you decide at any time to
23 exercise these rights and not answer any questions or
24 make any statements. Initialed again AC. And stated I
25 understand those rights were explained the rights by

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1 Sergeant Melissa Addison, Sumter County Sheriff's Office
2 time being 11:25 a.m. There are two spaces below that
3 section. He signed the top portion. And it says
4 witnessed by, which was signed by myself. Then on the
5 bottom and last portion of this document it states
6 waiver of rights. I have been advised of my rights. I
7 understand my rights. I do wish to answer questions at
8 this time and I do not wish to have an attorney present.
9 My decision to answer questions now without an attorney
10 is freely made and is my own choice. No one has
11 threatened me in any way or promised me anything. And
12 there again, there are three spaces on this section. He
13 signed the top. The second spot, I signed that. And the
14 third spot there for a signature, that was signed by
15 Investigator Wesley Gardner. To the right of that is
16 date and time, which is October the 1st of 2013.

17 Q. Thank you.

18 MR. DONNALD: Your Honor, I'd now move to have the
19 advisements of rights form admitted into evidence as State's
20 Exhibit #20.

21 MR. DERIEG: Without objection.

22 THE COURT: Very well. State's Exhibit #20 is in
23 evidence.

24 (Whereupon, an advisement of rights form is entered into
25 evidence as State's Exhibit #20, without objection)

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1 Q. Now, you've mentioned when you were going through this
2 that he had signed it and he had initialed it, AC. Who
3 is AC?

4 A. Arsenio Colclough.

5 Q. And it's signed Arsenio Colclough, as well. Right?

6 A. It is.

7 Q. Okay. Did you learn anything about a firearm when you
8 talked to Arsenio Colclough?

9 A. Yes, I did.

10 Q. Okay. Specifically, a .40 caliber firearm?

11 A. I don't know if he specified the caliber at that time.
12 We definitely talked about a handgun that was purchased.

13 Q. Okay. What did he tell you with regard to the handgun
14 that was purchased?

15 A. He actually spoke about the handgun that was purchased
16 during the second time that he and I met along with
17 Investigator Gardner, which would be October 1st. During
18 that interview and interrogation the Defendant, Arsenio
19 Colclough, stated that in regards to the handgun that
20 was associated with his cousin John Colclough, he
21 indicated that that handgun was purchased from a mutual
22 friend at the time he told us he only knew by a street
23 name of Coodgie. I later determined -- identified that
24 person positively. He indicated himself, his cousin John
25 Colclough, Coodgie, and a female were all riding

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1 together and the gun was purchased with money given by
2 his cousin, John, to this Coodgie individual. This gun
3 was purchased from Reliable Pawn Shop. He was surprised
4 that I had no idea about that.

5 Q. So, he told you he was present when John Colclough
6 purchased a .40 caliber gun from Reliable Pawn Shop?

7 A. Purchased a handgun, correct.

8 Q. Which is a handgun from Reliable Pawn Shop. Okay. Did
9 you, as part of your investigation, also talk to other
10 persons with regard to what may or may not have
11 happened?

12 A. Could you specify?

13 Q. Yes, I can, because that was a bad question, because I'm
14 sure you talked to many, many people with regard to what
15 had happened. Did you talk to anybody -- I'll ask you,
16 specifically. Did you talk to a gentleman by the name of
17 Christopher Robinson with regard to information
18 regarding the shooting at Confederate Drive?

19 A. Yes, I did.

20 Q. Now, do you know Christopher Robinson on sight?

21 A. Yes, I do.

22 Q. Did you see him yesterday?

23 A. Yes, I did.

24 Q. Is he one of the individuals that came into this
25 courtroom and refused to take the oath?

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1 A. He was.

2 Q. Refused to swear to tell the truth?

3 A. He did.

4 Q. Now, but you talked to him at a previous date though,
5 right?

6 A. That's correct.

7 Q. And what date did you talk with Mr. Robinson?

8 A. I'm not certain of the date. I believe it was in April
9 of 2015. (Looks through documents)

10 Q. It's okay. I'm going to hand you something in just a
11 second.

12 A. All right.

13 Q. All right. Ms. Addison, I'm going to show you what's
14 been marked as State's Exhibit #21.

15 THE COURT: Is there any objection?

16 MR. DERIEG: No objection, Your Honor.

17 THE COURT: Without objection State's Exhibit #21 is
18 admitted.

19 MR. DONNALD: Thank you.

20 (Whereupon, a statement by Christopher Robinson is
21 entered into evidence as State's Exhibit #21, without
22 objection)

23 Q. Ms. Addison, tell me what that form is.

24 A. This form is the voluntary statement form for the
25 sheriff's department.

1 Q. And whose signature appears on that form?

2 A. Christopher Robinson, my signature as well, to include
3 Investigator Wesley Gardner who was present.

4 Q. Okay. What date was that done?

5 A. April the 6th of 2015.

6 Q. And since your signature is on it, I still have to ask
7 you, you were present when that statement was prepared
8 and written, right?

9 A. Yes, I was.

10 Q. Did you see Christopher Robinson -- is it signed by
11 Christopher Robinson?

12 A. Yes, it is.

13 Q. And did you see him sign it?

14 A. I did.

15 Q. Now, whose handwriting is on the document?

16 A. The handwriting is my handwriting. He had requested that
17 I write the statement for him.

18 Q. Did you give him an opportunity to review it?

19 A. I did.

20 Q. Now, was this interview recorded on video?

21 A. It was recorded.

22 Q. Okay.

23 MR. DONNALD: Your Honor, at this point I would move to
24 play the video.

25 THE COURT: All right.

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1 MR. DERIEG: Your Honor?

2 THE COURT: Yes, sir.

3 MR. DERIEG: Before the video is played, I would ask that
4 it be put into evidence before it gets published to the jury.

5 THE COURT: Any objection?

6 MR. DERIEG: And I have no objection to it being put into
7 evidence.

8 THE COURT: All right. This will be 21?

9 COURT REPORTER: 22.

10 THE COURT: 22.

11 MR. DONNALD: What my intention Your Honor was to put the
12 original -- the one I'm going to play is saved to my hard
13 drive. I'm going to put the original in the record for
14 preservation sake.

15 THE COURT: Okay.

16 MR. DONNALD: It's in.

17 COURT REPORTER: Oh, okay.

18 MR. DONNALD: It's in without objection. Is that right,
19 Your Honor, 22?

20 THE COURT: Yes, without objection.

21 (Whereupon, a CD is entered into evidence as State's
22 Exhibit #22, without objection)

23 THE COURT: Can y'all see okay?

24 THE JURY: (Unanimous affirmative response)

25

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1 Your Honor, may I approach real quickly?

2 (Bench conference off the record)

3 MR. DONNALD: Your Honor, I believe, just for
4 housekeeping purposes, the statement itself is already
5 admitted into evidence. And, of course, the statement occurs
6 on this video and the video's in evidence.

7 THE COURT: That's right.

8 Q. Ms. Addison, can you see it? Is it on your screen?

9 A. Yes.

10 Q. Okay.

11 THE COURT: And just before we get started, ladies and
12 gentlemen, this video is going to be right at an hour and ten
13 minutes long. Does any member of the jury panel think they
14 cannot wait for a break for an hour and ten minutes?

15 THE JURY: (No one responds affirmatively)

16 THE COURT: Okay. Very good.

17 Q. Now, can you tell me what that's a picture of?

18 A. It looks like that's the doorway leading into one of the
19 interview rooms that's within the criminal
20 investigations division.

21 MR. DONNALD: Okay. With the Court's permission, I'm
22 going to hit play.

23 THE COURT: Yes, sir.

24 (Whereupon, State's Exhibit #22 was published for the
25 jury.)

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1 Q. While y'all are getting arranged, who is that other
2 gentlemen in the picture?

3 A. That would be Senior Investigator Wesley Gardner.

4 Q. And the guy in red is who?

5 A. Christopher Robinson.

6 MR. DONNALD: May it please the Court, nothing else
7 happens on this video. In fact, it's about to cut off. Well,
8 it did cut off. That's the entirety of the video.

9 THE COURT: All right. Ladies and gentlemen, I think now
10 is a good time to take a break. We'll take a fifteen minute
11 recess. Thank you. Please do not discuss anything about the
12 case.

13 (Jury out at 11:33 a.m.)

14 THE COURT: All right. Court is in recess for fifteen
15 minutes.

16 MR. DONNALD: Your Honor, would you -- since we're in
17 recess and she's on the stand, just remind her not to speak
18 to anyone?

19 THE COURT: You realize you can't speak to anyone about
20 this case. You can get off to go to the restroom as everyone
21 else here, but you can't speak to anybody.

22 LT. ADDISON: All right.

23 MR. DONNALD: Especially to me.

24 THE COURT: Thank you.

25 (Short break)

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1 THE COURT: Thank you. Please take your seats. Anything
2 before we bring the jury in?

3 MR. DONNALD: Not from me.

4 THE COURT: Okay.

5 MR. DERIEG: Nothing, Your Honor.

6 THE COURT: Okay. Let's get them.

7 (Jury in at 11:50 a.m.)

8 MR. BRADLEY: We've got all the jurors back in the
9 courtroom.

10 THE COURT: Thank you. All right. Mr. Donald.

11 MR. DONNALD: Thank you, Your Honor. May I approach the
12 witness, Judge?

13 THE COURT: You may.

14 CONTINUED DIRECT EXAMINATION

15 BY MR. DONNALD:

16 Q. Lieutenant Addison?

17 A. Yes.

18 Q. We just watched the video for an hour and fifteen
19 minutes and it was you, and you said Wesley Gardner, and
20 Christopher Robinson. Is that right?

21 A. That's right.

22 Q. I've also already shown you State's Exhibit #21, which
23 was admitted into evidence. On the video, I could see
24 you writing on a piece of paper.

25 A. Yes.

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1 Q. Is this what you were writing on, that piece of paper?

2 A. Yes, it was.

3 Q. Is this a copy of it or is this the original that you
4 wrote on?

5 A. A copy.

6 Q. Okay. Is it the same as the original?

7 A. Yes.

8 Q. Exactly the same in every detail?

9 A. It looks the same. Like a part of it is kind of --
10 didn't copy as well, I guess.

11 Q. Okay. Does it have a signature on it?

12 A. Yes, it does.

13 Q. Is that Christopher Robinson's signature?

14 A. Yes, it is.

15 Q. In fact, we saw him on the video signing that document,
16 right?

17 A. Yes.

18 Q. Now, in your opinion or do you feel that anywhere in
19 there you told him what to say?

20 A. No, I did not.

21 Q. Do you think you ever suggested to him what to say?

22 A. No, I do not.

23 Q. Just a couple of things on the video, just to highlight
24 it. Where did he tell you he got his information from?

25 A. He told us that he got his information from Arsenio

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1 Colclough, the Defendant, and he also indicated that he
2 looked through his, I guess, information that he had, as
3 well.

4 Q. Did he tell you on the video and in your conversation
5 with him that he knew what Arsenio Colclough's nickname
6 is?

7 A. Yes, he did.

8 Q. And what did he tell you his nickname is?

9 A. Shoes.

10 Q. Now, at the end of the video he starts talking about
11 John Colclough, right?

12 A. Yes.

13 Q. And the shooting that occurred in the city, right?

14 A. Right.

15 MR. DERIEG: Objection, Your Honor. Leading.

16 THE COURT: Re-phrase your question.

17 Q. At the two minute and fifty second -- I'm sorry. At the
18 two o'clock and fifty minute mark, Mr. Robinson started
19 talking about John Colclough. Can you tell the jury what
20 he was relating to you about John Colclough?

21 A. He was relating to me and the Investigator about a
22 shooting that had occurred in the city in which he
23 indicated that Arsenio's cousin, John Colclough, was
24 responsible when three people were shot.

25 Q. Now, is that the same offense, to your knowledge, that

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1 John Colclough later pled guilty to?

2 A. Yes.

3 Q. When was the interview with Christopher Robinson?

4 A. April the 6th, I believe, of 2015.

5 Q. And do you know off the top of your head when John
6 Colclough pled guilty?

7 A. According to this sheet that you gave me, this
8 sentencing sheet, it's dated July the 21st of 2015.

9 Q. Your interview with Robinson was approximately three or
10 four months prior to John Colclough admitting his guilt
11 in that shooting?

12 A. Yes.

13 Q. I'm going to come back to that in a minute. Who
14 initiated contact between you and Mr. Robinson?

15 A. Mr. Robinson initiated contact.

16 Q. Did you approach him in any way?

17 A. No, I didn't know him. I didn't know who he is.

18 Q. Okay. The interview that we saw took place where?

19 A. The sheriff's office on North Main Street.

20 Q. Do you always do interviews at the sheriff's office?

21 A. Not always.

22 Q. We had talked earlier about an interview that you did
23 with the Defendant, Arsenio Colclough. Where did that
24 take place, again?

25 A. The sheriff's office.

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1 Q. And when did that take place?

2 A. It was two. One was in September and one was in October
3 at the sheriff's office.

4 Q. Of what year?

5 A. 2013, I believe.

6 Q. Okay. Now, when you say the sheriff's office are you
7 talking about the facilities on North Main?

8 A. Yes, I am.

9 Q. And when was that built?

10 A. I believe we actually moved into that building in 2012.

11 Q. Tell me about the interview rooms that we saw in the
12 video. Are they always recorded?

13 A. They are always, what we're told, technically recorded,
14 but we've had some situations where when we go to pull
15 them out, just myself and other investigators or other
16 officers, and there are some kind of issues and it
17 doesn't come through, the video or the audio, and it's
18 also on occasion that sometimes we'll have a video but
19 no audio.

20 Q. What do you have to do to get the video?

21 A. Actually, we have a room that's inside of the
22 investigations division and we go in and actually just
23 put in your disk and you go to that date and whatever
24 time you need approximately and you pull it up and then
25 you download it.

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1 Q. You had mentioned in earlier testimony that the
2 Defendant told you that he and John Colclough went
3 together or worked together and bought a .40 mm Smith &
4 Wesson, a .40 caliber Smith & Wesson from Reliable Pawn
5 Shop. Is that interview recorded?

6 A. That one is not recorded when we discussed where the
7 weapon was -- actually, a weapon was purchased, but it
8 is not recorded. That's how I found out about it,
9 through that interview.)

10 Q. Okay. Do you know whether or not it was recorded?

11 A. No, I don't.

12 Q. Did you attempt to get the recording of that interview?

13 A. Yes, I did.

14 Q. Did it take place in the interview room?

15 A. It did.

16 Q. And were you able to get the recording?

17 A. No, not of the second interview. No.

18 Q. Okay. The second interview, were you alone with Mr.
19 Colclough or was anyone else in the room?

20 A. Investigator Gardner was with me, as well.

21 Q. Okay. In that second interview, tell me again when it
22 was done in conjunction with when the sheriff's office
23 was built?

24 A. Probably about a year or so afterwards.

25 Q. Okay. Now, the video that we just saw was Christopher

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1 Robinson and you've stated he was one of the individuals
2 who refused to take an oath yesterday. Is that right?

3 A. Correct.

4 Q. Were you in the courtroom when the State called Corie
5 Simon to the stand yesterday?

6 A. Yes, I was.

7 Q. Okay. I'm going to show you what's been previously
8 entered into evidence as State's Exhibit #14. Do you
9 recognize that?

10 A. Yes, I do.

11 Q. Is that an interview form?

12 A. It is.

13 Q. Whose interview is that a form of?

14 A. This is the sheriff department's voluntary statement
15 form. It is an interview that I conducted with Corie
16 Simon at Clarendon County Sheriff's Office or the
17 detention center. Sheriff's Office, actually.

18 Q. Clarendon County Sheriff's Office?

19 A. Clarendon County Sheriff's Office.

20 Q. Do you have a video recording of that interview?

21 A. No, I don't.

22 Q. But it wasn't done -- it was done at a different
23 facility. Is that right?

24 A. That's right.

25 Q. Did you have the ability to record one at Clarendon

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1 County Sheriff's Office?

2 A. I did not.

3 Q. He stated yesterday that that was not his signature.

4 Whose handwriting is on that form?

5 A. Well, I was there when he signed it, so it's his
6 signature.

7 Q. Okay. Whose handwriting filled out the statement?

8 A. My handwriting filled out the statement.

9 Q. And did you hear the entire statement he made?

10 A. Yes, I did.

11 Q. Did he acknowledge the statement on that day that he
12 signed the document?

13 A. Yes, sir. He did.

14 Q. And who was present for that?

15 A. Investigator Wesley Gardner.

16 Q. Okay. Now, there's been some talk about a shooting that
17 occurred in the city. Tell the jury what you know about
18 the facts of that shooting.

19 A. Well, upon speaking with a couple of individuals, that
20 is, based upon my investigation, I was told that there
21 was a shooting in the city in which the Defendant,
22 Arsenio Colclough's cousin, John Colclough, was involved
23 in. I was ---

24 Q. I'm going to stop you there because John Colclough pled
25 guilty to that shooting, right?

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1 A. Yes, he did.

2 Q. And that's what the sentencing sheet is, right?

3 A. Yes.

4 Q. Now, was there any connection between that shooting and
5 the Confederate Road shooting in April of 2013?

6 A. Yes.

7 Q. Tell me what that connection was.

8 A. The connection was the ballistics that were used at both
9 of the shootings; the one that happened in May and also
10 the one that we're here for, which happened in April, a
11 month prior.

12 Q. You say the connection was the ballistics. What did the
13 ballistics show?

14 A. According to my conversation with the SLED Agent that
15 testified on yesterday, he stated that the casings or
16 shot gun shells were fired from the same weapon.

17 Q. Now, when was the last time you saw John Colclough?

18 A. Well, yesterday was the last time.

19 Q. Okay. Is he one of the individuals who refused to take
20 an oath yesterday?

21 A. Yes, he was.

22 Q. And you've spoken to him or done an interview with John
23 Colclough on a previous occasion?

24 A. Yes, sir. I had.

25 Q. And when was that?

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1 A. April 15, 2015, I believe it was.

2 Q. And where did that take place?

3 A. That took place in this building, in one of the rooms
4 here.

5 Q. And that was -- when did you say it was again?

6 A. April 15th, I believe or 16th of this last year. That's
7 April -- I meant October. I'm sorry.

8 Q. I was going to ask you to look at your notes real quick.

9 A. I just heard it in my head, I said I'm thinking I said
10 April. I meant October. Sorry.

11 Q. And I would have missed it except for one thing. When is
12 the October interview in relation to his guilty plea to
13 this shooting with the same gun?

14 A. Afterwards.

15 Q. Okay. Did you ask him where he got that .40 caliber
16 pistol?

17 A. Yes, I did.

18 Q. Who did he tell you he got it from?

19 A. John told me when I interviewed him that he had asked a
20 friend of his that he knew as Coodgie to buy the gun for
21 him and he gave him the money and that the gun was
22 purchased from Reliable Pawn Shop.

23 Q. What happened with the gun -- did he give you any
24 information about what happened with the gun after it
25 was purchased at the pawn shop? Who owned the gun?

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1 A. John stated that it was his gun, but he and the
2 Defendant, Arsenio, would share the gun. He stated there
3 were times when Arsenio would come to him and say, look,
4 I want to use the gun and he would just give it to him.

5 Q. Was he able to relate to you any details of the shooting
6 that occurred at Confederate Road?

7 A. Yes, he did. When he came up and I met with him and
8 interviewed him here at this office, he indicated that
9 on the night of the shooting that John and also Jwain
10 had come to his residence ---

11 Q. Now you just said, John.

12 A. I'm sorry. Jwain. I thought I said Jwain.

13 Q. I'm sorry.

14 A. But if I didn't, Jwain. He stated again, Arsenio and
15 Jwain had come to his residence. He stated that Arsenio
16 told him that he wanted to use the gun. He stated that
17 he gave him the gun. He also indicated that he was
18 requested to go along. He indicated to me that Arsenio
19 stated that he was going to go out and do a robbery, a
20 lick, I believe is the word that he used. He indicated
21 that he could not go based upon his father that was sick
22 so he stayed behind. Do you want me to go on?

23 Q. Yes.

24 A. He went on to tell me that Arsenio and Jwain came back
25 to his residence about 3:00 in the morning and he stated

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1 that they both appeared nervous and jumpy. He stated
2 that Arsenio gave him the gun back and requested to get
3 the gun back and he said -- he asked, said, there's
4 nothing hot about this gun? You know, there's nothing
5 y'all done that's hot about this gun? He made a comment
6 along those lines and he stated Arsenio indicated no. He
7 stated at that time he guessed they left, went their
8 separate ways. He indicated probably a few days later he
9 had occasion to have heard about the murders and he felt
10 like to him that something just wasn't right about the
11 situation. He told me that he then asked Arsenio and
12 Jwain who had returned to his residence to tell what had
13 happened. He said at first they told him that the guys
14 at the house actually shot at them, you know, through
15 the door and this kind of thing and it just didn't fit
16 with the scene. And he said it didn't sound right to
17 him. So he further went on and asked what had occurred.
18 And John then indicated that Arsenio told him that he
19 shot Willie Chatman in the back. He stated that he was
20 being jumpy and that he shot him and that Jwain had shot
21 Rayshawn. When I asked him what happened to the gun, he
22 indicated, of course, admitted that he had been on the
23 run for his situation, had been in Georgia. He stated to
24 me that he had given the gun that he used to a male
25 known as Black. And he stated he didn't know what

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1 happened with the gun from that point.

2 MR. DONNALD: I beg the Court's indulgence.

3 THE COURT: Yes, sir.

4 Q. Do you recall anything that John Colclough may have told
5 you about a red hat?

6 A. Yeah, I'm sorry. He also did indicate that the red hat
7 actually had belonged -- he indicated, I believe, that
8 the red hat was supposedly left by Jwain and also I
9 failed to mention he stated that there were some guns
10 that, I'm sorry, not guns, knives that belonged to his
11 father, a big knife that was also left at the house.

12 Q. Okay. Who did John Colclough tell you he got his
13 information from?

14 A. He indicated that Arsenio was doing most of the talking.
15 And he stated that Jwain was doing a little bit of the
16 talking, but it was mostly Arsenio that was doing the
17 talking.

18 MR. DONNALD: Your Honor, that's all the questions I
19 have.

20 THE COURT: All right. Mr. Derieg.

21 MR. DERIEG: Your Honor, may we approach?

22 THE COURT: You may.

23 (Bench conference off the record)

24 THE COURT: All right. Ladies and gentlemen, after
25 conferring with the attorneys, it appears this is a good time

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1 to break for lunch. So, we will go ahead and break for lunch.
2 Let's just say be back here at 2:00 or just a little bit
3 before 2:00 and don't eat a big lunch that will make you
4 sleepy. Have a nice lunch and please do not discuss anything
5 about the case while taking lunch.

6 (Jury out at 12:09 p.m.)

7 THE COURT: All right. Court is in recess until 2:00 p.m.

8 MR. DONNALD: Your Honor?

9 THE COURT: Yes, sir.

10 MR. DONNALD: I'd just ask you to remind ---

11 THE COURT: Of course, you still can't talk to anybody.

12 MR. DONNALD: For the next two hours you can't talk to me
13 or anybody else. (Speaking to Lt. Addison)

14 THE COURT: Thank you. Have a nice lunch.

15 (Lunch recess)

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17 THE COURT: Anything before we begin?

18 MR. DONNALD: Nothing from the State, Your Honor.

19 THE COURT: All right. Let's bring our jury in.

20 (Jury in at 2:01 p.m.)

21 MR. BRADLEY: Your Honor, we have all the jurors present
22 in the Courtroom.

23 THE COURT: Well, ladies and gentlemen, I'm glad to see
24 all of you back. With it being such a nice day, I was worried
25 I would lose a couple of you. All right. Mr. Derieg, are you

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1 ready to proceed with your cross examination?

2 MR. DERIEG: Yes, Your Honor.

3 THE COURT: All right.

4 MR. DERIEG: May it please the Court?

5 THE COURT: Yes, sir.

6 CROSS EXAMINATION

7 BY MR. DERIEG:

8 Q. Good afternoon, Ms. Addison.

9 A. Good afternoon.

10 Q. The last thing you testified to under direct with Mr.
11 Donnald, you were talking about the knives and you said
12 that they belonged to John Colclough's father, right?

13 A. Yes. I believe that's what he told me.

14 Q. And those two knives were both found on the scene,
15 correct?

16 A. I believe so. Outside the house, yes.

17 Q. Where was the knife with the wooden handle found?

18 A. I don't remember. I didn't collect any of it.

19 Q. But both, the wooden-handled knife and the black-handled
20 knife were both found at the scene?

21 A. I believe so.

22 Q. So, given that, would it be your testimony that you're
23 insinuating that my client and Jwain Francis transported
24 those knives from John Colclough's house to the incident
25 location?

1 A. I'm not insinuating anything. I'm repeating what John
2 Colclough said.

3 Q. And you're the lead investigator on this case, right?

4 A. Yes.

5 Q. So, as the lead investigator you have access to all the
6 evidence and all the information that gets generated
7 about this case, correct?

8 A. Right.

9 Q. So, are you aware that at minimum there are three
10 different DNA profiles with as many as six DNA profiles
11 on those two knife handles?

12 A. No, I'm not a DNA specialist. And, no, I don't recall
13 that.

14 Q. Do you know that my client and Jwain Francis were both
15 excluded on DNA results from contributing to either of
16 the handles of the knives?

17 A. I believe that's what the SLED agent testified to
18 yesterday.

19 Q. You didn't review her report?

20 A. No, I did not review her report. She came in and she
21 talked about it, so I did not.

22 Q. Well, as the lead investigator, don't you think it's
23 pretty important to at least read the DNA report to find
24 out if anything that you submitted or you asked to be
25 submitted for processing by SLED, don't you think it's

1 important to know what those results are?

2 A. No, because they weren't wounded by knives as far as my
3 knowledge was concerned. The autopsy was by a handgun.
4 So, no, I didn't.

5 Q. But there's other stuff in that DNA report, right?

6 A. Yes. And that's what the DNA, you know, specialist spoke
7 about.

8 Q. Did you review anything in that DNA report?

9 A. I did read the reports.

10 Q. But you just skipped the stuff about the knives?

11 A. No, I didn't skip the things about the knives. I stated
12 I didn't recall about the knives.

13 Q. Okay. How long have you been part of law enforcement?

14 A. Since 1999.

15 Q. Continuously?

16 A. Continuously.

17 Q. Tell the jury what types of training you have as part of
18 your law enforcement background.

19 A. Well, as far as part of my law enforcement background,
20 we have training in abuse of children. I've had training
21 in abuse of elder abuse. We've had training in all
22 different topics to include community policing, school
23 resource officers. We also do some training as far as a
24 basic processing of scenes, fingerprints, photography,
25 things of that nature.

1 Q. And as an investigator, you would have had specialized
2 training on interview techniques, right?

3 A. I've had some training on interviewing.

4 Q. You ever had any training on kinetics or kinesics?

5 A. I may have. I don't recall that.

6 Q. I think another word for it would be any training on
7 body language while somebody's giving you an interview,
8 how to read and interpret their body language.

9 A. I may have had that several years ago, maybe.

10 Q. Well, do you recall as part of your training being
11 taught that poor eye contact, looking down and to the
12 right, acting out, a person acting out with their hands
13 and being very mobile, do you remember being trained
14 that that would indicate deception?

15 A. Like I stated, I've been in law enforcement since 1999.
16 I've had -- possibly had that training, but it wasn't
17 anything that I was doing as far as the training aspect
18 for any length of the time. So, the answer would be no.

19 Q. So, when you are taking interviews from anyone, is body
20 language something that you ever pay attention to?

21 A. Of course I pay attention to body language but as far as
22 what you're asking me directly, the answer is, I don't
23 recall that.

24 Q. And would you agree with me that when Christopher
25 Robinson, when we watched that hour and fifteen minute

1 video, that almost the entire time he didn't make eye
2 contact. He was looking down and to the right. He was
3 using a lot of gestures with his hands and he even got
4 up and walked around and was highly mobile?

5 A. I wouldn't say he was highly mobile. I believe he got
6 up. It depends on your interpretation. It could be that
7 he was nervous. He did indicate that there was some
8 concern about going back. So, it could be some of that,
9 as well.

10 Q. You've been part of law enforcement since 1999. So, how
11 many interviews have you done?

12 A. I've never counted. I've done numerous interviews.

13 Q. Hundreds?

14 A. I don't know if it's hundreds. I don't know.

15 Q. But a lot?

16 A. Enough, I guess.

17 Q. Seventeen years?

18 A. Well, a lot of it, you have to understand, wasn't always
19 me interviewing. I was a community oriented police
20 officer. I was an SRO in schools. I served warrants for
21 a number of years, so a lot of it, you know, didn't
22 entail me having to go out and do interviews
23 specifically, so, no.

24 Q. But you have taken many interviews, right?

25 A. I have taken interviews, yes.

1 Q. How many of those interviews were from jailhouse
2 snitches?

3 A. Not a whole lot.

4 Q. Not a whole lot?

5 A. No.

6 Q. Have you had opportunities to work on cases where
7 jailhouse snitch statements were made, but you weren't
8 the one that took it?

9 A. I'm trying to answer that honestly. I can't say that I
10 have or haven't. I don't recall. I know that in this
11 case there was some of that came forward.

12 Q. But you would be aware that jailhouse snitches coming
13 and testifying or giving statements against other people
14 that they're incarcerated with is fairly common, right?

15 A. I will say that is common.

16 Q. And out of the ones that -- out of the statements or
17 interviews by jailhouse snitches that were given to you,
18 how often do they give you false information?

19 A. I don't know how to answer how often they gave me false
20 information. I would have to be able to prove that what
21 they said was false, corroborated, or kind of disclaim
22 it in some way, but as far as my personal information
23 and knowledge, this has been the -- as far as my
24 career's concerned, this has been the most, as you would
25 call them, jailhouse snitches that have come along in my

1 career that have come forward. And the information is
2 deemed to be corroborated kind of pretty much across the
3 board about what they said.

4 Q. Corroborated, huh?

5 A. Yes.

6 Q. Who was it that Christopher Robinson said shot Shawn or
7 Rayshawn?

8 A. He said Arsenio shot Rayshawn.

9 Q. And who did he say shot Peewee?

10 A. He said Jwain shot Peewee.

11 Q. And based on the oral statement that you testified to of
12 John Colclough just before lunch, who did you say John
13 Colclough said shot Rayshawn?

14 A. It was reversed.

15 Q. So, those statements wouldn't really corroborate each
16 other, would they?

17 A. They were different, but they both got shot and they
18 could have got it mixed up, but in my opinion, he pretty
19 much was not off, too much off the path.

20 Q. So, when you took a statement from Chris Robinson, did
21 you believe him?

22 A. I believe what he told me, that he was giving that
23 information about Arsenio. I certainly did.

24 Q. When you took the statement from John Colclough, did you
25 believe him?

1 A. Yes, I did.

2 Q. Well, you've already testified to the contradictory
3 nature of their two statements. So, how could you
4 believe both?

5 A. Because the bulk of what they said was true and the fact
6 that they have -- could he -- he took and could have
7 gotten mixed up who shot who, I think could have been a
8 simple mistake that was made. Or that's the way they
9 each were told. I don't know. I wasn't present when they
10 each were told. I'm only telling you what they told me,
11 what I heard.

12 Q. You don't think it's significant as to who it is that
13 the jailhouse snitch that you're taking a statement from
14 says who killed who?

15 A. Well, if you review all the jailhouse snitches, you
16 know, the others said different things. The closest --
17 it was two people so it was a fifty/fifty shot or
18 chance. Sorry. Excuse the pun. It's a fifty/fifty
19 chance.

20 Q. All your jailhouse snitches didn't say two, did they?

21 A. I would have to read -- when you say all my jailhouse
22 snitches, they weren't mine, but they came forward and
23 they happened to be incarcerated.

24 Q. Now, I think earlier when you were going through your
25 credentials with Mr. Donnald, I think he was talking

1 about different levels of officer. Are you a class one
2 officer?

3 A. I am a class one officer. When he asked me that, I
4 wasn't thinking along those terms.

5 MR. DERIEG: May I approach, Your Honor?

6 THE COURT: You may.

7 Q. I want to show you what's been marked as State's Exhibit
8 #3. Judging by that picture, can you tell who it was
9 that fell first?

10 A. As I'm looking at the picture, it would appear to me
11 that possibly Willie fell first and then Rayshawn fell
12 on top of him.

13 Q. And why would you say that?

14 A. I'm saying that because it looks like Rayshawn is
15 actually on top of him. Well, actually, it could have
16 been just that he, he just fell side-by-side. Again, it
17 goes back to how you interpret it.

18 Q. And looking at what's been marked as State's Exhibit #4,
19 that red hat is lying next to whom?

20 A. Willie.

21 Q. And looking in State's #3, do you see the red hat
22 anywhere in State's #3?

23 A. No. It looks like maybe possibly Rayshawn's on top of
24 it. I don't know. So, no I don't see it. He could be on
25 top of it.

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1 Q. But it's not in the picture anywhere?

2 A. No, sir.

3 Q. Now, on September the 18th you arrested my client for
4 some unpaid traffic tickets and a petit larceny courtesy
5 summons, right?

6 A. That's correct.

7 Q. Was that not, in fact, just an excuse to be able to
8 interview him about this murder?

9 A. No, sir. I didn't need an excuse. It so happens in the
10 course of doing investigation, I discovered that he did
11 have outstanding warrants.

12 Q. And you interviewed him on September the 18th, right?

13 A. That's correct.

14 Q. And that interview, in fact, was videotaped, right?

15 A. Yes, it was.

16 Q. And on that videotape Arsenio Colclough denies any
17 knowledge or involvement of these murders over and over
18 and over, doesn't he?

19 A. He denied any involvement. He did indicate who he
20 thought might have committed them.

21 Q. But it wasn't him, right?

22 A. No, it wasn't him.

23 Q. But on direct you didn't testify about any of his
24 denials from September the 18th, right?

25 A. I don't believe I was asked that question.

1 Q. And on September the 18th -- or excuse me. October the
2 1st is the second interview that you did with him,
3 right?

4 A. That's correct.

5 Q. And that's the one that you don't have an interview of
6 or a video of, correct?

7 A. Also correct.

8 Q. And why again is it that we have a video from the first
9 one and not from the second one?

10 A. Because when I went to try to get the copy downloaded,
11 the second wasn't there.

12 Q. Would it be fair to say that you didn't find anything of
13 value in the first interview?

14 A. No, I wouldn't say that during the first interview there
15 wasn't anything of value, because during the first
16 interview he actually spoke quite extensively about his
17 cousin John.

18 Q. Did you make any notation of that in your investigative
19 report under the September the 18th heading?

20 A. No, I didn't. Like I stated, mostly he talk about John
21 and I was asking him where he thought perhaps John was,
22 things of that nature and he indicated that he didn't.
23 And he talked quite a bit about his personal engagements
24 and things that he does in his spare time and hobbies.

25 Q. In fact, under your September the 18th investigative

1 report entry, you make no mention of interviewing my
2 client on that date, right?

3 A. I didn't mention it. But, again, as you stated, there is
4 a videotape available for review, if necessary. But, no,
5 I did not.

6 Q. But then on October the 1st where you interview him and
7 we have no video for it, you made extensive notations in
8 your investigative report about what he allegedly told
9 you, right?

10 A. Right. Because I would need to because I didn't have the
11 video in order to refer to.

12 Q. Did you write up your investigative report first or did
13 you try and get the video first?

14 A. Of course, I tried to get the video first.

15 Q. How long after the October 1st interview did you
16 actually make the notations for the October 1st entry in
17 your investigative report?

18 A. I don't recall.

19 Q. So, you could remember everything that my client
20 allegedly told you on October the 1st, but you can't
21 remember when it was that you wrote all this stuff down?

22 A. No, I can't. It could have been a day or so. I don't
23 recall. I just recall what he said.

24 Q. On October the 1st, I think it's State's Exhibit #1, is
25 a waiver of my client's Miranda rights. Right here.

1 State's #1. It's a voluntary waiver of his Miranda
2 rights, correct?

3 A. That's correct.

4 Q. What's on that second page?

5 A. Consent to sample form.

6 Q. What is that?

7 A. This is the sheriff's department form when we ask
8 individuals would it be okay to collect a sample from
9 them. And what that normally is when we make that
10 request is what we call a buccal swab, which is just
11 taking like, for a lack of a better term, like a large
12 Q-tip and kind of swab out the inside of their cheek
13 areas, left and right.

14 Q. And what's the point of that swab?

15 A. The point of that swab is to send to SLED for comparison
16 to any potential evidence that may be collected or we
17 may have already had something perhaps we need to test.

18 Q. It's a DNA sample?

19 A. It's a DNA sample.

20 Q. Could you have gotten his DNA sample -- or how could you
21 have gotten his DNA sample had he not consented?

22 A. We could have requested an order to get it.

23 Q. You would have had to go before a judge and argue why
24 you would need it?

25 A. Correct.

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1 Q. But on October the 1st when Arsenio Colclough was first
2 initially charged and served two murder warrants, he
3 voluntarily gave you his DNA, right?

4 A. He did.

5 Q. Now, through the course of your investigation, what have
6 you learned about the relationship between my client and
7 the two victims?

8 A. What I've learned is that they were supposedly good
9 friends..

10 Q. Spend a lot of time together?

11 A. I don't know about the time together, but I understand
12 that they were good friends, particularly, I believe,
13 from their childhood.

14 Q. That was my next question. They kind of grew up
15 together, right?

16 A. I believe so.

17 Q. Known each other for a long time?

18 A. Yes.

19 Q. I think Ms. Chatman even stated that Mr. Colclough had
20 been over to her house as early as age seven or eight,
21 right?

22 A. Possibly, yeah. Early.

23 Q. How much was that electric bill for the house at
24 Confederate?

25 A. I believe it was twelve hundred dollars, something in

1 that neighborhood.

2 Q. And how much money did Mr. Holmes give Rayshawn to pay
3 that bill?

4 A. I believe he stated he gave him eighteen hundred
5 dollars.

6 Q. And was any of that money recovered?

7 A. No.

8 Q. Was that house at Confederate known as a drug house
9 where people could go to buy various types of drugs?

10 A. I believe it was..

11 Q. What types of drugs was Rayshawn Holmes selling?

12 A. I don't know what types of drugs Rayshawn Holmes was
13 selling, but from interviews I believe they stated that
14 you could purchase marijuana from the home. So, I guess
15 that would be it, marijuana.

16 Q. Didn't you also get information that pills and cocaine
17 were also being sold out of that house?

18 A. You asked about Rayshawn. And I believe they stated that
19 Willie sometimes dealt in pills and a little bit of
20 cocaine.

21 Q. Okay. Thank you. Who was the lead investigator or the
22 lead crime scene investigator on April the 12th into the
23 early morning hours of April 13th?

24 A. That would have been Sergeant Mike Bean.

25 Q. And describe for the jury what the job of a crime scene

1 investigator is.

2 A. A crime scene investigator has many duties. They are
3 there to secure evidence at the scene that they think
4 may be associated with the scene. They process it. It
5 really depends on the crime scene technician as far as
6 what he or she, in our case it's all men, think they
7 need to do. They collect -- in this case it was a murder
8 scene by gunshots. So, they collected shell casings that
9 were very obviously visible to the naked eye. Of course,
10 it makes it easier if you can see these things. They
11 also photograph and they take measurements and they also
12 do some type of fingerprinting. Again, it would depend
13 on the scene. They could also swab for any serology;
14 that includes blood, saliva, anything of that nature.
15 Again, that would be that person's call.

16 Q. So, it would have been CSI Investigator Bean who would
17 have collected those two knives?

18 A. He also, that night, had the assistance of Investigator
19 Bobby Richardson. He was also a crime scene
20 investigator.

21 Q. Well, you were present in the courtroom when Bobby
22 Richardson testified that Mike Bean was the one that
23 collected the knives, right?

24 A. I was in the courtroom when he testified.

25 Q. So, you don't know where either of the two knives were

1 found?

2 A. I believe they were found outside the residence,
3 something of that nature. But as far as who, like you
4 say, collected them, right now I don't recall.

5 Q. And, again, you're not familiar with the DNA report on
6 those knives, right?

7 A. Well, like I indicated, I've read the reports numerous
8 times and I didn't make that my focus at the time.
9 Rather, the knives were there because it was a scene
10 where it was a gunshot and I believe that the SLED agent
11 did testify about the knives.

12 Q. I want you to look at what's been marked as State's #19.

13 A. All right.

14 Q. You've reviewed that, right? Read it at least once?

15 A. At least.

16 Q. Now, what does it say about the DNA found on the brown
17 handled knife? I believe that's item #45?

18 A. Court's indulgence. I believe it's on page three of six.
19 It reads as follows: The DNA profile developed from item
20 45.1 or is it 45? The DNA profile developed from item
21 45.1 is a mixture of at least three individuals. Willie
22 Chatman and Rayshawn Holmes and Arsenio Colclough and
23 Jwain Francis are excluded as possible contributors to
24 this mixture.

25 Q. That's supposed to be one of the knives that belongs to

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1 John Colclough's father, right?

2 A. According to John Colclough.

3 Q. What does it say about the black handled knife?

4 A. It reads as follows: The DNA profile developed from item
5 46.1 is a mixture of at least three individuals. The DNA
6 profile developed from the main contributor of this
7 mixture is from an unidentified female individual.
8 Further information is needed to determine if the
9 profile for the major contributor to the mixture is
10 eligible for entry and to combine DNA index system,
11 which is CODIS commonly referred to. Willie Chatman,
12 Rayshawn Holmes, Arsenio Colclough and Jwain Francis are
13 excluded as possible minor contributors to this mixture.

14 Q. Did Mike Bean and Bobby Richardson dust for fingerprints
15 anywhere in that house that night?

16 A. I don't know if they dusted for fingerprints or not. I
17 don't believe they did.

18 Q. Was anything other than the red hat found inside the
19 residence ever sent to SLED for DNA testing?

20 A. Besides ballistics? You said DNA, I'm sorry. No, not
21 besides the red hat.

22 Q. And all the ---

23 A. Inside the house.

24 Q. And all the shell casings and bullets were collected,
25 right?

1 A. They were.

2 Q. And they were sent to SLED, right?

3 A. Yes, they were.

4 Q. Did anybody ever ask SLED to see if they could find any
5 DNA or fingerprints on those shell casings?

6 A. In fact, I had questioned them regarding possible DNA
7 and what I was told is, based upon the shape of the
8 object and the fact that it was a projectile, which
9 heat, when coming out of gun it has heat, if any DNA
10 were on there, it would be very rare to find. If it was,
11 it would be burnt during admission of the bullet,
12 because that was certainly a question that I had asked.

13 Q. And I want to look again at State's #3 and #4.
14 Particularly, regarding the marijuana that you see in
15 those pictures. It's on top of the bodies, right?

16 A. Appears so.

17 Q. Wouldn't marijuana on top of the bodies indicate that it
18 was spilled or sprinkled on top of them after they fell?

19 A. I believe that could be a hypothesis or someone's idea.
20 I believe someone testified, possibly, I believe, that
21 it was Christopher Robinson that some drugs were
22 sprinkled on them to make it look like it was a robbery
23 or something. So, yeah.

24 Q. Well, now, Christopher Robinson didn't testify.

25 A. Okay. Well, we reviewed his video, correct?

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1 Q. Yes, ma'am.

2 A. Okay.

3 Q. Doesn't he talk about the bag of marijuana being ripped
4 open during the struggle that Rayshawn had with his
5 killer?

6 A. He did.

7 Q. And the marijuana would have spilled when the bag got
8 ripped open, right?

9 A. I think that's how it works. Yes, sir.

10 Q. But that's not consistent with the marijuana being on
11 top of the bodies and being placed on top of the bodies
12 after they have fallen, is it?

13 A. I wouldn't say so, because I don't know because I don't
14 know how long the person was in there. I think they had
15 opportunity if they wanted to, to take whatever was
16 remaining inside the bag or off the table or floor
17 wherever they had found it and throw it about. I think
18 there was time for that.

19 Q. What evidence do you have at all that that occurred?

20 A. You asked the question and I'm answering to the best of
21 my knowledge. I don't have the evidence. I'm saying it's
22 a possibility that that could have happened. I don't
23 know.

24 Q. As you said, you don't have the evidence.

25 A. I don't have that evidence, no.

1 Q. Now, Willie was shot one time in the back, right?

2 A. That's correct.

3 Q. And I believe you testified earlier that based on
4 State's #3, it looks potentially, like it was Willie
5 that fell first. Correct?

6 A. Right. I said there was a possibility that he could
7 have.

8 Q. And then Rayshawn was shot seven times, both from the
9 front and the back. Right?

10 A. Right.

11 Q. And they both have marijuana on top of them?

12 A. It looks like they both do. Yeah.

13 Q. Now, in that October the 1st statement that -- well,
14 what was said on October 1st, isn't it true that we have
15 to take your word for it?

16 A. I'm sorry. Could you re-phrase. What was said on October
17 1st?

18 Q. By my client. What was said on October the 1st by my
19 client to you during the interview, we just have to take
20 your word for it, right?

21 A. No, I think you pretty much have the option to take my
22 word or not take my word.

23 Q. And during that interview, I think the part that Mr.
24 Donnald asked you most about was my client allegedly
25 putting himself near where a certain gun was purchased

1 from a pawn shop, right?

2 A. Right.

3 Q. But even in that alleged statement that my client made
4 to you on October the 1st, he never tells you that he
5 ever touched that gun, did he?

6 A. No. He never told me he touched the gun.

7 Q. Who did you come to learn that gun went to?

8 A. Actually ---

9 Q. Right at the pawn shop.

10 A. Right at the pawn shop I came to learn that the gun was
11 purchased for his cousin John. And then, of course, I
12 testified that John stated that they shared the gun. So,
13 he would pass it from him to Arsenio.

14 Q. But you have that registered -- you have that gun
15 registered in Ralph Meyers name, right?

16 A. Yes, sir. It is.

17 Q. Did you ever question Ralph Meyers?

18 A. Yes, I did.

19 Q. Did you ever learn anything other than Ralph Meyers gave
20 that gun to John Colclough, Jr., in interviewing Ralph
21 Meyers?

22 A. What I learned, again, I wouldn't have known about Ralph
23 Meyers, a/k/a Coodgie, had I not spoken with your
24 client, Arsenio. But at the time he indicated he only
25 knew him as Coodgie. But I did some investigation and

1 learned that his first name was Ralph Meyers. I then
2 followed up. I went to Reliable Pawn Shop quite easily
3 to find him on the registry and as you so aptly stated,
4 he was the registered owner of that handgun. He did
5 indicate that he purchased the handgun for John, the
6 cousin, and gave it to him and he never stated that
7 again, that he had any involvement with that. And I'm
8 not sure if I answered your question.

9 Q. Yes, ma'am. You did. Thank you. So, you know that John
10 Colclough was given the gun right after it was
11 purchased?

12 A. Yes.

13 Q. And you know that the gun was purchased by Ralph Meyers
14 because of my client, right?

15 A. Yes.

16 Q. So, in fact, wouldn't it be fair to say that my client
17 was trying to assist you in figuring out who it was that
18 killed his friends?

19 A. No.

20 Q. So, you have this gun going to John Colclough?

21 A. Yes.

22 Q. You have two knives that are alleged to be John
23 Colclough's dad's knives at the scene, right?

24 A. Right.

25 Q. Were you in here for the testimony when the ballistics

1 expert, I believe his name was Chad Smith, testified
2 that there were at least three guns and as many as seven
3 that were going off in that house that night?

4 A. I think he did a calculation stated based upon that
5 theory based on his training and teaching that it could
6 have possibly been seven. Right.

7 Q. Up to seven guns and two knives, right?

8 A. Right.

9 Q. Y'all never found any of the guns did you?

10 A. No, sir.

11 Q. Now, isn't it true that not a single piece of evidence
12 discovered at the scene or anywhere else is a DNA match
13 to my client?

14 A. I believe someone testified earlier that there was some
15 DNA on the hat.

16 Q. Well, do you recall Mr. Donnald asking if that hat was a
17 match to Arsenio Colclough. And then Ms. Leisy saying --
18 correcting him and saying no, it was not a match?

19 A. I don't recall that. I believe she said that she did,
20 that it was.

21 Q. You don't recall that she said no, Mr. Donnald, that's
22 not a match, but rather it's a possible inclusion?

23 A. Well, I consider that a match, but I'm not a DNA expert.

24 Q. And that that possible inclusion mathematically was
25 likely to match one out of every sixteen people on the

1 planet, right?

2 A. And she said some other things involved as well that I
3 don't remember word for word for that, regarding that.

4 Q. Excuse me. One out of every sixteen people on the planet
5 that wasn't either an infant or incarcerated on April
6 the 12th and 13th of 2013?

7 A. Or that could have come in contact with the hat I
8 believe she added or with the opportunity.

9 Q. She said opportunity, right?

10 A. Right. So, again, opportunity.

11 Q. And when Mr. Donnald asked her to explain opportunity,
12 wasn't it her testimony that she was saying that there
13 were people that were infants that clearly wouldn't be
14 mobile enough to do it and that there are people that
15 are incarcerated that clearly don't have the ability to
16 move around freely.

17 A. I don't remember everything that she said. No, I don't.

18 Q. And isn't it true that the one swab that was done that
19 lead to the one out of every sixteen people on the
20 planet as a possible inclusion contained absolutely no
21 blood?

22 A. I don't know. Again, I'm not a DNA expert. I believe she
23 said it was not anything that was enough. That's what I
24 recall.

25 Q. Did you not hear her testify that she specifically

1 stayed away from areas that are possible blood when she
2 was doing the scraping of the sweatband on the inside of
3 the hat?

4 A. So, there were two folks from DNA. So, there was young
5 lady with the black on and then there was Ms. Leisy. So,
6 I don't know which one you're referring to.

7 Q. Not Ms. Leisy.

8 A. The other lady.

9 Q. The lady who did the swab.

10 A. Right. I don't recall what she said word for word. No,
11 sir. I don't.

12 Q. Okay. Now, when you're taking statements or interviews
13 from potential witnesses or suspects, you like to
14 corroborate what they say, right?

15 A. I do what I can to.

16 Q. And in corroborating these statements, trying to figure
17 out the veracity of those statements, do you ever look
18 for any inherent witness bias?

19 A. Of course you would look for anything that's self-
20 serving. I guess that's what you're alluding to, any
21 biases one would have.

22 Q. Any reason, other than just telling the truth, that
23 whomever is giving you a statement would have to give
24 that particular statement?

25 A. Well, I think that would be natural human nature to

1 wonder why this person was giving the statement. So,
2 yeah.

3 Q. Well, Chris Robinson admitted to having gone through the
4 discovery of my client, right?

5 A. Yeah. He indicated that he allowed him to look through
6 it.

7 Q. And when we talk about going through my client's
8 discovery, tell the jury what that means.

9 A. What that means is apparently the Defendant is entitled
10 to a copy of all the State's records and he had it with
11 him when he was incarcerated and according to Chris
12 Robinson, Arsenio Colclough apparently showed it to him
13 or he got it. I don't know exactly how it was
14 accomplished.

15 Q. Are you aware that on March the 29th, 2013, exactly one
16 week before that interview, Christopher Robinson and my
17 client had to be forcibly removed from each other
18 because my client was angry that Christopher Robinson
19 had stolen his discovery and gone through it?

20 A. No, I did not know that.

21 Q. Do you ever, as part of your background or investigation
22 looking into bias, ever go check the jail records at
23 Sumter Lee Regional Detention Center?

24 A. As far as me checking records, routinely there was
25 several different people. I don't know if they had

1 opportunity to steal his folder as well and go through
2 it. They were saying some of the same things.

3 Q. So, you would never go to the jail and say what kind of
4 incident reports have been filed against person X, would
5 you?

6 A. No, not normally would I ask for an incident. But I
7 think I probably have done that. I routinely check the
8 jail file, usually daily, on line. If there's an
9 incident or if someone gets along or what's going on. I
10 don't do that, no.

11 Q. But you talk about checking the incidents on line
12 roughly daily?

13 A. That just shows whose incarcerated and that's what I
14 check.

15 Q. Did you ever have occasion when you were checking these
16 incidents daily to see an incident report filed at the
17 jail against Christopher Robinson, which stated that
18 he'd made a false claim of injury against one of the
19 correctional officers and then later he admitted ---
20 MR. DONNALD: Objection, Your Honor.

21 THE COURT: Sustained.

22 Q. Did you ever check any of the incident reports?

23 A. I don't work for Sumter Lee Regional Correctional Center
24 so I don't have access to those files. So, I wouldn't
25 know what's going on there. And as also I stated earlier

1 when I do check, which is public record, it's on line to
2 see who's in jail and who's not and it's just a course
3 of habit that I do.

4 Q. You said you have checked them before. So, clearly you
5 have access, right?

6 A. If I said I checked them that means I might have asked
7 someone a question that works at the jail.

8 Q. You have the power of subpoena, correct?

9 A. I do have the power of subpoena.

10 Q. You didn't think it'd be worth subpoenaing the jail
11 records against Christopher Robinson to see if there was
12 inherent bias against my client?

13 A. No. I don't, but it looks like you did.

14 Q. How is John Colclough related to my client?

15 A. I was told that they're cousins.

16 Q. Who was with you when you met with John Colclough on
17 October the 15th?

18 A. It was myself, the Assistant Solicitor Eddie Donnalld,
19 and I believe it was two correctional officers that
20 transported him here.

21 Q. I thought you testified on direct that Investigator
22 Gardner was there, too?

23 A. Not here for John Colclough's, no.

24 Q. And where was he interviewed or talked to?

25 A. I don't remember which room, but it was this building.

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- 1 Q. It was this building?
- 2 A. It was this building.
- 3 Q. Is there any video of that?
- 4 A. No.
- 5 Q. Is there any audio of that?
- 6 A. No.
- 7 Q. Would it have been possible to record that?
- 8 A. I don't know. I don't -- you know, I just come here if I
- 9 have a case. I don't know if that's available, not
- 10 available, or if it's even possible. Other than I did
- 11 ask that question, but I was told that it wasn't.
- 12 Q. Do you have a cellphone that has the capability of
- 13 recording an audio statement?
- 14 A. Sure I do.
- 15 Q. But that wasn't used that day?
- 16 A. No.
- 17 Q. Did you have your phone with you that day?
- 18 A. I probably did. I keep my phone with me everywhere I go,
- 19 not unlike anyone else. But that's not something that I
- 20 traditionally do.
- 21 Q. Who was it that offered John Colclough help in getting
- 22 his sentence reduced if he would testify against my
- 23 client?
- 24 A. It wasn't myself, so I couldn't tell you that.
- 25 Q. You were present, right?

1 A. I was present. He wasn't offered any help.

2 Q. He was never offered any help?

3 A. Not by me. And no one in my presence.

4 Q. Did anyone ever tell Mr. Colclough, John Colclough, that
5 if he would testify that Arsenio and Jwain Francis did
6 this together, that it would save my client from the
7 death penalty?

8 A. Never. In fact, I asked him why he was doing that
9 specifically because I knew of the relationship, of
10 blood relationship. In fact, I recall telling him I said
11 well blood's thicker than water. Why are you here? He
12 said he was here for his own self and for his own
13 reasons and he wanted to tell the truth. He was offered
14 nothing.

15 Q. But as the lead investigator on the case, you have
16 access to all the documents and information that relate
17 to the case, right?

18 A. If it's there available to be given to me, yes.

19 Q. Are you aware of any affidavit written by John Colclough
20 that says that he was offered help with his time and
21 said that he was threatened with his cousin having the
22 death penalty?

23 A. I don't recall a threat of a death penalty, but after we
24 did speak with him, I believe that you or someone from
25 your office, someone did serve notice that a threat was

1 made and some promises, which was not true and I found
2 it quite offensive that it was suggested. And I, in
3 fact, tried to locate these correctional officers that
4 were present and try to implore each of them to provide
5 a written statement and I was never able to get that
6 based upon their presence and what they heard. So there
7 was some effort on my part.

8 Q. So, were you not able to locate them or were you not
9 able to get them to give you a statement?

10 A. I certainly was able to locate them because they work
11 for the Department of Corrections. I spoke with their
12 supervisor and I asked quite a few times that if it was
13 possible for them to do and they never did.

14 Q. Could they have been subpoenaed to come to court?

15 A. They could have been.

16 Q. On October the 1st, isn't it true that Sheriff Dennis
17 came into the interview and told my client that he was
18 going to make sure that my client went down for this
19 crime?

20 A. I don't recall what Sheriff Dennis said. It's not
21 uncommon for Sheriff Dennis, who's the Sheriff of Sumter
22 County, to come into the office on his own accord and
23 he'll some time come in speak with the various
24 defendants. I don't know what he said. I think it's best
25 to ask him. I don't recall him saying that. I just

1 don't.

2 Q. So, he was there?

3 A. I believe he did come inside and speak. As I say, it's
4 not uncommon. Some times he does because I think he was
5 there, but I don't remember him saying anything.

6 Q. Well, do you recall that Mr. Donnald asked you who was
7 there and you said it was you and Investigator Gardner?

8 A. When he asked me that, I mainly refer to who's doing the
9 interview, not who steps into the room. Because the --
10 or the sheriff. So, I don't think that way.

11 Q. Well, if the sheriff is interacting with the person
12 being interviewed, wouldn't you say that the sheriff is
13 participating in that interview?

14 A. I didn't consider it participation. Like I said, myself
15 and Investigator Gardner did the interview.

16 Q. Were you present when Sheriff Dennis used a racial slur
17 towards my client?

18 A. I didn't hear the first one that you asked and I didn't
19 hear any racial slurs. And it would seem to me kind of
20 odd since we all are of the same race that he would use
21 a racial slur against him, but I didn't hear it.

22 Q Isn't there one particular racial slur, in particular,
23 that African American people will often call each other?
24 MR. DONNALD: Objection, Your Honor.

25 THE COURT: Sustained. Requires speculation.

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1 Q. You like to write statements for your witnesses, right?

2 A. I really don't, because I prefer they do it themselves
3 because I'm not accustomed to writing for someone else
4 because of my handwriting. I like for them to write
5 their own.

6 Q. But you wrote a lot of statements for people in this
7 case, right?

8 A. I wrote some. I typed some.

9 Q. But you were the one that generated it and then had
10 whomever you were interview sign the statement, right?

11 A. At their request. If they request that I do it, I will
12 ask, which I think was shown on one of the videos.

13 Q. Right. We watched Christopher Robinson before lunch,
14 right?

15 A. Right. And I asked whether he wanted to do it or he
16 wanted me to do it.

17 Q. And he said what?

18 A. Didn't matter, whatever. I believe it was something
19 along those words.

20 Q. So, you took it upon yourself to do it when he said it
21 didn't matter, even though you would prefer him to do
22 it?

23 A. Of course, I took it upon myself. I mean, it wasn't an
24 issue at that point. If he said I want to do it, I would
25 gladly say, fine.

1 Q. Well, if you would prefer for the witness to be writing
2 the statement, and you ask if he wants to write it or if
3 he wants you to write it and he responds by saying I
4 don't care, it doesn't matter. Can't you just say okay,
5 you write it?

6 A. I could, but I chose not to.

7 Q. Who notified Ms. Chatman about these horrible, horrible
8 crimes?

9 A. I believe it was Eric Davis.

10 Q. Eric Davis was actually inside the home when the murders
11 occurred. Correct?

12 A. Correct.

13 Q. And there was supposed to have been an altercation or a
14 struggle in the living room. Right?

15 A. Right.

16 Q. And isn't it true that there's only one way in and one
17 way out of that house? Or one working way in and working
18 way out of that house?

19 A. Possibly.

20 Q. Wasn't it true that you found that or discovered that as
21 the course of your investigation?

22 A. I just say that because if I think if I wanted out bad
23 enough, if I was afraid, I'd jump through a window,
24 personally.

25 Q. Did Eric Davis jump out of a window?

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- 1 A. No. I believe he went out the door.
- 2 Q. So, if there's one way in and one way out, the killers
- 3 had to pass the hallway where Eric Davis' room was to
- 4 get to the living room and to get to the room where
- 5 Willie Chatman was. Right?
- 6 A. Possibly, yeah.
- 7 Q. Possibly?
- 8 A. I don't know where he was when they came in. I believe
- 9 he could have been asleep. He said he was asleep. But
- 10 yeah, possibly.
- 11 Q. They would have to pass his bedroom, at the very least,
- 12 regardless of whether he was in that room?
- 13 A. Yes. Yes.
- 14 Q. And what did Eric Davis do when he hears the gunshots
- 15 and the commotion happening?
- 16 A. Probably tried not to -- according to him, he was scared
- 17 out of his mind. So, he tried to remain as calm and
- 18 quiet as he could not to alert anyone else that he was
- 19 in the house, I would assume.
- 20 Q. Didn't he go in to the living room and see the bodies
- 21 and call out for Willie and Rayshawn?
- 22 A. He indicated that after he heard the shots kind of
- 23 ceased that he finally got up enough nerve to get up.
- 24 Q. Did you not find it odd that Eric Davis wasn't injured
- 25 in this robbery gone bad?

1 A. No, sir. I find it grateful.

2 Q. Did you ever actually meet with Corie Simon?

3 A. Yes, I did.

4 Q. You wrote his statements, too, or his statement, right?

5 A. Yes, I did.

6 Q. But we don't have a video of that either.

7 A. No, we don't.

8 Q. Why is that?

9 A. I was at the Clarendon County Sheriff's Office for that
10 interview and we just didn't have one.

11 Q. No audio recording of that either, right?

12 A. No, sir.

13 Q. Did you have your phone on that day?

14 A. Yes, I did.

15 Q. Who signed Corie Simon's statement?

16 A. Corie Simon signed his own statement.

17 Q. In the course of your investigation you never learned
18 that Corie Simon doesn't know how to write in cursive?

19 A. He may not know how to write. If you look at the form,
20 it looks like a scribble. So, that's probably going to
21 be true.

22 Q. But he sat in here and said he never recognized you and
23 that he never signed any statement. Right?

24 A. Right. But I certainly was there with him.

25 Q. And you wrote the statement, right?

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- 1 A. I did write the statement.
- 2 Q. Whose license was found in the residence the night of
- 3 the killing?
- 4 A. Mr. McFadden's.
- 5 Q. And what's Mr. McFadden's name?
- 6 A. Rondale.
- 7 Q. Rondale McFadden?
- 8 A. Uh-huh.
- 9 Q. So, you found his license in the house?
- 10 A. Yes, I did. Or it was found, yes.
- 11 Q. Excuse me. The crime scene investigators found it?
- 12 A. It was found, yes.
- 13 Q. Okay. And who did you discover was likely the last
- 14 person to have ever communicated with Willie Chatman?
- 15 A. Based upon my investigation, we believe that to be
- 16 Tamara Norton.
- 17 Q. And weren't Tamara Norton and Willie Chatman involved in
- 18 a kind of a scary incident just prior to these killings?
- 19 A. I don't know if it was scary. She indicated that they
- 20 were out riding around and Willie stated that he didn't
- 21 feel right and wanted to go back home.
- 22 Q. What didn't he feel right about?
- 23 MR. DONNALD: Objection. That calls for speculation, Your
- 24 Honor.
- 25 THE COURT: Sustained.

1 Q. Over the course of your ---

2 THE COURT: Sustained.

3 Q. Over the course of your investigation, what did you
4 learn caused Willie and Tamara to go back home?

5 A. Him telling her, I want to leave, according to her.

6 Q. And what did you learn his reasoning was for wanting to
7 leave?

8 A. He just felt like, according to her that he didn't feel
9 right about it so he wanted to go home.

10 Q. You never learned that he felt like he was getting
11 setup?

12 MR. DONNALD: Objection, Your Honor.

13 THE COURT: Sustained. Don't answer the question.

14 Q. Did you take a statement from Tamara Norton?

15 A. I did.

16 Q. Tamara Norton?

17 A. Yes.

18 Q. Do you have it with you today?

19 A. I believe I do.

20 Q. Would you mind taking a look at it and see if that
21 refreshes your recollection as to what it is that
22 happened on that night?

23 A. Court's indulgence. Am I to read this in its entirety
24 silently or what do you want me to do with this?

25 Q. Yeah. Just look at it and you can read it to yourself

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1 and let me know whether or not it helps to refresh your
2 memory.

3 A. Okay.

4 MR. DONNALD: Your Honor, with all due respect, she
5 hasn't said that her memory is faulty on it. She doesn't need
6 to be rehearsed on it. The question was that ---

7 THE COURT: You're asking her some hearsay questions
8 anyway.

9 MR. DONNALD: Yes, sir.

10 THE COURT: Sustained.

11 Q. Is your testimony consistent with that statement?

12 A. It's consistent with what you asked me and what I
13 answered.

14 Q. Do you know who Christopher Lovely or Cory Getty are?

15 A. Sure, I do.

16 Q. Do you know who Kelvin Singletary and Calvin Singletary
17 are?

18 A. Certainly. Yes, I do.

19 Q. And over the course of this investigation, isn't it true
20 that you received what are called kites from jail or
21 letters from people that are in the jail?

22 A. When you say letters, that would be correct. I believe I
23 got one letter.

24 Q. Was it from Derek Darby?

25 A. Yes.

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1 Q. In that letter -- excuse me. I'll strike that. Do you
2 know what Kelvin Singletary's nickname is?

3 A. He's an identical twin and I don't know him that well.
4 It's either "Head" or "Grandpa".

5 Q. "Head" or "Grandpa"?

6 A. Right.

7 Q. And, initially, both of those twins were persons of
8 interest in your investigation, correct?

9 A. What typically happens, and it's not unusual, you get a
10 bunch of phone calls and they just throw names out and I
11 tried to speak with whoever's name was thrown out and
12 their name was thrown out. They reside in that area as
13 well and was someone close by.

14 Q. And those guys are associated with the Cherryvale area,
15 right?

16 A. Right.

17 Q. And in the letter that you received, did you ever gain
18 any information or even do any investigation into
19 whether or not somebody at the Sumter Detention Center
20 was in possession of one of the deceased guy's watches?

21 A. It was some information that a similar watch was seen on
22 a Facebook page. Of course, there's no way to
23 corroborate that. They're mass produced. So, yes.

24 Q. And who was alleged to have been in possession of that
25 watch?

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1 A. One of the twins, one of the Singletary twins.

2 Q. Either Kelvin or Calvin?

3 A. Yes.

4 Q. Did you ever interview somebody with the street name of
5 "Loke" (ph)?

6 A. Yes.

7 Q. Regarding this case?

8 A. Yes.

9 Q. Did you ever interview somebody the name of Willie
10 Walker in this case?

11 A. Yes.

12 Q. After you interviewed Willie Walker, did you think that
13 you were, potentially, very close to closing the case?

14 A. Never.

15 Q. Right after you talked to Willie Walker, what was the
16 next step in your investigation?

17 A. After I talked with Willie Walker, he was actually
18 incarcerated as well and he indicated that he wanted to
19 speak with me. Again, myself and Investigator Gardner
20 actually went and spoke with him. He indicated that he
21 had heard that it was an individual by the name of, a
22 nickname of "Bam", that committed the murders and he
23 never came forward to follow through with any type of
24 help by way of possibly wearing a wire or anything like
25 that. We asked that he, if he would be willing to and he

1 never did follow through. He kind of dropped everything.

2 Q. Did you ever find out who Bam was?

3 A. I certainly did. I interviewed Bam.

4 Q. Did Bam confess to you?

5 A. No, Bam did not. Bam denied any involvement.

6 Q. Did you believe Bam?

7 A. What I'll say is this: Anytime you have a case like
8 this, it's excruciating for any family and it's
9 certainly excruciating for me, as well. And it's not
10 that -- there wasn't anything else, any other
11 information regarding Bam, other than what Willie said.
12 And, again, there was nothing else for me to go by and
13 he didn't follow through with any help or assistance so
14 I'm kind of, at this point, I kind of put a stop unless
15 something else comes up.

16 Q. We've heard testimony that there were swabs of some car
17 that were submitted to SLED in this case as part of the
18 investigation, right?

19 A. Right.

20 Q. What car was that?

21 A. That would have been Shemeka Johnson's car, which was
22 the girlfriend of or one of the girlfriends of Arsenio
23 Colclough.

24 Q. And would it be your contention that it was Shemeka
25 Johnson's car that was used by Arsenio Colclough and

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1 Jwain Francis that night?

2 A. Possibly, yes.

3 Q. And so you guys went and did some swabs on that car,
4 right?

5 A. Mike Bean did.

6 Q. Mike Bean did the swabs?

7 A. He did.

8 Q. Were Mr. Colclough or Mr. Francis tied to that car
9 through the DNA report?

10 A. They weren't tied through DNA, but I believe it was
11 fairly known that he drove the car. He had, in fact,
12 gotten stopped in the car at one point.

13 Q. In fact, both Jwain Francis and Arsenio Colclough were
14 completely excluded from the swabs that were taken of
15 that car, right?

16 A. They were. They were excluded by DNA. He did drive the
17 car on occasions and ride in it, probably both of them.

18 Q. After my client was arrested, you guys went and seized
19 the clothing that he was wearing, right?

20 A. Right.

21 Q. And that was clothing that he was wearing on September
22 the 18th?

23 A. Right.

24 Q. What reason did you have for seizing his personal
25 effects on September the 18th?

1 A. Just to see if perhaps the sneakers or anything possibly
2 had any blood or anything on it. That was the reason for
3 it.

4 Q. Did you find anything of value in those clothes?

5 A. No.

6 Q. Now, on that interview of Christopher Robinson, the
7 video, the hour and fifteen minute video we watched,
8 would it be fair to say that there was as much time
9 spent in silence with you writing as there was either of
10 you talking?

11 A. I don't know. That depends on whoever's watching it.
12 They can determine that.

13 Q. Did you feel like any of the questions that you were
14 asking Christopher Robinson were leading questions or
15 questions that would suggest what answer you were
16 looking for?

17 A. No.

18 Q. The very first thing out of Christopher Robinson's mouth
19 was asking you guys what y'all could do for him, right?

20 A. Yes, it was.

21 Q. Asking what kind of strings you could pull?

22 A. Of course.

23 Q. What kind of trouble was he in?

24 A. He, like he stated, he was facing a murder charge.

25 Q. He's no longer facing a murder charge, is he?

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1 A. No, he's not.

2 Q. How did his case resolve?

3 A. I believe he pled guilty and was SCDCed for something
4 like fifteen years, maybe twenty. I don't recall.

5 Q. Isn't it true he pled guilty go manslaughter?

6 A. I believe he did.

7 Q. But charged with murder?

8 A. Yes.

9 MR. DERIEG: I beg the Court's indulgence for just a
10 moment?

11 THE COURT: Yes, sir.

12 Q. I believe you testified that you couldn't trust the
13 veracity of Willie Walker because he wasn't willing to
14 wear a wire or anything like that. Right?

15 A. I didn't say I couldn't trust him. We asked him could he
16 do that so we could further get some more information to
17 be more conclusive and he didn't follow up with me.
18 That's what I said.

19 Q. Okay. Did you ever ask Christopher Robinson to do that?

20 A. No, I did not. But as you indicated they were separated
21 because of an incident, but I didn't know about that,
22 but we did not.

23 Q. At the beginning of the interview, in fact, when told of
24 -- or there was talk of Mr. Colclough, my client, being
25 back at the Sumter Detention Center, you acted like you

1 were surprised. Was that genuine?

2 A. Yes, it was genuine.

3 Q. But later on in the interview, you tell Mr. Robinson
4 that you had received a call today, earlier, notifying
5 you that Mr. Colclough was back in Sumter and that he
6 was there for a hearing, right?

7 A. Yeah. But that's not being housed at the jail. That's
8 being here for a hearing.

9 Q. So, you weren't telling Christopher Robinson that you
10 had gotten the phone call that he was back at the Sumter
11 Detention Center and it was because of a hearing?

12 A. That's what I said, for a hearing but not being housed.
13 The way I understood it, that he was back there being
14 housed.

15 Q. So, you actually already knew that he was in Sumter?

16 A. I believe that I said I have received some information.
17 They were having a hearing and it was last minute so I
18 really wasn't prepared.

19 Q. In the beginning of the Christopher Robinson interview,
20 doesn't he tell you that he and Arsenio never discussed
21 anything about his case while he was in Alpha Pod and it
22 wasn't until they were in Bravo Pod together that he
23 started talking about his case?

24 A. I don't know which pod he was in or wasn't in.

25 Q. And isn't it -- well, it's fair to say that both of them

1 were in two different pods, right?

2 A I guess.

3 Q. Or is that not what he told you?

4 A. I think that's what he said. So, yeah.

5 Q. And then later on in the interview, doesn't he, in fact,
6 tell you that the first pod that they were in he started
7 showing some pictures or telling a little bit about his
8 case and then when they got to the new pod is when he
9 went and started showing everything?

10 A. Yeah. I think he said I guess they felt like he had some
11 type of kinship because they both were from Columbia. So
12 they started talking about that, I guess.

13 Q. Would that discrepancy or contradiction within the same
14 statement not set off red flags for you as to the
15 veracity of that statement?

16 A. No, it would not.

17 Q. So in the same statement where he tells you in Alpha Pod
18 he never showed me any of his discovery and then later
19 says, well, yeah, he did show me some of his discovery.
20 You don't think that's significant?

21 A. No, I don't.

22 Q. You don't find it significant that you're interviewing
23 someone who is giving you different versions of the same
24 story within one area?

25 A. I don't think it was a different version. I think -- if

1 I think I'm in one pod and then I remember I may have
2 been in the other, the information remains the same.

3 Q. And was it your testimony on direct that the reason my
4 client is supposed to have confessed to Christopher
5 Robinson is because they're both from Columbia?

6 A. I didn't say the reason why he confessed. I said I guess
7 they got a friendship or a bond because they discovered
8 they both were from Columbia and possibly that lead to
9 some other conversations.

10 Q. Other than Christopher Robinson's video that we watched,
11 is there any indication in this case whatsoever of a ski
12 mask?

13 A. No.

14 Q. Did you find that odd that all of a sudden you hear a
15 guy asking you for help, what can you do for him and
16 then he tells you a story that he thinks you want to
17 hear and throws in something you've never heard before?

18 A. No more odd than someone just giving me a nickname when
19 they knew someone's full name and had to do extra work
20 and time to find out who it was. It wasn't anymore odd
21 than that.

22 Q. Christopher Robinson said that Jwain Francis went to the
23 back bedroom with Peewee and my client stayed in the
24 living room with Rayshawn Holmes, right?

25 A. I believe he did.

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- 1 Q. And he's also said that my client was focused on
2 Rayshawn Holmes and Rayshawn's gun and the bag of
3 marijuana that was on the table, right?
- 4 A. I wouldn't say focused, but...
- 5 Q. He was paying attention to it?
- 6 A. I guess, yeah.
- 7 Q. And, again, there's no lights in this house, whatsoever,
8 right?
- 9 A. No.
- 10 Q. So, how is it that my client could have told Christopher
11 Robinson exactly what happens with Jwain Francis and
12 Peewee in the back bedroom?
- 13 A. Because he wanted to? I don't know. You can say what you
14 want out of your mouth. I don't know.
- 15 Q. Did ---
- 16 A. I don't know.
- 17 Q. In that scenario where my client is in that living room
18 with all the lights off ---
- 19 A. Uh-huh.
- 20 Q. --- would it be possible for him to see into that
21 bedroom?
- 22 A. I don't know. I believe it was some lights from the
23 street, so he possibly could have. I don't know.
- 24 Q. Isn't it true that Christopher Robinson sent you a
25 letter, too?

1 A. I believe he sent a letter to someone in the office
2 about wanting to speak with me about his situation,
3 information regarding this case.

4 Q. And that letter was referenced right away in the
5 interview with Mr. Robinson, right?

6 A. I don't believe so.

7 Q. You didn't tell Christopher Robinson that, I got your
8 letter and that's why I'm here?

9 A. I might have. I might have because I don't remember that
10 now.

11 Q. Was that letter ever turned over to the Solicitor's
12 office?

13 MR. DONNALD: Objection. Oh, I withdraw that.

14 THE COURT: Okay.

15 A. I believe -- I thought I did.

16 MR. DERIEG: I beg the Court's indulgence just a moment,
17 Your Honor.

18 THE COURT: Yes, sir.

19 Q. What time is it alleged that John Colclough told you
20 that my client came to his house the morning after the
21 murders happened?

22 A. He told me it was about 3:00 in the morning, I believe.

23 Q. 3:00 in the morning?

24 A. Yes, sir.

25 Q. Isn't it true that as part of your investigation you

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1 received evidence that my client was home as early as
2 1:00?

3 A. What she stated on the first page that you're referring
4 to was sometime after 1:00. It's after 1:00, 2:00, 3:00,
5 4:00, 5:00 or 6:00 and on the third page she said she
6 really couldn't recall on the final page.

7 Q. Do you have that statement with you?

8 A. I do.

9 Q. Are you sure she didn't say she thought it was around
10 1:00, maybe a little after?

11 A. Like I stated, she indicated it was after 1:00. So after
12 1:00 kind of leaves things wide open for me or to me.
13 You may see it different. And then on the third page she
14 said she actually couldn't recall, I believe, what time
15 it was.

16 Q. Did you read Chris Robinson his rights before his
17 interview?

18 A. I don't think I did.

19 Q. Did he ever sign anything or was he ever told that he
20 wasn't being pressured into making a statement?

21 A. Well, I think because he contacted law enforcement there
22 certainly wasn't any pressure.

23 Q. At the time of Chris Robinson's interview, Arsenio
24 Colclough had already been served his murder warrants,
25 right?

1 A. Yes.

2 Q. Approximately eighteen months before, right?

3 A. Before.

4 Q. At the time of Chris' interview, wasn't it correct that
5 there was no physical evidence that matched my client to
6 the scene?

7 A. At that time, no, I don't believe so.

8 Q. There was evidence or there wasn't?

9 A. I said, no.

10 Q. And as of today, isn't it correct, that there's still no
11 physical evidence that matches my client to the scene of
12 the crime?

13 A. Other than the hat.

14 Q. Now, we've been through the hat as a possible inclusion,
15 right?

16 A. Right. Right.

17 Q. Other than the hat?

18 A. No.

19 Q. Is there any evidence, whatsoever, that my client had
20 anything to do with this murder?

21 A. Other than physical evidence, no. Statements, yes.

22 Q. Physical evidence?

23 A. No physical evidence, no.

24 Q. No physical evidence?

25 A. No.

1 Q. Were you here when Corie Simon testified?

2 A. I was.

3 Q. When Mr. Donnald asked him about what Arsenio told him,
4 Mr. Simon, about the murders, didn't Mr. Simon say that
5 Arsenio said he was being framed with a red hat and the
6 red hat was his cousin's?

7 A. I don't recall who he said the hat supposedly belonged
8 to, but he did make reference to the red hat.

9 Q. And John Colclough is Arsenio Colclough's cousin, right?

10 A. Right, as far as I know.

11 Q. As part of your investigation, did you ever learn that
12 John Colclough and Arsenio Colclough's fathers are
13 brothers?

14 A. I don't recall exactly how they're related. I don't
15 recall.

16 Q. You said that John Colclough said -- who did you tell
17 the jury that John Colclough said got the gun,
18 ultimately?

19 A. You mean to begin with?

20 Q. In the end.

21 A. In the end, John Colclough stated that once it happened
22 -- I want to be clear. John Colclough stated he got the
23 gun and Arsenio would borrow the gun. Arsenio gave the
24 gun back to him after the murders and then he passed it
25 on to someone by the nickname of Black and then we don't

1 know what happened to it. He doesn't know because he
2 fled to Georgia.

3 Q. Did you ever identify Black?

4 A. I never identified Black.

5 Q. You never heard the nickname on the streets of Black?

6 A. Sure. It's quite a few people who go by the street name
7 of Black, I believe.

8 Q. Do you recognize the man in the black Chino shirt
9 sitting on the third row back there?

10 A. No.

11 Q. You've never seen him before?

12 A. Not that I can recall, no.

13 Q. So, you wouldn't know that his nickname is Black, right?

14 MR. DONNALD: Objection, Your Honor.

15 THE COURT: Sustained.

16 A. No.

17 MR. DERIEG: I beg the Court's indulgence.

18 THE COURT: Yes, sir.

19 Q. And isn't it true that on September the 18th and October
20 the 1st that my client adamantly denied any involvement,
21 whatsoever?

22 A. He did deny it. He indicated that he didn't have any
23 part of it. He did.

24 Q. And for all the jailhouse snitch interviews that aren't
25 either recorded, audio, video or written, we just have

1 to take your memory for it, right?

2 A. No. I think we looked at one that was recorded today.

3 Q. For the ones that weren't recorded in any way, shape or
4 form, not audio, not video, not written, such as John
5 Colclough or -- we'll go with John Colclough, for
6 instance. People like John Colclough or my client for
7 his second interview where there was no audio, no video,
8 no written statements ---

9 A. You can ---

10 Q. --- and in fact no entry in some parts of your
11 investigative report, we just have to rely on your
12 memory as to exactly what was said?

13 A. Right. Because he said he wasn't involved. But we can
14 rely on that and that's what he said on both of them.

15 Q. Well, the overall ---

16 A. Right.

17 Q. --- entire information that you gave this jury regarding
18 jailhouse snitch interviews and the interview of my
19 client ---

20 A. Uh-huh.

21 Q. --- that wasn't recorded by audio, video or written or
22 in your investigative report, we have to rely on your
23 memory, right?

24 A. Not just my memory. I did have some statements. So, it's
25 not just my memory.

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1 MR. DERIEG: I don't have any more questions, Your Honor.

2 THE COURT: Redirect.

3 MR. DONNALD: Thank you. And I beg the Court's indulgence
4 for just one moment, Your Honor.

5 REDIRECT EXAMINATION

6 BY MR. DONNALD:

7 Q. Lieutenant Addison.

8 A. Yes.

9 Q. Mr. Derieg, I believe, named everybody in your
10 investigative file, right? Pretty close to it?

11 A. I guess.

12 Q. Did you ever get the feeling that he was complaining
13 about all the leads that didn't pan out?

14 A. I didn't get complaints on that.

15 Q. And did you ever get the feeling that he was saying you
16 didn't do enough for all of the stuff, all the leads
17 that you didn't follow up on?

18 A. I don't think so.

19 Q. Well, did you get the feeling during that questioning
20 that you're kind of damned if you do and damned if you
21 don't in your investigation?

22 A. I sure do.

23 Q. Okay. Out of all of those names, how many did you
24 receive testimony or statements that was in that house
25 that shot Willie Chatman and Rayshawn Holmes? How many

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1 people?

2 A. How many people ultimately said that ---

3 Q. No. How many people were you told shot Willie Chatman
4 and Rayshawn Holmes?

5 A. Probably about six.

6 Q. I'm asking the question bad. Out of all the people that
7 you talked to, how many folks admitted to shooting
8 Rayshawn Holmes or Willie Chatman?

9 A. None of them.

10 Q. How many?

11 A. Admitted to shooting him?

12 Q. Yes.

13 A. None.

14 Q. None of them? Nobody told John Colclough that he shot
15 Rayshawn Holmes?

16 A. I'm not following you.

17 Q. I know.

18 A. I'm sorry. I'm confused by the question.

19 Q. It's my fault and not yours. Okay. Out of all of the
20 people that you talked to.

21 A. Yes.

22 Q. One of the was John Colclough.

23 A. Yes.

24 Q. Who did he tell you shot Willie Chatman?

25 A. He told me that Arsenio shot Willie Chatman.

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1 Q. And how did he know Arsenio shot Willie Chatman?

2 A. He said that Arsenio told him.

3 Q. And who shot Rayshawn Holmes?

4 A. He said Jwain shot him.

5 Q. How did he know who did that?

6 A. He said Arsenio told him and Jwain.

7 Q. Okay. Did Christopher Robinson tell you shot Willie
8 Chatman and Rayshawn Holmes?

9 A. Yes, he did.

10 Q. And how did he know who did it?

11 A. He said Arsenio told him.

12 Q. What about Corie Simon? Did he tell you who was in that
13 house shooting people at Confederate Drive?

14 A. Yes, he did.

15 Q. And how did he know?

16 A. He said Arsenio told him.

17 Q. Okay. So out of all the names, all the people you've
18 talked to, how many people have you learned that
19 admitted to shooting people at Confederate Road?

20 A. It looks like two people.

21 Q. Is it just Arsenio that's admitted to it?

22 A. Yes.

23 Q. And how many people have a DNA match on that hat?

24 A. All I know of is two. A DNA, one, it was serology.

25 Q. One person has blood who was that?

REDIRECT EXAMINATION OF LT. MELISSA ADDISON BY MR. DONNALD 309

- 1 A. Rayshawn.
- 2 Q. He was deceased, right?
- 3 A. Right. Right.
- 4 Q. It was laying beside his dead body, right?
- 5 A. Exactly.
- 6 Q. Who does the DNA come back to?
- 7 A. Arsenio.
- 8 Q. Now ---
- 9 MR. DONNALD: Your Honor, I don't have a copy of this.
- 10 Q. I'm showing you what's been marked as State's Exhibit
- 11 #23. Have you seen that document before?
- 12 A. Yes.
- 13 Q. Do you recognize it?
- 14 A. Yes.
- 15 Q. Did you receive that document?
- 16 A. Yes. I think I have a copy of it.
- 17 Q. Who does it purport to be from?
- 18 A. It looks like Christopher.
- 19 Q. Is there an envelope attached?
- 20 A. Yes.
- 21 Q. Is there a return address on the envelope?
- 22 A. Right. The Solicitor's Office. It was sent from
- 23 Christopher Robinson here, to the Solicitor's office.
- 24 Q. What's the date on the envelope?
- 25 A. March 30th, 2015.

RE-CROSS EXAMINATION OF LT. MELISSA ADDISON BY MR. DERIEG 310

1 Q. Is that the information that you got that Christopher
2 Robinson wanted to talk to you?

3 A. Yes.

4 Q. Is that the letter why you went to talk to him?

5 A. Yes.

6 MR. DONNALD: Your Honor, I'd move to have that exhibit,
7 which is State's #23 admitted into evidence.

8 THE COURT: Any objection?

9 MR. DERIEG: No, Your Honor. No objection.

10 THE COURT: Without objection, State's Exhibit #23 is
11 into evidence.

12 (Whereupon, a letter is admitted into evidence as
13 State's Exhibit #23, without objection)

14 MR. DONNALD: Your Honor, that's all the questions I
15 have.

16 THE COURT: Any re-cross?

17 MR. DERIEG: Yes, Your Honor, very briefly.

18 RE-CROSS EXAMINATION

19 BY MR. DERIEG:

20 Q. So, the date on that envelope is March 30th, 2015?

21 A. Yes.

22 Q. Was the day that Arsenio Colclough and Christopher
23 Robinson had to be separated March the 29th?

24 A. I don't know. That's what you said. I didn't have any
25 information about that.

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RE-CROSS EXAMINATION OF LT. MELISSA ADDISON BY MR. DERIEG 311

1 Q. And isn't it true that in the alleged statement that
2 John Colclough made that we have to rely on your memory
3 for.

4 A. Uh-huh.

5 Q. And then the statement that Christopher Robinson made,
6 they don't say the same people shot Willie Chatman, do
7 they?

8 A. Not those two, but some of the others, yes.

9 Q. And those two statements don't say the same person shot
10 Rayshawn Holmes, do they?

11 A. No, like I said, some of the others did.

12 Q. And didn't Corie Simon sit on that stand and tell Mr.
13 Donald that he'd never seen you before in his life?

14 A. Yes, he did.

15 Q. But we have ---

16 A. I was in plain clothes. I don't know if that threw him
17 off or not. I was in plain clothes at the time. And I
18 must say I look a little bit different, even to myself.
19 So, I wouldn't know if that was the problem, but he did
20 say he didn't recognize me.

21 Q. Well, when Mr. Simon read the statement that Mr. Donald
22 put in front of him, didn't he testify that he never
23 said any of that?

24 A. He testified that he didn't say anything. I think he
25 did. I'm trying to recall. Yeah.

1 Q. And he testified that he didn't sign either of those two
2 pages?

3 A. That's right.

4 Q. I believe on redirect you testified to Mr. Donnald that,
5 in total, you were told that six different people shot
6 Rayshawn Holmes and Willie Chatman?

7 A. No, I misunderstood his question. I might have said
8 that, but that's incorrect.

9 MR. DERIEG: I beg the Court's indulgence?

10 THE COURT: Yes.

11 Q. At the end of the Christopher Robinson interview that we
12 watched, isn't it true that you told Chris Robinson you
13 were going to do a favor for him?

14 A. No, I did not tell him I was going to do any favors for
15 him.

16 Q. Then if I heard you say that on the video, I just heard
17 it incorrectly, right?

18 A. Maybe you interpreted incorrectly. What kind of favors
19 could I do him?

20 Q. That was going to be my next question.

21 A. None.

22 Q. You didn't help him out with his charges?

23 A. No, I did not.

24 Q. You didn't talk to anybody to get his murder charge
25 reduced to manslaughter?

1 A. No, I did not.

2 MR. DERIEG: Thank you, Your Honor. That's all I have.

3 THE COURT: All right. Thank you. You may step down.

4 THE WITNESS: Thank you.

5 THE COURT: I think it's a good time for an afternoon
6 recess. We'll take a fifteen minute recess. Please do not
7 discuss anything about the case while you're out.

8 (Jury out at 3:24 p.m.)

9 THE COURT: Court will be in recess until quarter to 4:00
10 by that clock. Thank you.

11 MR. DONNALD: Thank you, Your Honor.

12 (Brief recess)

13 THE COURT: What other witnesses are you going to have
14 today, just out of curiosity?

15 MR. DONNALD: It depends on timing. To be completely
16 candid with the Court, like I always am, I intend to call
17 Investigator Gardner next.

18 THE COURT: Right.

19 MR. DONNALD: We still have one witness that we're
20 trying, actively, to serve a subpoena on. If we end tonight
21 or if we don't, if I'm going to go any further with that, I
22 would like to have at least tonight to have one more night to
23 try to serve that subpoena. If I don't get it served, we can
24 rest in the morning as opposed to resting tonight. Time-wise,
25 it won't make any difference. I would have called him already

1 if I had him served.

2 THE COURT: Okay. We still think we will be on track to
3 argue and charge after that?

4 MR. DERIEG: Yes, Your Honor.

5 MR. DONNALD: I don't think Gardner's going to be very
6 long.

7 THE COURT: Okay. Let's bring our jury back. If y'all
8 could also tell your observers if they want to be here when
9 the trial starts they need to come in when everybody else is.
10 I'm tired of them come dragging in halfway through of the
11 testimony of a witness.

12 MR. DONNALD: Right now, Judge, you want me to go tell
13 them while the jury is coming in or should I wait until we
14 break again?

15 THE COURT: When you break, because they've already blown
16 it for this one.

17 (Jury in at 3:45 p.m.)

18 MR. BRADLEY: Your Honor, we have all the jurors present.

19 THE COURT: All right. Thank you.

20 All right. Mr. Donald, you may call your next witness.

21 MR. DONNALD: Your Honor, the State calls Wesley Gardner
22 to stand.

23 THE COURT: Come forward and be sworn.

24 MR. BRADLEY: Left hand on the Bible, raise your right
25 hand. State your name.

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DIRECT EXAMINATION OF INV. WESLEY GARDNER BY MR. DONNALD 315

1 INVESTIGATOR GARDNER: Wesley Gardner.

2 (After being duly sworn by Mr. Bradley, WESLEY GARDNER
3 testified as follows:)

4 MR. BRADLEY: Have a seat, please. Please state your full
5 name and spell your last name for the record.

6 INVESTIGATOR GARDNER: Wesley Gardner. G-A-R-D-N-E-R.

7 DIRECT EXAMINATION

8 BY MR. DONNALD:

9 Q. Mr. Gardner, what's your professional title?

10 A. I'm an investigator with the Sumter County Sheriff's
11 Office.

12 Q. How long you been with the sheriff's office?

13 A. Thirty-four years.

14 Q. Has your entire law enforcement career been with the
15 Sumter County Sheriff's Office?

16 A. That's correct.

17 Q. Okay. How many more years you got to go?

18 A. I retired twelve years ago and came back.

19 Q. Well, welcome back. Have you been helping Melissa
20 Addison with a shooting that occurred at
21 Confederate Road in Sumter in April of 2013?

22 A. That's correct.

23 Q. Have you been in some interviews with her as she
24 investigated the case?

25 A. Yes, I have.

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1 Q. Were you with her in an interview with John Colclough?

2 A. Yes.

3 Q. Okay. Were you with her in an interview with a gentleman
4 by the name of Christopher Robinson?

5 A. Yes.

6 Q. In fact, if there was a third person -- let me back that
7 question up and ask it better. A video has been played
8 of an interview with Christopher Robinson and there were
9 three people in the room. Were you in the courtroom when
10 that video was played?

11 A. Part of it.

12 Q. Okay. Did you recognize all three of those people?

13 A. Yes.

14 Q. Was one of them you when we saw the top of your head
15 that was walking around that interview room?

16 A. That was me.

17 Q. Okay. And so your signature appears on the statement of
18 Corie [sic] Robinson as well. Is that right?

19 A. That's correct.

20 Q. And that indicates that you were there when he made that
21 statement and you observed it as an observer?

22 A. Yes.

23 Q. Okay. Now, I want to specifically ask you about a
24 individual by the name of Corie Simon. And I'd like to
25 show you what's been marked as State's Exhibit #14. Do

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1 you recognize that?

2 A. Yes, I do.

3 Q. And does your name appear on it?

4 A. Yes, it does.

5 Q. Were you present when this was written?

6 A. Yes, I was.

7 Q. All right.

8 MR. DONNALD: Your Honor, at this point I would move to
9 have State's Exhibit #14 admitted into evidence.

10 THE COURT: Any objection under Rule 613?

11 MR. DERIEG: None, Your Honor.

12 THE COURT: All right. Without objection State's Exhibit
13 #14 is admitted.

14 (Whereupon, a statement by Corie Simon is admitted into
15 evidence as State's Exhibit #14, without objection)

16 Q. Now, what's your rank at the sheriff's office? If you
17 said it, I forgot. And I go -- I deal with y'all on
18 enough of a time basis that sometimes y'all get promoted
19 and I miss it.

20 A. Well, before I retired I was lieutenant of
21 investigations and I came back as a senior investigator.

22 Q. Senior investigator.

23 A. That's correct.

24 Q. Does senior investigator mean a retired former
25 investigator or does that just mean you've been around a

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1 while?

2 A. That's just something they gave me once I came back.

3 Q. Well, there are a lot of senior investigators is the
4 reason I asked.

5 A. Yeah.

6 Q. Now, that statement was made by whom?

7 A. It was made by Corie Simon.

8 Q. Did you watch him give a statement?

9 A. Yes.

10 Q. Did you -- does his signature appear on that statement?

11 A. Yes, it does.

12 Q. Did you watch him sign that statement?

13 A. Yes.

14 Q. Okay. Any question in your mind that he signed that
15 statement?

16 A. Oh, he signed it.

17 Q. Any question in your mind that he adopted that
18 statement?

19 A. No question about it.

20 Q. Tell us about the interview. How did that go? Did he --
21 whose handwriting is it, first of all?

22 A. That is Lieutenant Addison's handwriting.

23 Q. Did she walk in with a prepared document or did she
24 start with a blank sheet of paper?

25 A. She started with a blank sheet of paper.

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1 Q. And who told y'all the story?

2 A. Corie Simon did.

3 Q. And what happened after he told you the story?

4 A. After he told us the story, Lieutenant Addison wrote
5 down his statement.

6 Q. Okay. And then did she offer him an opportunity to
7 review it that you saw?

8 A. That's correct.

9 Q. And did he review it?

10 A. Yes.

11 Q. And what did he have to say about his statement?

12 A. Do you want me to read the statement?

13 Q. No, sir. Did he affirm that it was his statement?

14 A. Yeah. He affirmed it was his statement.

15 Q. Did he then sign the statement?

16 A. Yes.

17 Q. Are you able to read -- that's Addison's handwriting. Is
18 that correct?

19 A. Yes, that's correct.

20 Q. And are you able to read it?

21 A. (Looks at document)

22 Q. Are you able to read her handwriting?

23 A. Yes.

24 Q. Senior detective, would you please read for this jury
25 what that statement says that was signed by Corie Simon?

1 A. This is a voluntary statement that was made by Corie
2 Simon on one of our voluntary statement forms and it was
3 done at the Clarendon County Sheriff's Office on July
4 the 1st, 2014 at 2:25 p.m. And it states, my name is
5 Corie Simon and Sergeant Addison is writing this
6 statement at my request. I came to the Clarendon County
7 Detention Center in February of this year. In March ---
8 MR. DERIEG: Your Honor.

9 THE COURT: Yes, sir.

10 MR. DERIEG: May we approach, please?

11 THE COURT: You may.

12 (Bench conference off the record)

13 Q. Do you remember where you were?

14 A. I'll start back over again.

15 Q. That'll be fine.

16 A. He stated, my name is Corie Simon and Sergeant Addison
17 is writing this statement at my request. I came to the
18 Clarendon County Detention Center in February of this
19 year. In March Shoes G. Colclough was brought into B-1
20 pod. After Shoes G got in about a month, I started
21 helping Shoes with his canteen, getting envelopes and
22 such for him to write his lawyer. After a while Shoes G
23 came over to my flat and started telling me about the
24 two guys he killed. Shoes said he killed Shawn G. and
25 another dude. Shoes G told me that him and a dude that -

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1 - told me about him and a dude that robbed the store by
2 Guinyard, the one right by the bridge at a Young's on
3 401. Shoes G said him and this dude went in the house
4 and Shoes G said he went in the house and got in an
5 argument with Shawn G. and Shoes says he shot Shawn G.
6 After he shot Shawn G, him and the dude started looking
7 for marijuana and they found it. It was about six pounds
8 of marijuana. Shoes G said he sprinkled drugs over this
9 cause to make it look like it was drug related.

10 Q. Can I stop you right there for just a second? Turn back
11 to the first page. That's the end of the first page,
12 right?

13 A. Yes.

14 Q. At the very bottom on the right-hand corner, there is a
15 line with a scribble mark over it. Is that where Corie
16 Simon signed that document?

17 A. That's correct.

18 Q. And did you see him sign that document?

19 A. Yes, I did.

20 Q. With your own eyes?

21 A. Yes.

22 Q. Thank you. Now, turn to page two and continue.

23 A. Shoes G said it was not drug related. The murder was
24 about the gang, the G's. Shoes G said Shawn G was
25 getting too much power and wasn't acknowledging him and

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1 he wasn't getting no respect. Shoes G said that if he
2 didn't get fifteen years, offered fifteen years, he was
3 going to trial. Shoes G told us he was from Columbia and
4 he moved to Sumter.

5 Q. A little bit down on that same page, there is a CS. What
6 does that indicate?

7 A. That's his initials, Corie Simon.

8 Q. Did he sign that?

9 A. That's correct.

10 Q. Who drew the line across? Does that indicate there's no
11 more to this statement?

12 A. That's correct.

13 Q. Who drew that line?

14 A. Sergeant Addison, at the time.

15 Q. Who initiated as CS?

16 A. Corie Simon.

17 Q. And there's another signature at the bottom. Whose
18 signature is that?

19 A. That's Corie Simon's.

20 Q. Did you see him sign that?

21 A. That's correct.

22 Q. Any question in your mind that that's his signature as
23 you recall him signing it?

24 A. It is his signature.

25 Q. Thank you.

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1 MR. DONNALD: Your Honor, that's all the questions I
2 have.

3 THE COURT: All right. Mr. Derieg.

4 MR. DERIEG: Thank you, Your Honor. May it please the
5 Court.

6 CROSS EXAMINATION

7 BY MR. DERIEG:

8 Q. Were you present when my client was interviewed on
9 September the 18th of 2013?

10 A. I think I was. That's correct.

11 Q. Were you present again when my client was interviewed on
12 October the 1st?

13 A. Yes.

14 Q. During that October the 1st interview was Sheriff Dennis
15 ever present?

16 A. To my knowledge -- I don't recall Sheriff Dennis being
17 present.

18 Q. How many years did you say that you've been part of law
19 enforcement?

20 A. Thirty-four years.

21 Q. Thirty-four? I knew it was a big number. I just couldn't
22 remember which one it was. Thirty-four years?

23 A. Yes, sir.

24 Q. And after you retired and came back, did you have any
25 gap in time or did you retire and take two weeks and

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1 come back?

2 A. Took the two weeks and came back.

3 Q. So, essentially, thirty-four years, continuously?

4 A. That's correct.

5 Q. And over the course of your thirty-four years, you
6 receive a whole of training I would imagine, right?

7 A. Quite a bit.

8 Q. Yeah. And you work on a whole lot of cases, right?

9 A. That's correct.

10 Q. So, with all your training and experience, does it seem
11 odd to you that the jailhouse snitches are not
12 consistent with who they say shot each victim?

13 A. The interviews that I sit in on, they were pretty much
14 the same, coming back to Arsenio Colclough being the
15 person that committed the murders.

16 Q. In all the interviews you sat in, it just came back to
17 Arsenio Colclough as committing the murders?

18 A. As best I can recall.

19 Q. Did Christopher Robinson ever ask Melissa Addison to
20 write his statement?

21 A. She asked him did he want to write the statement and he
22 said it doesn't matter.

23 Q. And at that point, she took her own initiative to write
24 the statement herself, right?

25 A. She wrote the statement. That's correct.

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1 Q. How often do you work with Ms. Addison on cases, or did
2 you back in 2013?

3 A. We've worked on several cases together.

4 Q. Be fair to say that in this case Ms. Addison wrote
5 several statements for other people?

6 A. If they request that the statements be written by her.
7 That's correct.

8 Q. Well, Christopher Robinson didn't request it, did he?
9 MR. DONNALD: Objection, Your Honor. That entire thing
10 that he's asking is on the video.

11 THE COURT: Yeah. You're asking him to interpret. And I
12 sustain. You asking him to interpret what was already on
13 video and has been shown. They can make their own
14 interpretation of it.

15 Q. And I just want to clear up something at the beginning
16 of your testimony. I may have misheard you, but did you
17 testify about someone named Corie Robinson?

18 A. Corie Simon.

19 Q. I didn't know if Christopher Robinson and Corie Simon's
20 names were getting mixed up. I just heard Corie Robinson
21 so I felt like I ought to ask you if that was a person
22 in this case?

23 A. No.

24 MR. DERIEG: Beg the Court's indulgence.

25 Q. And you stated earlier that you were present for both

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1 the September the 18th and the October 1st interview,
2 correct?

3 A. That is correct. I think I was.

4 Q. Were you present when my client asserted his innocence
5 over and over and over again to Melissa Addison?

6 A. That's correct. He denied it.

7 Q. Who is it that Christopher Robinson says killed Willie
8 Chatman?

9 A. As best I can recall, I think he said that -- I think he
10 said that Mr. Colclough.

11 Q. And who did he tell you and Melissa Addison killed
12 Rayshawn Holmes?

13 A. I can't recall the name. In fact, I didn't -- you know,
14 haven't read any notes from Ms. Addison's case file or
15 anything. At best I can't remember, really.

16 Q. It's been a long time, hasn't it?

17 A. It's been a long time. And I wasn't the lead
18 investigator on the case.

19 Q. But you clearly remember everything about Corie Simon,
20 right?

21 A. Yes. Because there's a written statement.

22 Q. Were you present when John Colclough is supposed to have
23 met with Eddie Donald and Melissa Addison?

24 A. No.

25 MR. DERIEG: That's all I have Your Honor. Thank you.

1 THE COURT: Any redirect?

2 MR. DONNALD: No, Your Honor.

3 THE COURT: All right. Thank you. You may step down.

4 Let me see the attorneys for just a minute.

5 MR. DONNALD: Your Honor, I'd ask that -- can he be
6 excused?

7 MR. DERIEG: Without objection.

8 THE COURT: Thank you.

9 THE WITNESS: Thank you.

10 (Bench conference off the record)

11 THE COURT: All right. Ladies and gentlemen of the jury,
12 that is all of the testimony you're going to hear for today.
13 I'm going to dismiss you for the evening with instructions
14 that you be back at 9:30 tomorrow morning. All right. Thank
15 you, ladies and gentlemen. Please do not discuss anything
16 about the case and do not read The Item tomorrow morning just
17 in case there's something in there.

18 (Jury out at 4:03 p.m.)

19 THE COURT: All right. Yes, sir.

20 MR. DONNALD: Your Honor, for the record, I just want to
21 state that the State believes that it is through with the
22 testimony that has been produced. However, it appreciates the
23 Court allowing it to rest in the morning because there are
24 some other witnesses we've been attempting to subpoena that
25 have not been subpoenaed yet and we're actively searching for

1 them so I think I will rest first thing in the morning. In
2 anticipation of that, I know the Court will need to question
3 the Defendant regarding his right to testify. I was thinking
4 maybe -- even though I haven't actually rested, maybe we
5 could do that now in anticipation of resting first thing.

6 THE COURT: Well, I'll go ahead and question him now.

7 FIFTH AMENDMENT RIGHTS

8 That way he has overnight to talk with you and anyone
9 else he wants to. So, would Defendant please stand and be
10 placed under oath for this limited purpose.

11 (Arsenio Colclough is administered the oath by Mr. Bradley)

12 MR. DONNALD: And, Your Honor, if it please the Court,
13 the Defendant does have a ---

14 THE COURT: Well, I was going to ask you that ---

15 MR. DONNALD: All right. Okay. Then I'll be quiet until
16 you tell me to talk.

17 THE COURT: All right. Mr. Colclough, at this time I'm
18 going to explain to you certain of your rights. Now, if you
19 do not understand anything that I say, please let me know. If
20 you want me to explain in greater detail, I'll be glad to do
21 that. Do you understand?

22 ARSENIO COLCLOUGH: Yes, sir.

23 THE COURT: All right. Now, Mr. Colclough, we are getting
24 close to the stage of the trial where you will be able to
25 present your defense. Now, you have the right to claim the

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1 protections granted to you by the Fifth Amendment of the
2 United State's Constitution, which state in part, that no
3 person shall be compelled in a criminal case to be a witness
4 against himself. This means that you cannot be required to
5 testify in this case, but you do have the right to testify on
6 your own behalf. However, no one can make you testify. This
7 is a personal right and no one can waive it, except for you.

8 Now, if you decide to testify you will be subject to the
9 same rules that govern other witnesses and you may be
10 examined and cross examined on any relevant issue in this
11 case.

12 In addition, if you have any convictions involving
13 dishonesty or false statements or for crimes punishable by
14 imprisonment of more than one year and I determine that the
15 probative value of admitting the evidence outweighs the
16 prejudicial effect on you, then the Solicitor will be able to
17 introduce your record to attack your credibility.

18 Mr. Donald, at this time, what would the State intend to
19 introduce should Mr. Colclough take the stand?

20 MR. DONNALD: Your Honor, Mr. Colclough has a 2007
21 conviction for burglary in the first degree. The State
22 believes that that would go towards his truthfulness and
23 would seek to impeach him with that conviction.

24 THE COURT: Would you agree with that, Mr. Derieg?

25 MR. DERIEG: Your Honor, I would not agree that that is a

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1 crime of moral turpitude or dishonesty. I've been in
2 courtrooms where judges have decided it both ways, but my
3 personal belief and the way that I was taught to be a lawyer,
4 and a prosecutor and a defense attorney is that burglary is
5 not a crime of dishonesty.

6 THE COURT: Okay. I don't know the facts of that so I
7 don't know whether it would it fall into the category or not,
8 but at this time, Mr. Colclough, you understand that they may
9 be able to bring that in. Do you understand that?

10 DEFENDANT COLCLOUGH: Yes, sir.

11 THE COURT: Okay. And if you, again -- and that's the
12 only possible ---

13 MR. DONNARD: That's the only one I would seek to
14 introduce. He does have another charge that I don't believe
15 is a crime of honesty.

16 THE COURT: Okay. Okay. So if you decide to testify, the
17 decision on your part must be freely and voluntarily and
18 intelligently made with knowledge of the protections given to
19 you and the consequences of your decision to testify.

20 Now, if you decide not to testify, I'll instruct the
21 jurors that they cannot give the fact that you did not
22 testify any consideration, whatsoever and there's to be
23 absolutely no prejudice to you because you do not testify.
24 It's left entirely up to you whether or not you want to
25 testify. You may talk with your attorney, your family, your

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1 friends or anyone else but the ultimate decision will be left
2 up to you. And at this time do you understand what I've
3 talked to you about?

4 ARSENIO COLCLOUGH: Yes, sir.

5 THE COURT: Okay. And I will ask you the ultimate
6 question tomorrow after the State has presented this case.
7 And you may be seated now and then I'll ask you that question
8 at that time. All right.

9 MR. DONNALD: Thank you, Your Honor.

10 THE COURT: Anything further for today?

11 MR. DONNALD: No, Your Honor.

12 MR. DERIEG: Nothing from the Defense, Your Honor.

13 THE COURT: All right. Thank you. Court's in recess until
14 9:30 tomorrow morning. Thank you.

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16 THE COURT: Thank you. Please take your seats. All right.
17 At the close of the evidence yesterday, the State was going
18 to potentially put up one more witness. Were you able to find
19 that witness?

20 MR. DONNALD: We were not, Your Honor, and the State
21 intends to rest.

22 THE COURT: Okay. I'm going to let you rest on the record
23 or let you rest now and then on the record in front of the
24 jury. But do you have any motions to make at this time, Mr.
25 Derieg?

1 DIRECTED VERDICT MOTION

2 MR. DERIEG: Yes, Your Honor. I'd like to make a motion
3 for a directed verdict pursuant to Rule 19, South Carolina
4 Rules of Criminal procedure. And I'm sure Your Honor knows
5 that the judge must consider the existence or non-existence
6 of the evidence and not its weight, but if there's a lack of
7 or if there's a failure of any competent evidence tending to
8 prove the charge, Your Honor must grant a directed verdict.
9 Now, while prior inconsistent statements can be used as
10 substantive evidence as well as impeachment purposes, if the
11 declarant takes the stand and is subject to cross
12 examination-- for two of the three witnesses that Melissa
13 Addison testified said at some point in time that my client
14 confessed to them, two of the three of them didn't even take
15 the stand and was not subject to cross examination.

16 THE COURT: Well, but their statements came in under Rule
17 13.

18 MR. DERIEG: Yes, Your Honor. I believe this trial court
19 can grant a directed verdict where the State's case is purely
20 circumstantial and the evidence is insufficient to establish
21 the Defendant's presence at the scene of the crime. I think
22 the only thing that we have at all that would have any
23 evidence possibly about Mr. Colclough's presence at the scene
24 of the crime would have been the partial inclusion that one
25 out of sixteen people on earth from that DNA report. And

1 based on the lack of any other evidence putting my client at
2 the scene of the crime, we would respectfully request a
3 directed verdict.

4 THE COURT: Al right. Thank you. Mr. Donnald.

5 MR. DONNALD: Your Honor, the State's position quite
6 simply is that there does exist sufficient evidence to go
7 forward. There are two statements in the record as well as a
8 recording as well as the repetition of the Defendant's
9 statement to Melissa Addison that Arsenio Colclough is at
10 least one of the person's who had a gun that has been linked
11 to him through his cousin and testimony that he went into the
12 house and shot either Rayshawn Holmes, Willie Chatman, or
13 both. And that is also -- his presence there is also backed
14 up by the DNA.

15 THE COURT: All right. At this stage of the trial, the
16 Court is more considered with the weight than -- or the
17 existence of the evidence, not the weight of the evidence.
18 But it still has to be more than mere suspicion. And I do
19 have the testimony of some jailhouse snitches that if you
20 believe them, then it provides enough evidence to take it to
21 the jury. So, I'm going to respectfully deny your motion, Mr.
22 Derieg.

23 MR. DERIEG: Thank you, Your Honor.

24 THE COURT: Let me go ahead -- if the Defendant would
25 please rise.

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1 ARSENIO COLCLOUGH: (Complies)

2 THE COURT: And raise your right hand.

3 ARSENIO COLCLOUGH: (Complies)

4 (After being duly sworn by Mr. Bradley, ARSENIO
5 COLCLOUGH testified as follows:)

6 THE COURT: Mr. Colclough, at the end of yesterday -- you
7 can put your hand down.

8 ARSENIO COLCLOUGH: (Complies)

9 THE COURT: I questioned you concerning your wanting to
10 testify, giving you the pros and the cons of doing that. Have
11 you had an opportunity to speak to your lawyer or your family
12 members or anyone else about whether or not you want to
13 testify?

14 ARSENIO COLCLOUGH: Yes, sir. I did.

15 THE COURT: Have you decided whether or not you want to
16 testify?

17 ARSENIO COLCLOUGH: No, I have not decided whether I want
18 to testify or not, but I don't really see the need for me to
19 testify.

20 THE COURT: So you're telling me right now ---

21 ARSENIO COLCLOUGH: No, I'm not going to testify.

22 THE COURT: --- once he rests. Okay. You don't intend to
23 testify?

24 ARSENIO COLCLOUGH: No, sir.

25 THE COURT: Okay. Very well. That's what I needed to

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1 know. Okay. Thank you. You may be seated.

2 ARSENIO COLCLOUGH: Thank you.

3 THE COURT: All right. What we'll do now is we'll bring
4 the jury out. Now, Mr. Donald you may rest on the record.

5 MR. DONNALD: Thank you, Your Honor.

6 THE COURT: Then Mr. Derieg, if you would like to rest on
7 the record, then I will send the jury back and then you will
8 need a few minutes to get set up. Is that correct?

9 MR. DERIEG: Your Honor, I was assuming that Mr. Donald
10 was going to rest, then I would rest, and then he could start
11 his closing.

12 THE COURT: Well, I thought you said you wanted a few
13 minutes ---

14 MR. DERIEG: I want a few minutes after Mr. Donald
15 finishes so that I can get everything set up.

16 THE COURT: Okay. Well, are you ready to go right into it
17 then, Mr. Donald?

18 MR. DONNALD: I am, Your Honor, but I'm not sure -- yes,
19 Your Honor. I'll leave it up to you whether he has an amount
20 of time to collect his thoughts after I close and I think
21 it's a little unorthodox but it's ---

22 THE COURT: Yeah. What I'll do is I'll go ahead and we'll
23 break for about fifteen minutes and let you get set up
24 because once we start closing arguments, I don't want to
25 break. So, that's what we'll do. So, we'll bring them out for

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1 just a minute and send them back and then you can get all set
2 up and then we'll move forward and you will get last
3 argument. So, let's bring them in.

4 MR. BRADLEY: Yes, sir.

5 (Jury in at 9:41 a.m.)

6 MR. BRADLEY: Your Honor, we have all the jurors present
7 in the courtroom.

8 THE COURT: All right. Good morning, ladies and
9 gentlemen. It looks like this will be the final day that
10 you'll be with us. Mr. Donnalld?

11 MR. DONNALD: Your Honor, at this time the State rests
12 its case.

13 THE COURT: All right the State has rested its case.
14 Mr. Derieg?

15 MR. DERIEG: Your Honor, at this time, the Defense rests.

16 THE COURT: Okay. All right. Ladies and gentlemen, both
17 sides have completed presenting any testimony that they want
18 to present. I am going to send you back into the jury room
19 for just a few minutes while the attorneys get set up for
20 their closing arguments. They'll then come out and do their
21 closing arguments. I will then charge you the law in this
22 matter and then you will begin your deliberations, all right?
23 Thank you. Please do not discuss anything about the case
24 while you're back there.

25 (Jury out at 9:43 a.m.)

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1 THE COURT: All right. Court will be at ease for fifteen
2 minutes while y'all get ready to do your closing.

3 MR. DONNALD: Thank you, Your Honor.

4 THE COURT: Thank you.

5 (Break)

6 THE COURT: You all set up. Y'all ready to go.

7 MR. DERIEG: Yes, Your Honor. Thank you.

8 THE COURT: Let's bring our jury in.

9 (Jury in at 10:02 a.m.)

10 MR. BRADLEY: Your Honor, all the jurors are back in the
11 courtroom.

12 THE COURT: All right. Very good. All right. Ladies and
13 gentlemen now, as I said, is the time for the attorneys to
14 give you their closing arguments. Is the State ready?

15 MR. DONNALD: We are, Your Honor.

16 THE COURT: Is the Defense ready?

17 MR. DERIEG: Yes, Your Honor.

18 THE COURT: Mr. Donald.

19 MR. DONNALD: Your Honor, may it please the Court?

20 THE COURT: Yes, sir.

21 CLOSING ARGUMENT

22 BY MR. DONNALD:

23 Good morning. Thank you for coming back today. I've been
24 watching you. You've been paying very close attention and I
25 appreciate that. This is the last time I get to talk to you.

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1 So, it's almost over with, which is good news for y'all.

2 I started out on Tuesday morning with you. We've been
3 working on this thing since Monday, but I started on Tuesday
4 morning, which is when we first got to talk to you, telling
5 you that on April the 12th in the morning hours, the early
6 morning hours of April 12th, going into April the 13th, 2013,
7 Willie Chatman and Rayshawn Holmes went from being alive to
8 being murdered in a hallway, found murdered in a hallway at
9 Confederate Drive.

10 I started out by telling you that my job in this case
11 and my job during this trial would be to prove to you that
12 Arsenio Colclough is the person responsible for those murders
13 and I started out by telling you that the reason the State
14 thinks it can prove that Arsenio Colclough is the one
15 responsible is because he was betrayed by the thing that
16 betrays all men and that's his own mouth. He couldn't stop
17 himself from telling other people what had happened in that
18 house and what he had done and I told you I have the burden
19 of proving that to you beyond a reasonable doubt. And I
20 believe that's exactly what the State has done. We've shown
21 you that Arsenio Colclough could not keep from telling
22 people, bragging about it or using it as a threat, but could
23 not keep from telling people what he had done and what had
24 happened in that house and he told them of a detail that only
25 Arsenio Colclough could have known and I think that's very

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1 important and I'm going to ask you to remember that specific
2 part.

3 Now, my job is to argue to you, to make a summation of
4 what I think the evidence may be and what you should consider
5 from the State's perspective. His Honor is the -- well, as I
6 we said in the beginning, he is the trier of the law. He will
7 instruct you on what the law is. Part of what he's going to
8 instruct you on are what charges Mr. Colclough is facing,
9 what I have to prove beyond a reasonable doubt that you have
10 to believe in order to find him guilty and he'll also tell
11 you what beyond a reasonable doubt means. He's going to tell
12 you, the Judge is going to charge you, I expect, that he's
13 charged with murder. And as I said in the beginning, murder
14 is the killing of another person with malice. He's going to
15 tell you what malice is, which means depraved heart or an
16 evil mind, but he's also going to tell you that use of a
17 deadly weapon means that you can infer that malice exists.
18 Okay? So, if you believe that a murder occurred or a killing
19 of another person occurred with the use of a deadly weapon,
20 then that meets the definition of a murder.

21 He's also going to tell you what they call the felony
22 inference, which is that if you believe that a felony was
23 occurring and someone was killed during the commission of
24 that felony, that you can infer malice from that.

25 He's also going to tell you and instruct you on what's

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1 called the hand of one hand of all, which means that any one
2 actor, while engaged in a criminal act with another person,
3 is responsible for the actor's actions and the other person's
4 actions and they're all guilty as if they were one person.

5 Now, I tell you that to tell you this and the reason
6 that's important is this. If you believe beyond a reasonable
7 doubt that Arsenio Colclough went into that house at
8 Confederate Road and shot Willie Chatman to death, then he's
9 guilty of murder. And if you believe that Arsenio Colclough
10 went into Confederate Road and shot Rayshawn Holmes to
11 death, he's guilty of murder. If you believe that the State's
12 presented enough evidence to believe that he went into that
13 house with another person and that other person shot either
14 Willie Chatman or Rayshawn Holmes to death, then he's guilty
15 of murder. If you believe that he went into a house in an
16 effort to commit a robbery or any other kind of felony and
17 someone died in the commission as a result of that felony,
18 then that is also a murder. If you believe any of those
19 scenarios, then you believe beyond a reasonable doubt Arsenio
20 Colclough is responsible for murder.

21 Now, there's been some talk of another individual that
22 might have been in that house. It came from the statements
23 that you heard and that were written. That is this person
24 named Jwain. This is very important. Jwain is not on trial
25 here. The only person that y'all have sworn -- it sounds like

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1 I'm fussing and I don't mean to. The only person that y'all
2 have sworn to put to the test of my -- put me to the test of
3 beyond a reasonable doubt, is Arsenio Colclough. So whether
4 Jwain did this or not is immaterial today. Whether Jwain was
5 a part of it is immaterial today. The question before you is
6 whether or not Arsenio Colclough was involved in it.

7 The Judge is going to tell you about reasonable doubt.
8 He's going to tell you that it's not beyond an unreasonable
9 doubt, that it's not beyond any doubt. I expect he'll
10 probably tell you that we can't know anything to an absolute
11 certainty. He's going to tell you that if you're firmly
12 convinced in Arsenio Colclough's guilt, that you have to find
13 him guilty of murder.

14 I haven't talked about commission of a felony with a
15 firearm. I haven't talked about it much because I believe
16 there's ample testimony. The coroner -- not the coroner. Dr.
17 Ross, the pathologist, has testified, and the only testimony
18 you have is that Willie Chatman and Rayshawn Holmes were shot
19 to death at Confederate Road.

20 I also want to tell you this while I'm talking about the
21 only testimony that you have. The only testimony that you can
22 consider under your oath, and the Judge will instruct you
23 about this, is testimony that comes to you from that witness
24 stand. What I say is not evidence. The questions I ask are
25 not evidence and I what I put forth is not evidence. With all

1 respect, what His Honor says is not evidence. The evidence
2 has to come through that witness stand. The only evidence you
3 have with regard to the cause of death came from Dr. Ross.
4 And that is the two, Willie Chatman and Rayshawn Holmes, were
5 shot to death.

6 So, you don't have to believe it. You're going to get an
7 instruction on credibility, witness credibility. The Judge is
8 going to tell you that you can believe everything a witness
9 says, you can believe part of what a witness says or you can
10 not believe anything that a witness says, but what you can't
11 do is go outside of what a witness says. And the only
12 evidence you have with regard to the cause of death came from
13 Dr. Ross. I'm only telling you that as an example that the
14 evidence that you have to consider in coming to your
15 decision, it has to come through this witness stand because I
16 think credibility is the primary issue in this case.

17 When I sit down, it's Mr. Derieg's chance to get up and
18 poke holes in the State's case and that's his job and that's
19 okay and that's fair and that's the way it's supposed to be.
20 And I suspect he's probably going to attack the credibility
21 of the witnesses. I suspect he's going to say you can't
22 believe jailhouse snitches. I suspect he's going to say Ms.
23 Addison made it up or convinced these people to come forward
24 to her and make up this story and the reason I'm telling you
25 this is about credibility because that's what you're going to

1 have to believe to not believe Ms. Addison and her testimony
2 and Wesley Gardner who also testified yesterday. To find them
3 not credible, to find that two police officers who
4 investigated this case not credible, you would have to
5 believe that they somehow concocted this entire story, that
6 they got Christopher Robinson to make a statement, that they
7 got John Colclough to make a statement, and that they got
8 Corie Simon to make a statement and that she's making up what
9 Arsenio told her about using the same gun and being around
10 the same gun that John Colclough has. Because if you'll
11 recall she said that Arsenio Colclough told her that the gun
12 that John Colclough -- and I know that's confusing to have
13 two Colclough's in one case -- the gun that John Colclough
14 used to shoot two individuals on March 30th, which is a month
15 and two weeks after the murder at Confederate Road, that the
16 gun that John Colclough used to shoot those two people in the
17 city, Arsenio Colclough told Melissa Addison he was with John
18 when they got that gun, that Eric Meyers went into a pawn
19 shop, purchased that gun and he was around it. She also told
20 you that John Colclough told her, specifically, that the gun
21 was shared between Arsenio Colclough and John Colclough. And
22 that on the night -- on February -- April the 12th, Arsenio
23 Colclough came by the house, got the gun from John Colclough,
24 and left, approximately, 10:00, 11:00 at night. Came back
25 approximately 1:30.

1 Now, I want to ask you this. I started by talking about
2 how Arsenio was betrayed by his own mouth. Who does a
3 murderer brag to? Who else can they brag to? They brag to
4 outlaws. They brag to the people that they're in contact with
5 and the people that Arsenio Colclough was in contact with are
6 people that he was spending time in jail with, both at Sumter
7 Lee Regional Detention Center and he was also housed for a
8 time at Clarendon Detention Center, over in Manning. And
9 while he was there he told Christopher Robinson and Corie
10 Simon the details of what he had done. To find Melissa
11 Addison not credible, you'd have to believe that she somehow
12 put those words into the mouth of Corie Simon and Christopher
13 Robinson.

14 Christopher Robinson, you saw the video of the
15 interview. That was an hour and fifteen minutes, which
16 doesn't sound like a long time if you're watching a TV show.
17 But without commercials it turns out an hour and fifteen
18 minutes is a long time to sit and watch something. I wanted
19 you to see that entire video because I needed you to see that
20 she never told him what to say. Wesley Gardner was in that
21 video. He never told Christopher Robinson what to say. The
22 only thing they said was, what do you have to tell me? And he
23 told her. Not once, he told them twice. He told them to begin
24 with I was in the room with Arsenio Colclough. He told me
25 these details about the murders that he committed on

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1 Confederate and he went through all the details; how Arsenio
2 and another person named Jwain that went in that house, their
3 motive was robbery, they had guns, and that as a result of it
4 somehow Willie Chatman and Rayshawn Holmes woke up and they
5 got shot and they died right there that night in that house.

6 Christopher Robinson told them that Arsenio told him he
7 used the same gun that John used to shoot somebody a month
8 later in the city. Now, y'all may have been wondering why did
9 I go to such lengths to show you and to prove that John
10 Colclough used that same gun and it's got to do with
11 Christopher Robinson's statement, because here's the thing. I
12 expect Mr. Derieg, in trying to say that nobody's credible
13 that we've put up, is going to say that Ms. Melissa Addison
14 put that into John Colclough's mouth and put that statement
15 into Christopher Robinson's mouth, that John Colclough is
16 trying to blame somebody else for something he did because we
17 know that he used that gun. But here's how you know that's
18 not what happened. Because Christopher Robinson's statement
19 is in April and John Colclough didn't plead guilty until
20 October. Why in the world would John Colclough concoct some
21 kind of a scheme to blame Arsenio for murder but then have
22 Christopher Robinson say and we know that he's the one that
23 shot those people a month later with the same gun. He
24 wouldn't. Nobody would do that. That wouldn't make any sense
25 and that's what makes Christopher Robinson's statement ring

1 true because he's putting both of them, guilty of a crime
2 that neither one of them has admitted to, neither one of them
3 has pled guilty to yet and John Colclough subsequently did
4 plead guilty to using that same gun. That makes his statement
5 to Melissa Addison about having that gun and sharing it with
6 Arsenio and giving it to Arsenio the night of this murder to
7 fall into place. Because what did John, what did she testify
8 John Colclough did with the gun after he used it? He got rid
9 of it.

10 Now, John Colclough, when he shot somebody to death with
11 that, we know he did because had admitted to it, he hid the
12 gun. To believe that he's lying, you'd have to believe that
13 somehow the gun got used in the murder and was kept around
14 until he used it again a month later or somebody -- actually
15 we know he's the one that used it in May, and then decided to
16 hide the gun. The reason he didn't hide the gun until May was
17 because he didn't use the gun until May, just like he told
18 Melissa Addison. Arsenio came by and got that gun, used the
19 gun to kill Willie Chatman and/or Rayshawn Holmes, and then
20 brought it back to John Colclough and lied to John Colclough
21 about what it was used for. She told you that he said it was
22 -- he asked Arsenio was it a hot gun. Arsenio said, no, but
23 that he was acting uppity. He was acting, not uppity, he was
24 acting nervous the night after and then a couple of days
25 later finally confessed to John Colclough as to what he had

1 done, that he and Jwain had gone into that house and that
2 they had shot Rayshawn Holmes and Willie Chatman.

3 And I want you to think about something else. In order
4 to find that Melissa Addison's testimony is not credible,
5 you'd have to believe that she put words into the mouth of
6 Corie Simon and Corie Simon took the stand and said, yeah,
7 Arsenio and I talked. Yeah, Arsenio was worried about a hat
8 that was there at the house that he said might have been his
9 cousin's hat and they was trying to frame him. And when I
10 showed him his statement that he had signed, oh, no, that's
11 not my statement. Oh, no, I didn't say that. Oh, no, that's
12 not my signature. You have to decide when he's telling the
13 truth or if he's telling the truth at all. I suggest that
14 you'll find that what Lieutenant Addison told you is the
15 truth: That they went to talk to him and she wrote out that
16 statement and he did sign that, just like she said and just
17 like Wesley Gardner said, too.

18 To find that not credible, to find Melissa Addison not
19 credible, you're going to have to believe that she made that
20 whole thing up and that she was lying to you when she was on
21 the stand. And I want you to view that in terms of what you
22 saw with Christopher Robinson, which is where he says what he
23 said, just on the question of what do you have to tell us. He
24 asked, can you help me out? They said we can't make promises.
25 We don't have the ability to promise you anything. What do

1 you want to tell us? And he told them. And he told them once.
2 He told them twice. She wrote it down, asked him questions
3 about what he had said, he repeated it again, then he read
4 it, and then he signed it.

5 Now, when I called him to the stand to testify, he
6 refused to take the oath. When I called John Colclough to the
7 stand to testify, he refused to take the oath to tell the
8 truth. Not that he refused to answer any questions. He
9 refused to even be sworn to tell the truth.

10 When Corie Simon came to the stand he told you what he
11 thought Arsenio wanted to hear and then denied everything
12 else. Now, I don't know why they refused to take the oath:
13 I've never even seen that happen before. But I can tell you,
14 I can suggest to you, maybe they're scared to testify against
15 Arsenio. Maybe they're afraid to come in here and tell you
16 what he had told them because he's the kind of guy who would
17 murder two people in cold blood in a hallway at
18 Confederate Road. You have to decide that for yourself. You
19 have to decide the question for yourself.

20 Why did they not testify? I can tell you this. I know
21 Christopher Robinson was afraid because Christopher Robinson
22 said on April the 8th at ten minutes after two on the video
23 that you watched yourself, don't let him know. He's got
24 people who can reach out and touch me. Now, I don't know if
25 that's why they refused to testify. You have to decide that

1 for yourself.

2 Also, when I started this case, I told you that there
3 would be testimony from people that Arsenio had told he had
4 done this to Mr. Colclough. I call him Arsenio. I don't mean
5 any disrespect. I call Arsenio because there's another
6 Colclough in the case. I told you there'd be some additional
7 evidence and there was. There was the forensic, the ballistic
8 evidence that ties the two guns together. The reason that's
9 important is because it links, it makes credible John
10 Colclough's story to Melissa Addison. But there's also the
11 DNA evidence and I expect Mr. Derieg is going to stand up and
12 say you can't believe the DNA evidence. Testimony was, DNA
13 was taken from -- there were two things found on this hat
14 that's sitting right here, this red hat. And let me tell
15 y'all something about this stuff, all this stuff. When y'all
16 go back to deliberate and to deliberate means argue. When
17 y'all go back to argue about the case, all of this goes back
18 with you. Okay? That's when you get to actually look at it.
19 This hat, this hat was found lying in blood in that hallway
20 there and that's the DNA that was on this hat is from the
21 deceased. And I'll tell you that because y'all will have the
22 opportunity to pick it up and look at it and you need to know
23 that before you decide whether you want to pick it up and
24 look at it. This hat was sitting in blood in that hallway.
25 There's a photograph of the hat in the blood in the hallway.

1 But that's not all that's on that hat. Arsenio Colclough's
2 DNA is on that hat.

3 Now, normally when you hear DNA evidence it's one some
4 quintillion number, some made up number -- not a made up
5 number, but it's a number that's more than there are people
6 in the world. And they do that for effect. This sample wasn't
7 strong enough to give you that kind of number. It's only one
8 in sixteen, which doesn't sound like a whole heck of a lot.
9 That's two in thirty-two, that's four in sixty-four. It's
10 about six in a hundred. If there's six billion people in the
11 world, there's three hundred and seventy-five thousand of
12 them that could have put that DNA on there. But there's only
13 one person in the entire world whose DNA was at this murder
14 scene and who went and told three other people that he's the
15 person that created that murder scene by shooting Willie
16 Chatman and Rayshawn Holmes, by telling John Colclough that
17 he's the one that did it and by using John Colclough's gun,
18 by telling Christopher Robinson that he's the one that did it
19 in the jail in Sumter County and by telling Corie Simon that
20 he's the one that did it in jail in Manning, which is
21 important, because that's three people in three completely
22 different locations that Arsenio Colclough has admitted to
23 shooting Rayshawn Holmes and being involved in the shooting
24 of Rayshawn Holmes and being involved in the shooting of
25 Willie Chatman. There's only one person that fits all of

1 those and left DNA at the scene.

2 Now, I'm going to ask you -- and y'all have listened to
3 me great. Y'all are some of the most attentive jurors I've
4 ever seen and I appreciate that and I mean that. I don't say
5 that every time. I really do mean that.

6 You've got to listen to what Mr. Derieg has to say. I
7 know you will. I know you'll carefully consider everything
8 that you've seen. The bottom line in this case is this: Is
9 Melissa Addison credible? Is Wesley Gardner credible? Because
10 that's where the evidence comes from. You saw the video of
11 how an interrogation happens. If you find her dis-credible,
12 do not find her story before you credible, then you'd have to
13 find that she concocted this entire scheme. She put words in
14 peoples' mouths. She made them give statements and sign
15 things that weren't really their statements. That she somehow
16 made Arsenio Colclough's DNA appear on a hat that was found
17 at the murder scene, and I suggest to you that is not
18 reasonable.

19 The way these things line up, the way I believe that the
20 State has laid its case out, you have three people to whom
21 Arsenio Colclough has admitted his involvement in. When you
22 have DNA from the scene and you can tie him to the gun, that,
23 ladies and gentlemen, is beyond a reasonable doubt. I thank
24 you for listening to me. Thank you for your time.

25 THE COURT: Thank you, Mr. Donnald. Mr. Derieg, for the

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1 Defendant.

2 MR. DERIEG: Yes, sir. Thank you, Your Honor. May it
3 please the Court?

4 THE COURT: Yes, sir.

5 MR. DERIEG: I beg the Court's indulgence for just a
6 moment.

7 CLOSING ARGUMENT

8 BY MR. DERIEG:

9 Ladies and gentlemen of the jury, my client, Arsenio
10 Colclough, is not guilty of murder and not because he is
11 presumed innocent until proven guilty. And while that is true
12 and the Judge has told you before and he'll tell you again
13 that every person in this country is presumed innocent until
14 proven guilty, but that's not why I say he's not guilty. I
15 don't even say he's not guilty because the State failed to
16 prove beyond a reasonable doubt that he's not guilty. But I
17 do submit to you that the State woefully failed to prove
18 anything to you beyond a reasonable doubt. I say Arsenio
19 Colclough is not guilty because he did not kill Rayshawn
20 Holmes or Willie Chatman.

21 Mr. Donnald's just talked to you about what he told you
22 in his opening. What he failed to talk about that he talked
23 about in his opening was that he was going to put witnesses
24 on that stand to tell you, the ladies and gentlemen of this
25 jury, that they heard directly from my client that my client

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1 admitted to killing either Rayshawn or Willie or both. That
2 never happened.

3 And I do have to apologize for my opening, because I
4 told you that you were going to have to weigh evidence versus
5 what jailhouse snitches were going to come in here and say.
6 And while Tuesday morning was one of the most incredible
7 things that I have ever seen in a courtroom, nobody got on
8 that stand and said they heard Arsenio Colclough tell them
9 that he killed anybody.

10 And Mr. Donald just said that I was going to get up
11 here and ask you to find Melissa Addison not credible and
12 that's true. But it's not for the reasons that he said that I
13 might say it. All the reasons that he said I might say it are
14 also true, but the primary reason that you, the ladies and
15 gentlemen of this jury, can find Melissa Addison and Wesley
16 Gardner not credible, is because you did not hear a single
17 piece of evidence or testimony about anything connecting my
18 client to this murder before he was arrested. The State put
19 up no witnesses, no evidence, no testimony, to explain to you
20 the ladies and gentlemen of this jury, why he was ever even
21 arrested, let alone even a suspect in this case.

22 We have no idea why, on September the 18th, 2013, when
23 my client was arrested for some unpaid traffic tickets, she
24 starts questioning him about a murder and then two weeks
25 later on October the 1st serves him with murder warrants. To

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1 prove to you beyond a reasonable doubt that a man killed two
2 people, they don't even come and tell you why he got
3 arrested?

4 There's some very important dates to remember in this
5 case. Those are the four things that Mr. Donald just asked
6 you to convict my client of double murder for: An alleged
7 statement from Corie Simon who got on the stand and told you,
8 the ladies and gentlemen of this jury, that he's never seen
9 Melissa Addison. He admitted to seeing Wesley Gardner. And I
10 submit to you that's why you can say he's credible because if
11 he had said, oh, I've never seen Wesley Gardner before in my
12 life. Possibly, he might be not credible. But when he says
13 I've never seen this woman in my life, but then when Wesley
14 Gardner stands up, he goes, yeah, I talked to him. I know who
15 Wesley Gardner is. I met him. That's credible. Corie Simon's
16 statement, July the 1st 2014. That's the earliest piece of
17 evidence in this case that the State has submitted to you
18 that my client killed two people. Remember, Arsenio was
19 served this murder warrant October the 1st, 2013. Nine months
20 later is the first piece of evidence they submit and show to
21 you the ladies and gentlemen of the jury and you very
22 properly can ask yourself why.

23 Second piece of evidence that they want you to believe
24 in order to convict my client of a double murder is
25 Christopher Robinson's statement and not because he got on

1 the stand and told you that he heard, himself, my client say
2 he killed Willie or Rayshawn or both. He refused to do it.

3 And the third piece of evidence they want you to convict
4 my client of comes on October the 15th, 2015. October the
5 15th, 2015, more than two years after my client was arrested.
6 They want you to believe that John Colclough told Melissa
7 Addison what Melissa Addison said he said. He refused to get
8 on that stand. He refused to put his hand on the Bible and
9 look you ladies and gentlemen in the face and say what
10 Melissa Addison said he said.

11 And then I submit to you one of the most important
12 pieces of evidence in this case, State's #19. This will be
13 back in the jury room with you guys. Look at the date. Look
14 at the date on this page. It's March 16th, 2016. That's last
15 week. The one out sixteen people on the planet that also
16 could have contributed to that red hat, their DNA report is
17 March 16th, 2015. DNA couldn't have gone into being part of
18 the reason why my client got arrested and while we're talking
19 about those odds, when Mr. Donnald told you that one out of
20 sixteen out of six billion people on earth would come to
21 three hundred and seventy-five thousand, not true. Three
22 hundred and seventy-five million. Not three hundred and
23 seventy-five thousand, three hundred and seventy-five
24 million. That's more people than are in the United States of
25 America.

1 Now, Mr. Donnald went through the law and what he
2 believed the Judge is going to charge you. We've got murder.
3 It's the killing of another with malice aforethought. No one
4 has proven to you beyond a reasonable doubt that my client
5 killed anyone. I contend that if the burden of proof was
6 less, like it is in civil court where it's just more likely
7 than not, you still would have to find him not guilty because
8 you have no idea why he was arrested.

9 Possession of a weapon during the commission of a
10 violent crime. There's not a single person that came in and
11 told you that they ever saw my client with a weapon. There's
12 not even a single person that ever came in here and told you
13 that they ever even saw my client at the residence ever at

14 Confederate. You've got no testimony or evidence,
15 whatsoever, that my client was ever at Confederate Road.
16 In fact, you've heard evidence from Rayshawn's mother that he
17 didn't stay there. He wasn't going over there. There is
18 nothing that anyone has testified to or evidence that has
19 been shown, that can show, that can give you even a small
20 suspicion that my client was at the scene and that he killed
21 his best friend and another friend. No, ladies and gentlemen,
22 that's not what we do in this country. That's not what we do
23 in this country. We do not send innocent people to jail for
24 murder when the State can't even tell you why they were
25 arrested.

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1 The judge will talk to you about reasonable doubt and
2 that is a very, very high burden. I believe the Judge will
3 instruct you that reasonable doubt is proof beyond all
4 possible doubt. Though I submit to you ladies and gentlemen,
5 there is no possible doubt that he's not guilty. But proof
6 beyond a reasonable doubt isn't beyond, isn't guilt beyond
7 all doubt. It's guilt beyond what a reasonable person, what
8 it would take for a reasonable person to hesitate to act.

9 And Mr. Donnald said this case is all about credibility.
10 And you heard me say that in my opening. And out of
11 everything you heard from Mr. Donnald, I can tell you that is
12 one thing that I wholeheartedly one thousand percent agree
13 with. This case is all about credibility. Is it credible that
14 the State of South Carolina, Sumter County, with all of the
15 resources from the Solicitor's office and all of the
16 resources from the Sumter County Sheriff's Office, didn't
17 present a single piece of evidence or testimony that dated
18 prior to July the 1st of 2014. Arsenio Colclough was arrested
19 October the 1st of 2013. To convict him of anything, to
20 convict of him jaywalking, they would have to prove to you
21 that he had, give you some sort of evidence prior to nine
22 months after he's accused of committing a crime. No, ladies
23 and gentlemen, I submit to you that there is no doubt. There
24 is no doubt that the State has failed to meet its burden.

25 Now, I'd like to go through the witnesses and the

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1 testimony and the evidence that was presented or not
2 presented to you that I think is very, very important in this
3 case and I apologize if I go a little slow and it takes a
4 little while to go through this, because there were a lot of
5 witnesses and there was a lot of testimony and my client is
6 accused of double murder. So, I feel that it is incumbent
7 upon me to take my time and explain and go over everything
8 with you, the ladies and gentlemen of the jury, because I owe
9 it to my client.

10 So, the first witness that we had was Ms. Janice
11 Chatman. I can't imagine how Ms. Janice and Mr. Rodney have
12 dealt with this for the last three years. No parent should
13 ever, ever, ever have to bury their child. It's one of the
14 worst things in the world. And some of you on the jury may
15 want to give them some closure, may want to tell them that
16 somebody's sitting in jail for the murder of Rayshawn and
17 Willie. Well, ladies and gentlemen, convicting an innocent
18 man of double murder will not ease the pain of these families
19 over here. It will only be sure that the killer or killers
20 who did this will never be brought to justice.

21 Now, what did Ms. Chatman say? She's the mother of
22 Rayshawn and an aunt of Willie and she said that in the early
23 morning hours of April the 13th, 2013, Eric Davis came
24 running to her house. Eric Davis, who lived in the house, who
25 you've heard testimony that whomever came into the house,

1 there's only one way in and one way out, and that they would
2 have had to walk past the hallway where Eric Davis' room was,
3 that Melissa Addison told you he was in at the time of these
4 murders, to get to the living room and to get to the other
5 hallway where the bodies were found and where, at the end of
6 the hallway, Willie Chatman's room was located. Ask yourself
7 what makes sense, what seems credible? There's at least three
8 if not seven, guns going off in that house and there's
9 someone that didn't come in and testify to you guys and
10 ladies, didn't come and take the stand. The very first
11 person, the person that was inside the house when the murders
12 occurred did not come and sit on this witness stand and tell
13 you ladies and gentlemen anything about it. All you heard was
14 that he came running...He told Ms. Chatman what had happened
15 and Ms. Chatman went back to the house and she took over from
16 there and you never hear any more about Eric Davis, other
17 than he was completely fine and unharmed even though the two
18 people he lived with were lying dead in the hallway and where
19 you heard Melissa Addison say Eric Davis went into the living
20 room and called out for Willie and Rayshawn and then when
21 they didn't answer, he turned around and fled. No, ladies and
22 gentlemen, that does not seem credible.

23 Unfortunately, Ms. Chatman was the one that found the
24 bodies of Rayshawn and Willie and she told you that the
25 electricity was turned off. But even though the electricity

1 had been turned off that day after she found the bodies and
2 after the police had come and taken all the evidence that
3 they wanted to take, processed the scene, she had the
4 unenviable task of cleaning up the house. I can't imagine how
5 terrible that must have been that day.

6 The police did not take the red hat, ladies and
7 gentlemen, in State's Exhibit #4. They didn't pick up the hat
8 that was lying next to one of the victims and it has got
9 marijuana on it. That night they didn't think that it was of
10 any value, whatsoever. But Ms. Janice kept it and about seven
11 months later turned it over to Detective Addison, Lieutenant
12 Addison. She kept the hat for seven months, but she didn't
13 know that there was any value to it, whatsoever, other than
14 it was her son's. So, she kept the hat for seven months and
15 then ultimately turned it over.

16 And you even heard Ms. Janice say that Rayshawn and
17 Arsenio have been friends since they were seven or eight.
18 You're talking about a twenty-year friendship here. They had
19 grown up together. Does that seem reasonable to you that Mr.
20 Colclough would kill his best friend of twenty years? Was any
21 evidence presented prior to July the 1st of 2014 that says
22 well, anything, let alone that my client was the one that did
23 this?

24 The next witness was Mr. Rodney and Mr. Rodney came in
25 to tell you that he was the father of Rayshawn Holmes and the

1 uncle of Willie Chatman and that he gave Rayshawn eighteen
2 hundred dollars in cash to pay his electric bill.

3 Now, this next witness should have been the first time
4 that you started really questioning the credibility of the
5 State's case. Bobby Richardson. They brought him out of
6 retirement to come and testify before you, ladies and
7 gentlemen. He wasn't even the lead crime scene investigator
8 that night. He wasn't the one that put out the markers. He
9 wasn't the one that collected the evidence. He assisted Mike
10 Bean. But the State apparently didn't think it was worthwhile
11 to bring the person that found all the evidence, marked all
12 the evidence, and collected all the evidence, didn't think it
13 was worth putting him on the stand to tell you ladies and
14 gentlemen what happened. Instead, they put somebody on the
15 stand that said, Mike did this, Mike did that, Mike did this,
16 Mike did that. Where was Mike Bean? He testified to the
17 markers being placed on the evidence by Bean, that there were
18 numerous shell casings all over the house and they never even
19 tried to lift a single fingerprint. Never dusted for
20 fingerprints. The State of South Carolina, Sumter County
21 Solicitor's Office and the Sumter County Sheriff's Department
22 wants you to convict my client of a double murder and they
23 didn't even bother to fingerprint the murder location.

24 And you saw that in State's Exhibit, State's Exhibit
25 #13, the only drag mark in the entire house and it wasn't

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1 visible until Willie and Rayshawn were moved and it was put
2 there while they were being removed from the house and that
3 indicates that Mr. Chatman and Mr. Holmes were found where
4 they fell.

5 The next witness, which began some of the most
6 incredible events I've ever seen in a courtroom, John
7 Colclough, Jr., came in and refused to take the oath and
8 despite what Mr. Donnald gave you as his rationale for Mr.
9 Colclough refusing to take the oath, I submit to you, ladies
10 and gentlemen of the jury, that both Mr. Colclough and Mr.
11 Robinson when asked if they would swear or affirm to tell the
12 truth, the whole truth and nothing but the truth, they said
13 no because they would not get on the witness stand and lie
14 about Arsenio Colclough the way the State was expecting them
15 to do.

16 You've heard evidence that Mr. John Colclough gave Ralph
17 Meyers money to purchase a gun at Reliable Pawn Shop. Did
18 they ever show you Ralph Meyers, the man who bought one of
19 the murder weapons in this case, the man who that gun is
20 registered to in his own name? They didn't even bother to
21 bring you in here to tell you or have him tell you what
22 happened to that gun. Did he, in fact, give it to John
23 Colclough? I submit to you that he could have answered that
24 question. But the State chose not to put that evidence before
25 you.

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1 John Colclough was convicted of the city shooting that
2 happened approximately a month after this incident and as Mr.
3 Donnald said, he did plead guilty to it. So, there is a man
4 who you have testimony, you heard the testimony, got the gun
5 from the person who bought it and then shot people with it
6 and pled guilty to it. When you look at State's Exhibit #19,
7 see if the State of South Carolina bothered to compare John
8 Colclough's DNA to any of the DNA that was taken, swabbed for
9 and tested. You won't find his name anywhere on this paper.
10 And y'all know there were tons and tons, there were multiple
11 unknown DNAs that were found at that scene. They didn't even
12 bother to run the DNA of the man who they knew or they
13 believed had been given the gun immediately after it was
14 purchased and who admitted and pled guilty to using that gun
15 in the City of Sumter approximately five weeks after the
16 murder.

17 Ladies and gentlemen, if nothing else happened in this
18 case, I would submit to you that is plenty of reasonable
19 doubt right there. The man who they said had the gun and used
20 it five weeks after this murder, they didn't even bother to
21 run his DNA. And this person that you have heard Mr. Donnald
22 talk about is immaterial to this case at all, Jwain Francis,
23 how immaterial is he if his name appears on this DNA report?
24 How immaterial could he be if his name was run on a DNA
25 report? And, again, John Colclough never had his DNA run and

1 he's alleged to have met with Melissa Addison and Solicitor
2 Eddie Donnald on October the 15th, 2015, two years after the
3 murder, after he is already in prison serving time. They
4 allege that he met with Mr. Donnald and Lieutenant Addison
5 and gave them a statement. And, again, we're talking about a
6 representative of the solicitor's office and a representative
7 of the sheriff's department and neither one of them come up
8 with the resources to write it down, take any notes, record
9 audio, record video.

10 So, you have to take the word of the State that John
11 Colclough ever even talked to them, the same State that did
12 not tell you why my client got arrested. The same State that
13 didn't put up -- that tells you that the man, one of the
14 people whose name they run on the DNA report is immaterial?
15 No, ladies and gentlemen, that is not credible.

16 No video, no audio, no written statement, but he gave an
17 alleged oral statement. Melissa Addison tells you that he
18 said that Jwain Francis and Arsenio got the gun from him. Not
19 his words, Melissa Addison's words. And this first point, I
20 want you to pay careful attention to. Melissa Addison said
21 that John Colclough said that Arsenio said that Arsenio shot
22 Willie Chatman and that Jwain Francis shot Rayshawn Holmes.
23 Remember that. Because the next witness they put up, the
24 story changes and the witness after that, the story changes
25 again. So, they want you, like we talked about before, the

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1 four things they want you to use to convict my client: An
2 alleged statement of John Colclough. The statement you heard
3 played for an hour and fifteen minutes yesterday by
4 Christopher Robinson and we're going to get to that in just a
5 minute. The Statement that Melissa Addison says Corie Simon
6 told her that she wrote in her own handwriting, that he
7 denied ever seeing, saying, or signing and then this, the
8 fourth piece. And remember Solicitor Donnald just got up and
9 tried to tell you that it was, out of every one on earth it
10 would be three hundred and seventy five thousand. It's more
11 people than in the United States of America. Credibility.

12 Remember this point. John Colclough -- well, Melissa
13 Addison says that John Colclough says that Jwain Francis and
14 Arsenio Colclough came together to his house immediately
15 after the murders. Remember that. He gave the gun to Black.
16 You heard Melissa Addison when I asked her if they ever even
17 investigated who Black was, ever even tried to find out who
18 Black was, I think her answer was oh, it's a real common
19 nickname. So, I guess that means you don't try.

20 And Melissa Addison says that John Colclough said that
21 Arsenio Colclough said that Jwain Francis left a red hat at
22 the scene and you've also heard testimony that the two knives
23 that were found at the scene were his father's knives. Not
24 Arsenio's father's knives, but John Colclough's father's
25 knives. Melissa Addison also admitted to being aware of an

1 affidavit written by John Colclough, Jr. You heard the
2 testimony.

3 Next, we have Christopher Robinson. He, too, refused to
4 come in here and take the stand and lie to you, ladies and
5 gentlemen, especially because there's a video of the initial
6 -- one of the first times in this case, there's actually a
7 video. So, if he comes in and tells the truth, then he's
8 giving false information to police. So, he refused to get on
9 the stand and lie. He met with Lieutenant Addison and Wesley
10 Gardner on April the 6th, 2015. This is the second earliest
11 piece of evidence that you have in this case. Thankfully,
12 this interview was recorded on audio and video. So, you
13 ladies and gentlemen if you want to, have the ability --
14 because this was put into evidence, you have the ability if
15 you want to, to go back and watch this hour and fifteen
16 minute video, you have the ability to do that. But I submit
17 to you, ladies and gentlemen, you don't need to watch any
18 more than about ten minutes of it, because what does he do
19 for the first ten to fifteen minutes when he starts talking?
20 What's in it for me? I need help for my murder charge out of
21 Columbia. You guys the kind of people that can pull those
22 kinds of strings? He needed help with his murder charge out
23 of Columbia. Pled guilty to manslaughter. He needed help. He
24 needed people that could pull some strings. In fact, listen,
25 to the video. Wesley Gardner offers to go talk to the

1 solicitor's office for him. Oh, yeah, we'll go talk to the
2 solicitor's office for you. I'll tell them over there in
3 Columbia what you're doing and right off the bat after he got
4 done trying to get some help for his charge, he admits to
5 having viewed the discovery of Arsenio Colclough.

6 And you did hear Melissa Addison explain that discovery,
7 that's all the evidence in the case. Christopher Robinson
8 admitted, thankfully admitted, that he viewed all of the
9 evidence and reports in this case before ever sitting down
10 and talking to Melissa Addison or Wesley Gardner. Watch the
11 video. If you don't remember it the way that I remember it,
12 watch the video because you are the finder of the fact. So,
13 if there's any doubt in your mind as to what was said on this
14 video, watch it. Mr. Robinson continued. One of the reasons I
15 say that you only need to watch the first ten minutes of this
16 video is because Mr. Robinson's statement changes multiple
17 times in the same statement. In fact, if you do watch it,
18 listen to what he says before Melissa Addison starts writing,
19 and listen to how the questions are asked. And then once
20 Melissa Addison starts writing, listen to the questions that
21 are asked then. How they're asked. Whether or not he's being
22 fed the answers through the question. The first time he
23 admits about the discovery, he said when he was in Alpha pod
24 here at Sumter Lee Regional Detention Center, my client
25 didn't show him anything. They talked a little bit. Never

1 showed him anything. But then when the two of them ended up
2 across the hall in Bravo pad, that's when Arsenio started
3 showing him discovery. Later on in the video you see him talk
4 about Arsenio showing him discovery in Alpha and Bravo pods.
5 The man can't keep his story straight. It's much harder to
6 keep a lie straight than it is the truth and this man cannot
7 even keep the same story straight over the course of an hour
8 and fifteen minutes. And he's only asked to retell his story
9 twice. They talk to him once, then Melissa Addison asks him
10 if he wants to write it or if he wants her to write it. He
11 said I don't care. So, she does it herself and then he gives
12 an entirely different story. Major details are completely
13 different.

14 And if you watch the video, Christopher Robinson has an
15 answer for everything. At no point did Melissa Addison ask
16 him a question and he answer; I'm sorry, I don't know the
17 answer to that, he didn't tell me about that. The one
18 question that he doesn't answer and that Melissa Addison just
19 moves on from immediately when he pauses and hesitates and
20 starts searching for answers is what time did they go to the
21 house, meaning Arsenio and Jwain Francis and instead of
22 looking at the floor and looking down and being fidgety, he
23 starts looking up, searching for answers. So, immediately she
24 moved on to the next question. It's on that video.

25 Now, remember who John Colclough is alleged to have said

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1 killed each of the victims? Christopher Robinson says the
2 complete opposite. And that's where Mr. Donald wants you to
3 convict my client because even though he says Jwain Francis
4 is completely immaterial to this case, when he talked to you
5 about the hand of one is the hand of all, he was talking to
6 you about, if you believe that Jwain Francis killed somebody
7 and Arsenio was with him, then he's guilty, too. But then he
8 tells you that Jwain Francis is immaterial. That may be able
9 to explain why Jwain Francis never took the stand. Why didn't
10 they ever call him? Jwain Francis isn't sitting over there
11 charged, next to my client. Hell, he's not even a witness in
12 this case. Where's Jwain Francis?

13 Mr. Donald got up here and argued to you the hand one of
14 is the hand of all. He wants you to believe, even though he
15 says Jwain Francis is immaterial, he wants you to believe
16 that Jwain -- if you don't believe that my client killed
17 anybody, which he didn't, he wants you to believe that Jwain
18 Francis did and that my client was with him. That's what they
19 call the shotgun blast approach. Throw everything up on the
20 wall and hope something sticks.

21 There is no cohesive theory in this case. If there was,
22 they'd have told you. They'd have told you why my client got
23 arrested. The first piece of evidence they presented to you
24 would not have been dated July the 1st of 2014.

25 And you heard Dr. Ross say where Willie got shot. It was

1 in the back. However, Christopher Robinson said that Willie
2 got shot in the armpit and then talks about a mask. You heard
3 me ask Melissa Addison yesterday where else in this entire
4 case is anything mentioned about a mask. Nowhere. He talks
5 about the marijuana bag being busted and strewn. Not poured
6 on top of the deceased, but that the bag busted open while
7 Rayshawn Holmes was fighting for his life. Looking at State's
8 Exhibit #4, what sounds more credible to you guys? That the
9 bag of marijuana got busted open during a fight where
10 Rayshawn Holmes was fighting for his life or whether or not
11 it ended up on the body after Willie and Rayshawn were gunned
12 down? Credibility, believability.

13 And then remember I told you to pay special attention to
14 what John Colclough said Arsenio and Jwain Francis did
15 immediately after the murders. Well, Melissa Addison said
16 that John Colclough said that Arsenio Colclough said they
17 came right back to his house, John Colclough's house,
18 together. Christopher Robinson, Jwain Francis and Arsenio
19 Colclough went their separate ways immediately afterward.
20 They have each of them shooting opposite people and then each
21 of Arsenio and Jwain doing entirely opposite things after
22 they allegedly committed these murders. Is that credible? Is
23 that believable?

24 Where one of the statements they didn't bother to record
25 it in any form or fashion and in the one they did record the

1 guy comes in begging, what can you do for me. Y'all are the
2 kind of people that can pull those strings. I need help on my
3 murder charge. And then finally he sent a letter to Melissa
4 Addison. It's in evidence. You can look at the envelope. That
5 envelope's dated March 30th, 2013. And you heard Melissa
6 Addison admit she never pulled any jail records on
7 Christopher Robinson.

8 Now, the third person and actually the earliest evidence
9 date-wise that the State determined was worth putting in
10 front of you ladies and gentlemen was Corie Simon. He gave
11 his statement, allegedly, nine months after my client was
12 arrested. Corie Simon, you saw him on the stand. Did he look
13 nervous to you, ladies and gentlemen? Did he look scared? Did
14 he look like he was searching for answers? Or did he look
15 like a fairly happy guy that came in here and told you ladies
16 and gentlemen what he knew, without hesitation. Compare the
17 answers that Corie Simon gave to Mr. Donald and the way that
18 he gave them. Not just the answers but the way that he gave
19 the answers, whether or not it looked like he was holding
20 back, whether it looked like he was searching for answers.
21 Whether it looked like he was trying to figure out what the
22 right thing to say was versus the way Melissa Addison
23 answered my questions. Was she searching for answers? Was she
24 not answering the question that was asked? Credibility and
25 believability, ladies and gentlemen. Corie Simon got on that

1 stand and said I've never seen Melissa Addison before today
2 in my life. I have seen Wesley Gardner. When he read the
3 statement he said I never said any of that. And if you look
4 at what's been marked State's #14, the very first sentence.
5 Melissa Addison is writing this statement at my request. Now,
6 you saw how Melissa Addison wrote Christopher Robinson's
7 statement at his request or was it at his request? You've
8 seen her characterize what's on that video as Christopher
9 Robinson requesting her to write this. You guys watched it.
10 Watch it again. Anybody ever ask her to write it or did she
11 take it upon herself to write it and start off again, this
12 statement is being written by Melissa Addison at my request.
13 It's credibility and believability, ladies and gentlemen. Did
14 not say anything written in the statement and did not sign
15 it. I submit ladies and gentlemen, look at these two pages.
16 Corie Simon says he never signed it. Flip the pages. Look at
17 the signatures. Look at Melissa Addison writing this thing. I
18 submit to you that when you ask what's credible and what's
19 believable, Corie Simon is believable. Corie Simon is
20 credible. He came in here without hesitation, without
21 searching and told you what he knew and remember he didn't
22 deny ever having seen or met Wesley Gardner. I would submit
23 to you, ladies and gentlemen, that if you had this document
24 in front of you signed by both Wesley Gardner and Melissa
25 Addison and he denied ever seeing either one of them, you

1 could question his veracity. You could question his
2 credibility, but he didn't. He told you the truth. Again,
3 this is the earliest piece of evidence that you ladies and
4 gentlemen were given, nine months after my client was
5 arrested. Written by Addison, signed by Gardner. It talks
6 about six pounds of marijuana. Is that consistent with
7 anything that you've heard in this case? Six pounds? Oh, in
8 Corie Simon's statement, Arsenio Colclough killed Rayshawn
9 Holmes and Willie Chatman by himself.

10 MR. DONNALD: Objection, Your Honor. May we approach?

11 THE COURT: You may.

12 (Bench conference off the record)

13 CLOSING ARGUMENT CONTINUED

14 BY MR. DERIEG:

15 Said that Arsenio Colclough killed those victims and was
16 with some dude. He didn't say the dude killed anybody. With
17 some dude. Do any of these three jailhouse snitches' alleged
18 statements -- because two of the three of them were never
19 recorded with audio or video despite -- with Corie Simon you
20 had not only the potential for the solicitor's office and
21 their resources, the Sumter County Sheriff's Department and
22 their resources. You heard Melissa Addison say they were at
23 the Clarendon County Sheriff's Department, and all their
24 resources. No audio, no video. And then he comes in and says
25 he never said any of that and he never signed that statement.

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1 And then the story that is presented to you that Mr. Simon
2 allegedly said doesn't make sense and doesn't match up with
3 Christopher Robinson, which doesn't match up with John
4 Colclough. I submit to you, ladies and gentlemen, that if
5 John Colclough, Christopher Robinson, and Corie Simon had
6 taken this witness stand and testified exactly how Melissa
7 Addison said they gave statements to her, either in July of
8 2014, April of 2015 or October of 2015, you still couldn't
9 believe any of them. Their stories don't match up. They have
10 my client, Jwain Francis or some dude doing entirely
11 different things and the one that they give you a video of
12 has got somebody begging for help on his murder charge. Are
13 you the type of people that can pull those strings to get me
14 some help on my murder charge.

15 Dr. Janice Ross, forensic pathologist, she performed the
16 autopsies of both Willie and Rayshawn. Rayshawn was shot
17 multiple times in the front and the back with multiple
18 directions, bullet path directions, up, down, laterall, but
19 Willie was shot one time in the back. And you have the
20 opportunity in State's #3 and #4 to view, particularly, the
21 hallway and the width of the hallway. Willie Chatman was shot
22 with one shot that went in the left side of his back, went in
23 the left side of his back and exited the upper part, went
24 upwards and exited on the right side, higher than it went in.
25 Left to right in a very, very narrow hallway. I submit to you

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2 credibility, but he didn't. He told you the truth. Again,
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23 the left side of his back and exited the upper part, went
24 upwards and exited on the right side, higher than it went in.
25 Left to right in a very, very narrow hallway. I submit to you

1 you can infer that a person is shot -- Willie Chatman was
2 left-handed. The bullet path going up. You heard no testimony
3 whatsoever that Willie Chatman ever had a struggle with the
4 person that was in that room with them, with the person that
5 shot him once in the back. No struggle whatsoever and Willie
6 is 5'7" and the bullet path was going up, left to right. I
7 submit to you, ladies and gentlemen, that you could logically
8 infer from the information that Dr. Ross told you that the
9 person that shot Willie Chatman is shorter than 5'7" and
10 left-handed. Have you been presented any evidence whatsoever
11 that my client is shorter than 5'7". You've seen him stand up
12 every time you guys go in and out of the courtroom. Does he
13 look like he's shorter than 5'7"? You've seen him writing
14 notes. Writing down what Eddie Donnald's saying. Is he using
15 his right hand or left hand? You can logically infer that the
16 person that shot Willie Chatman was left-handed and shorter
17 than 5'7".

18 Then, we had three fairly short witnesses. We have Ms.
19 Aleck who came in. I'm not sure why she testified but the
20 ultimate end of her testimony was that John Colclough pled
21 guilty to the shooting in the city with one of the guns, with
22 one of the three to seven guns, that were used on April the
23 12th and 13th at Confederate. The guy that pled guilty
24 to using that same gun who gave the money to buy the same gun
25 never had his DNA run against anything that they took from

1 the house and processed, including what they say are his
2 father's own knives. Credibility and believability? No,
3 ladies and gentlemen.

4 Chad Smith came in. He's the firearms expert from SLED.
5 At least three guns were used, as many as seven. Now, think
6 about the way that these three people and Dr. Ross, who
7 corrected herself about the bullet path going downward and
8 later said no, she was wrong. It was the bullet path going
9 upward. Think about the way these four people testified. Five
10 people to add in the lady that took the swab from the hat.
11 They gave legitimate answers. They corrected either me or Mr.
12 Donnald when we would say something incorrect. You saw how
13 hard Mr. Donnald wanted the DNA analyst to say that my client
14 was matched to that scene. He kept saying match and she kept
15 correcting him. Credibility and believability.

16 Chad Smith also was the one who confirmed that the man
17 whose DNA was never run but who the State says gave the money
18 to purchase the gun, and then used the gun and then admitted
19 to using the gun, never ran his DNA.

20 You have Ms. Thompson. The scrapings of the headband,
21 the scrapings of the headband in State's #19 is what gives
22 the one out of sixteen, which would equal roughly three
23 hundred and seventy-five million out of six billion, the
24 scrapings came from the headband. And you heard Ms. Thompson
25 say she intentionally stayed away from anything that had

1 blood on it. She made the scraping where she did. Took a swab
2 where she did to make sure no blood was part of it. It was
3 just sweat and dead skin cells and the major contributor of
4 this hat of sweat and skin cells was Rayshawn Holmes. I
5 submit there is no other logical conclusion to draw from
6 that, other than it was Rayshawn Holmes' hat. He's the major
7 contributor of sweat and skin cells to the sweatband of his
8 hat and then there are at least, at least, two different
9 unknown DNA profiles of sweat and skin cells in that hat. One
10 of them is completely unknown and one of them, roughly three
11 hundred and seventy-five million people on this planet would
12 match as well, would be a possible inclusion. Three hundred
13 and seventy-five million people who aren't either an infant
14 or incarcerated would also be a possible inclusion. That's
15 the closet they ever get to tying my client to the scene of
16 the crime, that he is as likely as roughly three hundred and
17 seventy-five million other people on the planet to have been
18 a possible minor contributor of sweat and skin cells and they
19 want you to convict him of double murder for that. How scary
20 is that?

21 We've just talked about Ms. Leisy a little bit so we can
22 go through her quickly. She was the DNA analyst and you heard
23 when Mr. Donnald said or asked her if the only other match to
24 the scene of the crime, besides the victims', was my client?
25 No, Mr. Donnald. It is a possible inclusion. He said match

1 again. No, Mr. Donnald, it's a possible inclusion. Not three
2 hundred and seventy-five thousand, three hundred and seventy-
3 five million. She talked about at least three DNA profiles.
4 At least, maybe more. And a man that they know gave money to
5 buy the gun and admitted to using the gun about a month after
6 this incident, never even tested his DNA.

7 Then they went and took swabs from the car that they
8 believed or that they submit that Arsenio and maybe Jwain
9 Francis, maybe not, depending on whether you believe that
10 Jwain Francis is just some dude. Their theory is that it was
11 my client's girlfriend's car so they found what they thought
12 was blood in the car. They swabbed it. Excluded both Jwain
13 Francis and Arsenio Colclough. In fact, Mr. Donnald is asking
14 you under hand of one to convict my client for murder, in
15 case you believe Jwain Francis committed the murders. He's
16 completely excluded from every single item that they tested,
17 as is my client save for one out of sixteen, three hundred
18 and seventy-five million people on earth, could have
19 contributed sweat or skin cells. Everything else, he and
20 Jwain Francis are completely excluded from.

21 And when you look at this DNA report look how many times
22 it says unknown DNA profile. Look how many times it says
23 unknown DNA profile. If you look at the knives, for instance.
24 You've got a wooden handled knife and a black handled knife.
25 Wooden handled knife has at least three unknown DNA profiles,

1 at least three. The black handled knife has at least three
2 DNA profiles and one of them is female. From two knives they
3 get potentially six different DNA profiles and every single
4 one of them exclude Arsenio Colclough and Jwain Francis. And
5 again, look at that report with that date, the evidence that
6 they say ties my client to the scene of the crime, as well as
7 three hundred and seventy-five million other people on this
8 planet who aren't incarcerated, who weren't incarcerated or
9 infants on April the 12th and 13th is dated March 16, 2016,
10 last week. There's no way the DNA profile had anything to do
11 with my client being arrested. No way John Colclough's
12 statement had anything to do with my client being arrested.
13 No way Christopher Robinson's statement had anything to do
14 with my client being arrested and Corie Simon's alleged
15 statement clearly couldn't have had anything to do with my
16 client being arrested and charged with a double murder. They
17 didn't think it was worth putting that up in front of you,
18 ladies and gentlemen. You have no evidence whatsoever.

19 Melissa Addison, Lieutenant with Sumter County Sheriff's
20 Department -- and I apologize to you ladies and gentlemen and
21 to Lieutenant Addison. It was brought to my attention after
22 Court yesterday that I called her Ms. Addison a few times and
23 I do apologize and if that offended you, Lieutenant Addison
24 or anyone here in the jury. Please hold that against me and
25 not my client. Think about the way Lieutenant Addison told

1 you guys and ladies what she remembered. Didn't it seem a
2 little funny that things that Melissa Addison was asked that
3 she thought might help convict my client she remembered
4 clearly, clearly, including the oral statement that John
5 Colclough allegedly gave that shows up nowhere in her
6 investigative report? And no notes anywhere recording that
7 statement whatsoever, but she can remember it word for word.
8 But when I start asking her questions, showing her the gaps
9 in her case, her memory gets a little cloudy at that point.
10 She either can't remember, doesn't remember, won't remember.
11 Think about the way that she answered Eddie Donnalld's
12 questions. Think about the way that she answered my
13 questions. Did that seem credible to you guys? Does that seem
14 believable to you, ladies and gentlemen?

15 And think about the people that testified on the stand
16 that answered Mr. Donnalld's questions and my questions in the
17 exact same way. And when you heard Mr. Donnalld question Ms.
18 Addison about the two interviews that my client is said to
19 have given, particularly the second one on October the 1st,
20 which there's no audio, there's no video and there's
21 certainly no written statement signed by my client, when
22 asked who was present at that interview by Mr. Donnalld,
23 Melissa told you it was her and Wesley Gardner. But then when
24 I asked her and Wesley Gardner if Sheriff Dennis was there,
25 they both said yeah, maybe. We think so. We think he could

1 have been there. They remember very clearly everything that
2 was said there, but then their memory gets a little cloudy
3 when I start asking about whether or not their boss was
4 present. Does that sound credible? Does that sound
5 believable? Does that sound like something that you would
6 want to use to convict a man of double murder with? No,
7 ladies and gentlemen. It's credibility and believability.

8 Lieutenant Addison said that it was possible that, or it
9 appeared that, potentially, Willie fell first followed by
10 Rayshawn. One way in, one way out at Confederate Road,
11 which is important. Eric Davis, the man in this house when
12 this crime was committed -- that wasn't brought in front of
13 you and questioned in front of you so you could hear a
14 firsthand account of what he saw and what he heard -- only
15 one way in, one way out of that house and it went right past
16 his hallway. And somehow he can be in the house where two
17 double murders happen, he can go out into the living room and
18 call out for Willie and Rayshawn and manage to get out of the
19 house without getting hurt and if that doesn't seem
20 suspicious enough, ladies and gentlemen, the State refused to
21 put him on the stand.

22 And then you heard me start asking Melissa Addison
23 questions about the case, about her investigation, parts of
24 which you ladies and gentlemen, until I got up on cross
25 examination and started asking her questions, you never

1 heard, you never heard that the driver's license of Rondell
2 McFadden was found in the house where Willie and Rayshawn
3 were murdered when authorities came in to clean up and
4 process the scene. Never ever heard there was some guy's
5 license laying there. You certainly didn't hear him come and
6 testify and tell you why his license was there. You heard on
7 cross examination Melissa Addison admit that a woman by the
8 name of Tamara Norton was likely and probably the last person
9 to ever communicate with Willie Chatman and who had been with
10 Willie Chatman just prior to this happening. You could have
11 heard what she and Willie did that night, where they'd gone.
12 But the State chose not to put that evidence in front of you.
13 And unless I'd asked Melissa Addison those questions, you
14 ladies and gentlemen never would have known that there was a
15 license found in that residence from somebody that didn't
16 live there and that there was somebody that was with Willie
17 Chatman up until the last few minutes of his life.

18 You heard Melissa Addison admit to having heard rumors
19 that there's someone in the Sumter Lee Regional Detention
20 Center who may have a watch of either Willie's or Rayshawn's.
21 When I asked her if she followed up on that, the answer was
22 well, that's a fairly common watch. You hear rumors that
23 there is a man in possession of the watch of one of the
24 deceased and you decided not to investigate it at all because
25 it's a fairly common watch? No, ladies and gentlemen, no.

1 Credibility and believability.

2 You also heard Melissa Addison say it's not important
3 who the jailhouse snitches allegedly said shot the victims,
4 Willie and Rayshawn. If that's not the most incredible
5 statement I've ever heard, I don't know what is. It's not
6 important who shot these people? I don't know how Melissa
7 Addison sat in this courtroom, almost directly in front of
8 the families of Willie and Rayshawn and said it is not
9 important who shot each of Willie and Rayshawn.

10 And then she told you that she was told at least six
11 different people shot Willie and Rayshawn. Somehow, they pick
12 my client. But they didn't give you any evidence as to why
13 they picked my client. They bring in the earliest piece of
14 evidence nine months after my client was arrested. You also
15 heard Melissa Addison admit that she'd gotten a letter about
16 this case from a man named Derrick Darby. Who is Derrick
17 Darby? Why wasn't he brought into the courtroom? What were
18 the contents of that letter? We'll never know and you have to
19 ask yourself why the State of South Carolina, County of
20 Sumter, didn't think that was important enough to tell you
21 ladies and gentlemen, who they are asking you to convict of a
22 double murder.

23 Let's talk a little bit about my client. This is Arsenio
24 Colclough. And I believe that I have failed to introduce
25 myself to you since we started this trial. My name is Lir

1 Patrick Derieg and as I said during jury qualifications, it
2 is my honor and privilege to represent this man because he
3 stands wrongly accused of a double murder of one of his
4 friends and one of his best friends. He's been arrested since
5 October the 1st of 2013 and has maintained his innocence
6 throughout and he came and sat before you ladies and
7 gentlemen and put his fate in your hands because he knows he
8 didn't do it. My client was arrested on September the 18th
9 for a courtesy summons in two unpaid traffic tickets. You
10 heard testimony that here is a video of the interview on
11 September the 18th, 2013 where Wesley Gardner and Melissa
12 Addison interviewed my client and asked him about the
13 murders, if he knew anything. And he repeatedly -- and you
14 heard Melissa Addison admit and Wesley Gardner admit he
15 repeatedly denied any involvement. Why do you think that tape
16 wasn't played for you?

17 Then a second alleged interview, October the 1st, the
18 day he was arrested where Wesley Gardner, Melissa Addison and
19 Sheriff Dennis go and interview my client. No video, no
20 audio, and no written statement. I think she said something
21 about not being able to collect that video that day. Seems
22 awfully convenient, doesn't it? And they don't show you the
23 video that they have of my client, looking them in the eye,
24 saying I didn't do it.

25 Look at State's #20. They put into evidence these two

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1 sheets of paper. The first sheet of paper the only thing that
2 Solicitor Donnald ever asked Melissa Addison about and that's
3 his advice of rights form. It lets him know that he has the
4 right to remain silent, that anything he says can and will be
5 used against him and that he has the right to an attorney.
6 And he signed away all those rights and agreed to talk to the
7 police, including Sheriff Dennis. But the second page, which
8 you would have heard no testimony about had I not asked you
9 for it -- had I not asked Melissa Addison for it, is the form
10 that he filled out on October the 1st of 2013 where he
11 voluntarily gave a sample of DNA. And you heard Melissa
12 Addison say that had he not voluntarily done that, she would
13 have had to go to court to go to a judge and convince a judge
14 that she needed a DNA sample of Arsenio Colclough. Well, she
15 didn't have to do that because he voluntarily, voluntarily,
16 gave his DNA.

17 I submit to you, ladies and gentlemen, in hopes that
18 this would never happen because he didn't do it, that we'd
19 never be in this trial because he didn't do it. Do you think
20 -- does it seem credible or believable to you guys that
21 someone guilty of a double murder gets served a murder
22 warrant, agrees to talk to two investigators and the sheriff,
23 and gives his own DNA freely and voluntarily? Is that the
24 actions of a guilty man? Or is that the actions of a man with
25 nothing to hide? Y'all are the fact finders. You get to

1 decide. What seems credible? What seems believable? What
2 wasn't shown to you guys?

3 Eric Davis, we've talked about him. No testimony from
4 Eric Davis. Mike Bean, we talked about him, lead crime scene
5 investigator, could have told you where the knives were
6 collected from when Mike went in, when Bobby Richardson
7 couldn't remember because he wasn't the one that did it. They
8 didn't think it was important enough to put the person that
9 collected all of the evidence that they have presented to
10 you, didn't think it was worth putting him on the stand to
11 tell you, ladies and gentlemen how it was collected, how it
12 was preserved and who did it? Not important. No, ladies and
13 gentlemen. It's credibility and believability.

14 Jwain Francis, immaterial? He's material enough for Mr.
15 Donnald to ask you ladies and gentlemen if you believe he
16 killed either or both, Willie and Rayshawn and think that
17 Arsenio was with him. He's material enough for Mr. Donnald to
18 ask you to convict my client of a double murder simply by
19 being with Jwain Francis.

20 Derrick Darby in the letter that he wrote Melissa
21 Addison, you never even would have heard about it had I not
22 asked the question. Why do you think the State was keeping
23 that from you? These are the questions that you should and
24 must ask yourself when deciding whether or not to convict a
25 man of double murder. A man whose license was found in the

1 house when law enforcement came to process the scene, he
2 wasn't worth putting up? You wouldn't even have known about
3 it if I hadn't asked the question. Did they present you guys
4 with a license that was found? Did they even bother to run
5 any sort of DNA on that license that was found in the crime
6 scene? No.

7 Tamara Norton, the last person to see Willie Chatman
8 alive. Was with Willie Chatman right up until a few minutes
9 before his death could have come in here and told you guys
10 what she and Willie were doing just prior to Willie being
11 murdered. But you never even would have known about her if I
12 hadn't asked the question.

13 Black, the man John Colclough allegedly says he gave the
14 gun that he admitted to using, pled guilty to using, a guy
15 named Black. You saw the testimony. You heard the testimony.
16 Black's a fairly common name. I guess it wasn't worth looking
17 into, was it? Kind of like that watch.

18 The three most important things ladies and gentlemen
19 that the State failed to show you, the video they have of my
20 client talking to law enforcement and being questioned about
21 this crime, where they admit -- they have to admit, that my
22 client denied it over and over and over. They didn't think it
23 was worth showing you. They didn't bother to let you guys
24 know how my client came to be a suspect, where they generated
25 his name from. It had to come from somewhere. You have no

1 idea how it is the police went from April the 12th and 13th
2 of 2013 discovering two dead bodies to six months later
3 serving two murder warrants and two weapons charges against
4 my client and they tell you nothing about what was done in
5 that six-month period of time to convince them that they
6 needed to arrest my client, but they want you to convict him
7 of a double murder. You're not being told the whole story.
8 There is a huge hole. A huge six month hole in this three
9 year ordeal that the State has failed to tell you anything
10 about and after six months where they came up with his name.
11 How can the State of South Carolina try and convict a man of
12 double murder without telling the jurors why they believed he
13 was a suspect and why they arrested him? You're talking about
14 reasonable doubt? There could be no more reasonable doubt
15 than that, when the police and the State of South Carolina
16 and the solicitor's office fail to present to you any
17 evidence whatsoever of why Arsenio Colclough became a suspect
18 or was charged with murder. Credibility and believability,
19 ladies and gentlemen. The most important six-month period of
20 time in this case, you heard nothing about and in this
21 country there is no way you can convict that man beyond a
22 reasonable doubt of two murders and you have no idea why he
23 even got arrested.

24 Every day, every week, every month, it seems like you
25 turn on the news and you hear somebody somewhere in the

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1 country being released from prison after a long sentence
2 because unknown DNA at a crime scene is finally identified.
3 Ladies and gentlemen, please during your deliberations,
4 please go through this, State's #19 and look and see how many
5 unknown sources of DNA are at that scene. And the only thing
6 that they get as a possible inclusion of my client is either
7 sweat or skin cells that three hundred and seventy-five
8 million people on the planet are just as likely to be a
9 possible inclusion. That's your physical evidence, ladies and
10 gentlemen, because my client is excluded from everything
11 else.

12 I told you the physical evidence in this case was going
13 to be the most important thing. In State's 19, I submit to
14 you ladies and gentlemen, is the most important piece of
15 evidence that will be back in that room with you guys. In
16 order to convict my client of double murder you have to
17 believe that he's guilty beyond a reasonable doubt when there
18 are more people than are in this country are mathematically
19 likely to have given the same possible inclusion. It's the
20 United States of America, ladies and gentlemen. That's not
21 how we operate. It's not how we should operate. And
22 unfortunately we hear far too often that that's what is
23 happening. Do not let that happen here today. Do not convict
24 an innocent man of double murder where you have no clue why
25 he was arrested. He is just as likely as three hundred and

1 seventy-five million other people on the planet, more people
2 than are in this country to have given a possible inclusion.
3 Not blood, but sweat and skin cells. That's your one piece of
4 physical evidence, ladies and gentlemen. One piece. And
5 otherwise, you have to accept the fact that the State -- you
6 just have to believe the State arrested my client. You don't
7 get to hear why. You don't get to hear what evidence there is in
8 his direction. You just have to accept the fact my client was
9 arrested. And to convict him of double murder, you have to
10 disregard that six-month hole in the case, because I submit
11 to you, ladies and gentlemen, that if you take that six-month
12 hole, the six months where they developed Arsenio Colclough's
13 name and then arrested him, you have to completely discount
14 that hole in order to convict my client of murder.
15 Essentially, you have to agree with the State that it doesn't
16 matter why he was arrested. Because if they trot in what they
17 thought would be three jailhouse snitches to tell you that he
18 confessed to it, when not one of them would take the stand
19 and say that, and the one that would take the stand said he'd
20 never seen Melissa Addison before in his life, never said the
21 words that are in the statement attributable to him and he
22 never signed it? You have to take those three people in July
23 of 2014, April of 2015, October of 2015, completely dismiss
24 the six months between April and October of 2013, and not
25 care that there are mathematically three hundred and seventy-

1 five million people on this planet that are just as likely to
2 have been possibly included of sweat and skin cells. You have
3 to take, you have to do all of that in order to convict my
4 client of double murder.

5 Ladies and gentlemen, the lack of credibility, the lack
6 of believability of any one of those is far and away enough
7 to set this man free and to tell the State of South Carolina,
8 the Sumter County Solicitor's Office, and the Sumter County
9 Sheriff's Department, that that's not how we do things in
10 this country. That's not how we do things in this state. That
11 is not how we do things in this county. If you want to
12 convict somebody of anything, you've at least got to tell the
13 jury why the got arrested, right?

14 Ladies and gentlemen, I'm about to sit down. And I
15 appreciate your attention. I appreciate your focus on this
16 case. When I sit down, His Honor, the Judge of the law, is
17 going to instruct you ladies and gentlemen on the law of the
18 case and then you will retire to the jury room and begin your
19 deliberations at the appropriate time. When you ladies and
20 gentlemen go in there, I submit to you that there is one
21 verdict, one. The truth will dictate to you ladies and
22 gentlemen and justice demands, demands, justice demands that
23 you set Arsenio Colclough free by finding him not guilty of
24 all crimes charged. Thank you.

25 THE COURT: All right. Ladies and gentlemen, why don't we

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1 take a ten-minute recess and then I'll come back and charge
2 you and I'll tell you a lunch has been ordered for you.
3 Please do not discuss anything about the case. Thank you.

4 (Jury out at 12:00 p.m.)

5 THE COURT: All right. Court will be in recess for ten
6 minutes.

7 MR. DONNARD: Thank you.

8 MR. DERIEG: Thank you.

9 AFTERNOON - MARCH 24, 2016

10 THE COURT: Do y'all have any objection to sending a copy
11 of the charge back with the jury?

12 MR. DONNARD: No objection from the State.

13 THE COURT: I always ask that. I can do it without your
14 permission. I don't need your permission.

15 MR. DONNARD: Then definitely no objection.

16 MR. DERIEG: I don't object, Your Honor.

17 THE COURT: Okay. It just helps when you've got this many
18 charges for them to have everything I have down. All right.
19 Very well. All right. Let's bring our jury in.

20 MR. BRADLEY: All right, sir.

21 THE COURT: And secure the courtroom.

22 (Jury in at 12:11 p.m.)

23 CHARGE ON THE LAW

24 THE COURT: All right. Ladies and gentlemen, all of the
25 testimony in this case has been presented to you. Now is the

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1 time of the trial where I will charge you the law to be
2 applied in this case. And I remind you that during this trial
3 you and I have certain duties to perform. As the trial Judge
4 it is my responsibility to preside over the trial of this
5 case and I also have the duty to rule on the admissibility of
6 evidence that has been offered during this trial. You're to
7 consider only the competent evidence that is before you. If
8 there was any testimony ordered stricken from the record in
9 this case during this trial, you must disregard that
10 testimony. As I said, you're to consider only the testimony
11 which has been given from the witness stand and any exhibits
12 which have been a record in this case and any stipulation of
13 counsel.

14 Ladies and gentlemen, I have the additional duty to
15 charge you the law that is applicable to this particular case
16 and as the presiding Judge I am the sole judge of the law in
17 this case and it is your duty as jurors to accept and apply
18 the law exactly as I now state it to you. If you already have
19 some idea as to what the law is or what the law ought to be
20 and it does not agree with what I'm telling you the law is,
21 you must abandon that idea, because ladies and gentlemen, you
22 are sworn to accept and apply the law exactly as I state it
23 to you.

24 Now, ladies and gentlemen, in every case tried before a
25 jury, the jury becomes the sole and exclusive judges of the

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1 facts. As a trial judge, I cannot intimate, state, comment or
2 make any statement to a trial jury about the facts of the
3 case. Since you are the jury, you are the sole judges of the
4 facts and you are not to infer from anything that I have said
5 during the progress of the trial, in ruling on the
6 admissibility of evidence or otherwise, or anything that I
7 say during the course of these instructions, that I have any
8 opinion about the facts in the case. The law simply just does
9 not allow me to have an opinion about the facts. That's a
10 matter solely for you, as jurors, to determine. And as
11 jurors, it is your duty to determine the effect, the value,
12 the weight, and the truth of the evidence that has been
13 presented during this trial.

14 Now, ladies and gentlemen, the indictment in this case
15 alleges four different offenses against the Defendant. The
16 charges under the indictment, indictment number 2014-GS-43-
17 896, count one, is murder and then there's a lesser included
18 offense of voluntary manslaughter. Count two is murder, and
19 there's the lesser included charge of voluntary manslaughter.
20 Count three, possession of a weapon during the commission of
21 a violent crime. And count four, possession of a weapon
22 during the commission of a violent crime. Now, each count in
23 the indictment charges a separate and distinct offense and
24 you must decide each count separately based on the evidence
25 and the law applicable to it, uninfluenced by your decision

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1 as to any other count and the Defendant may be convicted or
2 acquitted on any or all of the offenses charged.

3 However, if the Defendant is found not guilty of murder
4 or voluntary manslaughter, then he cannot be found guilty of
5 possession of a weapon during the commission of a violent
6 crime because there would have been no violent crime. Ladies
7 and gentlemen, you will be asked to write a separate verdict
8 of guilty or not guilty on each count. And I remind you, the
9 fact that the Defendant was arrested, charged and indicted is
10 not evidence in this case and cannot be considered by you as
11 evidence of guilt, nor does it create any presumption or
12 inference of guilt. The indictment is simply the formal
13 written document by which this charge is made against the
14 Defendant and it is the formal document which brings this
15 case into court.

16 Now, ladies and gentlemen, the Defendant has pled not
17 guilty to the charges and that plea puts the burden on the
18 State to prove the Defendant guilty. A person charged with
19 committing a criminal offense in South Carolina is never
20 required to prove himself innocent. Now, I charge you this is
21 an important rule of law, that a Defendant in a criminal
22 trial, no matter how serious the charge might be, will always
23 be presumed to be innocent of the crime for which the
24 indictment was issued unless guilt has been proven by
25 evidence satisfying you of that guilt beyond a reasonable

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1 doubt. Presumption of innocence does not end when you begin
2 your deliberations, but it accompanies the Defendant
3 throughout this trial until you reach a verdict of guilt
4 based on evidence satisfying you of the Defendant's guilt
5 beyond a reasonable doubt.

6 The presumption of innocence is like a robe of
7 righteousness that's placed about the shoulders of the
8 Defendant, which remain with that Defendant until you or
9 until it has been stripped from the Defendant by evidence
10 satisfying you of the Defendant's guilt beyond a reasonable
11 doubt. And the presumption of innocence is not a mere legal
12 theory. It's not just a legal phrase that we use, but it is a
13 substantial right to which every Defendant is entitled unless
14 you, the jury, are satisfied from evidence satisfying you of
15 the Defendant's guilt beyond a reasonable doubt.

16 Now, ladies and gentlemen, as I said, the State has the
17 burden of proving the Defendant guilty beyond a reasonable
18 doubt and some of you may have served as jurors in civil
19 cases where you were told that it was only necessary to prove
20 that a fact is more likely true than not true, such as by the
21 greater weight or the preponderance of the evidence. In
22 criminal cases, however, the State's proof must be more
23 powerful than that. It must be beyond a reasonable doubt. And
24 proof beyond a reasonable doubt is proof that leaves you
25 firmly convinced of the Defendant's guilt. It is the kind of

1 doubt that would cause a reasonable person to hesitate to
2 act.

3 Ladies and gentlemen, there are very few things in this
4 world that we know with absolute certainty and in criminal
5 cases the law does not require that proof overcomes every
6 possible doubt. If, based upon your consideration of the
7 evidence you are firmly convinced of the Defendant's guilt of
8 the crimes charged, you must find the Defendant guilty. If,
9 on the other hand you think there's a real possibility that
10 the Defendant is not guilty, then you must give the Defendant
11 the benefit of the doubt and find him not guilty.

12 Ladies and gentlemen, there are two types of evidence
13 that are generally presented during a trial. There's direct
14 evidence and there's circumstantial evidence. Direct evidence
15 is the testimony of a person who claims to have actual
16 knowledge of a fact, such as an eye witness. It is evidence
17 which immediately establishes the main fact to be proved.
18 Circumstantial evidence is a proof of a chain of facts and
19 circumstances indicating the existence of a fact and crimes
20 may be proven by circumstantial evidence and the law makes
21 absolutely no distinction between the value to be given to
22 either direct or circumstantial evidence. However, to the
23 extent that the State relies on circumstantial evidence, all
24 the circumstances must be consistent with each other and when
25 taken together, point conclusively to the guilt of the.

1 accused beyond a reasonable doubt. If these circumstances
2 merely portray the Defendant's behavior as suspicious, the
3 proof has failed. The State has the burden of proving the
4 Defendant guilty beyond a reasonable doubt and this burden
5 rests on the State regardless of whether the State relies on
6 direct evidence, circumstantial evidence, or some combination
7 of the two.

8 Now, ladies and gentlemen, I instruct you and I
9 emphasize the fact that the Defendant did not testify is not
10 a factor to be considered by you in any way in your
11 deliberations and in your consideration on the question of
12 guilt or innocence of the Defendant. It must not be
13 considered by you in any manner whatsoever. The Defendant has
14 the constitutional right to remain silent and the assertion
15 of this right must not be considered by you in your
16 deliberations. And I repeat, under the oath that you took as
17 jurors, you are to draw no conclusion whatsoever from the
18 fact that the Defendant in this case did not testify and the
19 fact that the Defendant did not testify should not even be
20 discussed in the jury room. As I said, the burden of proof is
21 on the State and the Defendant is not required to prove his
22 innocence. The burden of proof remains on the State to prove
23 guilt beyond a reasonable doubt.

24 Now, necessarily, ladies and gentlemen, you must
25 determine the credibility of witnesses who have testified in

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1 this case and credibility is simply, believability. And it
2 becomes your duty as jurors to analyze and to evaluate the
3 evidence and determine which evidence convinces you of its
4 truth. In determining the believability of witnesses who have
5 testified in this case, you may believe one witness over
6 several witnesses or several witnesses over one witness. You
7 may believe a part of the testimony of a witness and reject
8 the remaining parts of the testimony of that same witness.
9 You may believe the testimony of a witness in its entirety or
10 reject the testimony of a witness in its entirety and you may
11 consider whether any witness has exhibited to you any
12 interest, bias, prejudice or other motive in this case. You
13 may also consider the appearance and manner of a witness on
14 the witness stand.

15 Now, ladies and gentlemen, the rules of evidence
16 ordinarily do not permit witnesses to testify to opinions or
17 conclusions. There's an exception to this rule that exists
18 for witnesses we call expert witnesses. A witness who, by
19 education and experience, has become expert in some art,
20 science, profession or calling may state an opinion as to
21 relevant and material matter in which the witness claims to
22 be an expert and may also state the reason for the opinion.
23 You should consider any expert opinion received in evidence
24 in this case like any other evidence. Give it the weight that
25 you think it deserves. If you decide the opinion of an expert

1 is not based on sufficient education and experience or if you
2 conclude that the reasons in support of the opinion are not
3 sound or that the opinion is outweighed by other evidence,
4 you may disregard the opinion in its entirety. Expert
5 witness's testimony is to be given no greater weight than
6 that of any other witness simply because the witness is an
7 expert. Further, you are not required to accept an expert's
8 opinion even though it is not contradicted.

9 Now, ladies and gentlemen, if a crime is committed by
10 two or more people who are acting together in committing a
11 crime, the act of one is the act of all. When a person joins
12 with another to commit an unlawful act, they are criminally
13 responsible for everything done by the other person which
14 happens as a probable or natural consequence of the act done
15 in carrying out the common plan and purpose. For example, two
16 people can be guilty of killing another when only one of the
17 two had a gun and there was only one bullet and only one of
18 the two fired the shot that caused the death. If two or more
19 people are acting together, assisting each other in
20 committing the offense, the act of one is the act of all and
21 as some have said, the hand of one is the hand of all and
22 prior knowledge that a crime is going to be committed without
23 more is not sufficient to make a person guilty of that crime.
24 Mere knowledge that another person is going to commit a
25 crime, even if the Defendant is present when the crime is

1 committed is not sufficient to convict the Defendant as a
2 principle. Guilt as a principle is shown by actual or
3 constructive presence at the scene as the result of a prior
4 arrangement. Therefore, a finding of a prior arrangement,
5 plan or common scheme is necessary for a finding of guilt as
6 a principle and the State must prove beyond a reasonable
7 doubt by competent evidence the theory of the hand of one is
8 the hand of all. A principal in a crime is the one who either
9 actually commits the crime or is present aiding and abetting
10 or assisting in committing the crime and when a person
11 doesn't act in the presence of another or with the assistance
12 of another, the act is done by both. When two or more acting
13 in a common plan or scheme are present at the commission of a
14 crime, it does not matter who actually commits the crime. All
15 are guilty. The hand of one is the hand of all and presence
16 at the commission of a crime means you are sufficiently near
17 to aid and abet in the commission of the crime. However, as I
18 said, mere presence at the scene of a crime is not sufficient
19 to convict one as a principal on the theory of aiding and
20 abetting and intent is also a necessary element where there
21 must have been a common design or intent to commit the crime
22 and the crime must have been committed pursuant thereto with
23 the person aiding and abetting some overt act.

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

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

5 Ladies and gentlemen, if one intentionally kills another
6 during the commission of a felony, the inference of malice
7 may arise. If facts are proved beyond a reasonable doubt
8 sufficient to raise an inference of malice to your
9 satisfaction, this inference would simply be an evidentiary
10 fact to be taken into consideration by you along with all
11 other evidence in this case and you may give it the weight
12 that you decide that it should receive:

13 Ladies and gentlemen, the Defendant is charged with two
14 counts of murder. The State must prove beyond a reasonable
15 doubt the Defendant killed another person with malice
16 aforethought. Malice is hatred, ill will, or hostility
17 towards another person. It is the intentional doing of a
18 wrongful act without just cause or excuse and with the intent
19 to inflict an injury or under circumstances that the law will
20 infer an evil intent. Malice aforethought does not require
21 that malice exist for any particular time before the act is
22 committed, but malice must exist in the mind of a Defendant
23 just before and at the time of the act that is committed.
24 Therefore, there must be a combination of a previous evil
25 intent and the act and malice aforethought may be expressed

1 or inferred. These terms expressed or inferred do not mean
2 different kinds of malice but merely the manner in which
3 malice may be shown to exist. That is, either by direct
4 evidence or by inference from the facts and circumstances
5 which are proved and express malice is shown when a person
6 speaks words which express hatred or ill will for another or
7 when a person prepares beforehand to do the act which was
8 later accomplished. For example, lying in wait for a person
9 or any other acts of preparation going to show that the deed
10 was within the Defendant's mind with expressed malice. Malice
11 may be inferred from conduct showing a total disregard for
12 human life. Inferred malice may also arise when the deed is
13 done with a deadly weapon. A deadly weapon is any article,
14 instrument or substance which is likely to cause death or
15 great bodily injury or bodily harm and whether the instrument
16 had been used as a deadly weapon depends on the facts and the
17 circumstances of each case and a gun is a deadly weapon.

18 Included within the offense of murder is the lesser
19 offense of voluntary manslaughter. The Defendant is charged
20 with voluntary manslaughter. To prove voluntary manslaughter,
21 the State must prove beyond a reasonable doubt that the
22 Defendant took the life of another in the sudden heat of
23 passion based on sufficient legal provocation. Both heat of
24 passion and sufficient legal provocation must be present at
25 the time of the killing to constitute voluntary manslaughter.

1 And sudden heat of passion for a time affects a person's
2 self-control, temporarily disturbs a person's reason. The
3 sudden heat of passion must be the type that would make an
4 ordinary person unable to coolly reflect on his actions and
5 would produce an uncontrollable impulse to do violence.
6 Sufficient legal provocation must be the type that would make
7 a person of ordinary reason and caution become enraged and to
8 lose control temporarily. Provocation needed for voluntary
9 manslaughter must come from some act or related to the victim
10 and words alone, however vulgar or insulting are not enough
11 to be legal provocation.

12 And where death is caused by the use of a deadly weapon,
13 the words must be accompanied by some overt threatening act
14 which could have produced the heat of passion and the
15 exercise of a legal right, no matter how offensive it is to
16 another, is never sufficient legal provocation for voluntary
17 manslaughter. If the heat of passion had cooled or if there
18 was enough time between the provocation, if any, and the
19 killing for the passion of a reasonable person, the killing
20 would not be voluntary manslaughter. In deciding whether a
21 reasonable person would have had enough time to cool off, you
22 should consider all of the circumstances surrounding the
23 killing and you may consider the nature of the provocation,
24 if any, and the Defendant's mental and physical state and the
25 circumstances and relationships between the parties.

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1 Ladies and gentlemen, the Defendant is charged with two
2 counts of possession of a weapon during the commission of a
3 violent crime. The State must prove beyond a reasonable doubt
4 that the Defendant was in possession of a firearm or visibly
5 displayed what appeared to be a firearm during the commission
6 of a violent crime. A firearm means any machine gun,
7 automatic rifle, revolver, pistol or any weapon which is
8 designed to, or make it readily converted to, expel a
9 projectile. In order to find a Defendant guilty of possession
10 of a weapon during the commission of a violent crime, you
11 must first find the Defendant guilty of either committing a
12 violent crime or attempting to commit a violent crime and
13 murder is a violent crime. The State must also prove beyond a
14 reasonable doubt that the weapon further advanced or helped
15 the commission of the crime.

16 Now, ladies and gentlemen, there are two possible
17 verdicts which you may find on each count under indictment
18 2014-GS-43-896. Count one, murder of Willie Jermaine Chatman,
19 not guilty or guilty. If the Defendant is found not guilty,
20 you will then proceed to question two. If the Defendant is
21 found guilty you'll please proceed to question three, which
22 is voluntary manslaughter of Willie Jermaine Chatman, not
23 guilty or guilty. If the Defendant is found not guilty you'll
24 proceed to question four. And if the Defendant is found not
25 guilty, then you'll go back to proceed to question three.

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1 Count three, possession of a weapon during the commission of
2 a violent crime, not guilty or guilty. And then count two,
3 murder of Rayshawn Sherrod Holmes, not guilty or guilty. And
4 if the Defendant is found not guilty you will then proceed to
5 item five. And if the Defendant is found not guilty, you will
6 then proceed to item six concerning voluntary manslaughter of
7 Rayshawn Sherrod Holmes, not guilty or guilty. If the
8 Defendant is found guilty you will then stop your
9 deliberations. If the Defendant is found not guilty you'll
10 then proceed to number six, count four, possession of a
11 weapon during the commission of a violent crime, not guilty
12 or guilty.

13 Ladies and gentlemen, I'm going to show you. It's going
14 to be easier than I just laid it out for you because you're
15 going to have this verdict form that's going to give you
16 instructions on how you go on each charge. Ladies and
17 gentlemen, I remind you that your verdict must be unanimous.
18 All twelve of you must agree on the verdict and your decision
19 must not be based on sympathy, passion, prejudice or any
20 other emotion or any other consideration that is not in
21 evidence in this case.

22 Madam Forelady, when the jury agrees on a verdict, you
23 will go through each one of these as I showed you. You'll
24 sign your name on the bottom of the form, date it. Please
25 knock on the jury room door to tell the bailiffs that you

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1 have reached a verdict. Then you will be brought back into
2 the courtroom for the publication of your verdict.

3 Now, ladies and gentlemen, I'm going to ask that you go
4 to your jury room but please do not begin your deliberations.
5 I still have some matters I need to bring up with the
6 attorneys. In addition, the charge that I just read to you, I
7 have provided you with a hard copy for you to have in the
8 jury room. All right. Thank you, ladies and gentlemen.

9 (Jury out at 12:36 p.m.)

10 THE COURT: Are there any objections to the charge that
11 has been given to the jury from the State?

12 MR. DONNALD: None from the State.

13 THE COURT: From the Defense?

14 MR. DERIEG: None from Defense, Your Honor.

15 THE COURT: All right. Very well. If y'all would get
16 together and gather up the information or the evidence and
17 make sure it's all there and then we'll tell the jury to
18 begin their deliberations. Thank you.

19 (Jury begins deliberating at 12:48 p.m.)

20 (Alternate jurors dismissed)

21 (Court in recess awaiting verdict)

22 THE COURT: We're here for the purpose of putting on the
23 record that no one had objection to my using the courtroom to
24 look at part of the video that was in evidence. Is that
25 correct, Mr. Derieg?

1 MR. DERIEG: Yes, sir.

2 MR. DONNALD: Yes, Your Honor.

3 THE COURT: Thank you very much. Court's at ease pending
4 the call of the Court.

5 (Portion of State's Exhibit #22, interview on CD, played
6 for the jury.)

7 COURT RESUMES

8 THE COURT: Thank you ladies and gentlemen, please take
9 your seats. All right. Ladies and gentlemen, the jury has
10 reached a verdict. I would remind everybody to keep your
11 emotions in check. I understand there has been some harsh
12 words stated earlier, but that will not be tolerated. If
13 anyone does not believe that they can keep their emotions in
14 check, now would be the time to leave the courtroom because
15 if there's any outbreak or anyone participating in any
16 outbreak will go directly to the Sumter County Detention
17 facility for thirty days under a contempt of court action.
18 Everybody understand? I take it that your staying in here
19 means you do understand. Thank you. Let's bring our jury in.

20 MR. BRADLEY: Yes, sir.

21 (Jury in at 3:49 p.m.)

22 VERDICT

23 MR. BRADLEY: Your Honor, we have all the jurors present
24 in the courtroom.

25 THE COURT: All right. Thank you. Madam Forelady, has the

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1 jury reached a verdict?

2 MADAM FORELADY: Yes, sir.

3 THE COURT: Is it unanimous?

4 MADAM FORELADY: Yes, sir.

5 THE COURT: Okay. Please had it to Mr. Bradley.

6 MADAM FORELADY: (Complies)

7 THE COURT: The verdict form is in order. Mr. Bradley,
8 please publish it. The Defendant will rise.

9 ARSENIO COLCLOUGH: (Complies)

10 THE CLERK: For the State of South Carolina, County of
11 Sumter, in the Court of General Sessions, Docket number
12 2014-GS-43-0896. The State of South Carolina, plaintiff
13 versus Arsenio Danta Colclough, Defendant.

14 Question number one: We, the jury, by unanimous
15 agreement, find the Defendant, Arsenio Danta Colclough, on
16 the charge of the murder of Willie Jermaine Chatman, guilty.

17 Question number three: We, the jury, by unanimous
18 agreement, find the Defendant, Arsenio Dante Colclough, on
19 the charge of possession of a weapon during the commission of
20 a violent crime, guilty.

21 Question number four: We, the jury, by unanimous
22 agreement find the Defendant, Arsenio Danta Colclough, on the
23 charge of murder of Rayshawn Sherrod Holmes, guilty.

24 Question number six: We, the jury, by unanimous
25 agreement find the Defendant, Arsenio Danta Colclough, on the

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1 charge of possession of a weapon during the commission of a
2 violent crime, guilty.

3 Signed Cynthia C. Long, Forelady. Dated the 24th day of
4 March, 2016.

5 Ladies and gentlemen of the jury, is this your verdict?
6 So say all by raising your right hand, please?

7 (All jurors' right hand was raised.)

8 MR. BRADLEY: Thank you.

9 THE COURT: All right. Thank you. Does the Defendant want
10 to poll the jury?

11 MR. DERIEG: Please, Your Honor.

12 THE COURT: All right. Please poll the jury.

13 MR. BRADLEY: Yes, sir. Ladies and gentlemen, when I call
14 your name, please stand and answer two questions for me.

15 Juror Number 12, Blaine Bjorken. Is this your verdict
16 and still your verdict?

17 MR. BJORKEN: Yes, sir.

18 THE CLERK: Thank you. You can have a seat.

19 Qanard Singleton. Is this your verdict and still your
20 verdict?

21 MR. SINGLETON: Yes, sir.

22 MR. BRADLEY: Thank you.

23 Franklin Benjamin. Is this your verdict and still your
24 verdict?

25 MR. BENJAMIN: Yes, sir.

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1 THE CLERK: Thank you.

2 Doris Choice-Workman. Is this your verdict and still
3 your verdict?

4 MS. CHOICE-WORKMAN: Yes, sir.

5 MR. BRADLEY: Thank you.

6 Jonathon Couthen. Is this your verdict and still your
7 verdict?

8 MR. COUTHEN: Yes, sir.

9 MR. BRADLEY: Thank you.

10 Laura Curtis. Is this your verdict and still your
11 verdict?

12 MS. CURTIS: Yes, sir.

13 MR. BRADLEY: Thank you.

14 Melody McLeod. Is this your verdict and still your
15 verdict?

16 MS. MCLEOD: Yes, sir.

17 MR. BRADLEY: Thank you.

18 Johnny Harrison. Is this your verdict and still your
19 verdict?

20 MR. HARRISON: Yes, sir.

21 MR. BRADLEY: Thank you.

22 Juror number 46, Patrick Diamond. Is this your verdict
23 and still your verdict?

24 MR. DIAMOND: Yes.

25 MR. BRADLEY: Thank you.

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1 Cynthia Long, Juror 105. Is this your verdict and still
2 your verdict?

3 MS. LONG: Yes, sir.

4 MR. BRADLEY: Thank you.

5 Juror 155, Regina Service. Is this your verdict and
6 still your verdict?

7 MS. SERVICE: Yes, sir.

8 MR. BRADLEY: Thank you.

9 Tammy Ridgill. Is this your verdict and still your
10 verdict?

11 MS. RIDGILL: Yes, sir.

12 MR. BRADLEY: Thank you.

13 Your Honor, the jury has been polled and the verdict
14 stands.

15 THE COURT: All right. Thank you. The Defendant may be
16 seated.

17 ARSENIO COLCLOUGH: (Complies)

18 THE COURT: Ladies and gentlemen, let me take this
19 opportunity to thank you for your work and the time that you
20 have given to your state and county for this week. You know,
21 it's never easy holding the life of a fellow citizen in your
22 hand and people who just watch TV and movies or reading
23 books, as I told you, may think it's an easy thing to do, but
24 it is not. You have taken on a tremendous responsibility and
25 you took an oath to listen to the evidence and the law and to

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1 reach a verdict and you have reached a verdict and I would
2 tell you this no matter what your verdict was, y'all did your
3 job by coming to a consensus on this and a unanimous
4 consensus. So, again, thank you. Ladies and gentlemen, let me
5 remind you that this counts as your jury service, of course.
6 So you cannot serve as a juror over the next year. And you
7 don't have to serve as a juror for the next three years if
8 you don't want to. Ladies and gentlemen, we always try to
9 wonder what makes America work. It's certainly not the
10 judges. It's not the politicians or anybody like that, but
11 it's people like y'all who probably did not know each other
12 before this week started. Very likely, you've never talked to
13 each other. But now you have a bond that you will remember
14 and you came together for a sole purpose of doing justice and
15 listening to the evidence and doing what you thought was
16 right and I appreciate that. I tell people that I have the
17 greatest job in the world because everyday when I come to
18 work, I get to sit between these two flags and these flags
19 represent something so much greater than ourselves. People
20 have died and bled for what these flags mean from the
21 standpoint that the prosecutors don't get to say whether
22 somebody's guilty. The judge doesn't get to say whether
23 somebody's guilty, but only the free people of our country
24 get to determine whether somebody is guilty or not and that's
25 one of the things that just makes this country great and you

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1 should be proud that you had an opportunity to be part of
2 that. And, again, I thank you. And like I said, many people
3 have died and bled for this and they didn't have to do that.
4 But you did all that you could to uphold the ideals that
5 these flags stand for. There are a lot of important things
6 going on in Sumter County this week and I assure you there
7 was nothing more important than listening to the evidence and
8 reaching the verdict that speaks the truth and making sure
9 that justice is done.

10 Now, ladies and gentlemen, in about forty-five minutes
11 I'm going to sentence this Defendant based upon your verdict.
12 I'm going to dismiss you in a minute and you're welcome to
13 come back and be part of the crowd. Or actually, if you want
14 to come back and sit in the jury box, you can. Or you can go
15 home and go your merry way and have a wonderful Easter. But
16 ladies and gentlemen, I want to take the opportunity to thank
17 each and every one of you for your time. Again, they pay you
18 fifteen dollars a day, which is nothing compared to the
19 service that you have given to our county and our state. So
20 it's with a heartfelt thank you, I release you now. If you'd
21 like to come back and see the verdict -- well, not the
22 verdict -- the sentence that I hand down, you're welcome to
23 do that. If you want to sit here, they'll let you back over
24 here. Thank you very much. If you need a work release,
25 they've got them here.

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(Jury out at 3:57 p.m.)

POST TRIAL MOTION

THE COURT: Are there any post-trial motions?

MR. DONNALD: Nothing from the State, Your Honor.

MR. DERIEG: Yes, Your Honor. I make a motion to set aside the verdict and ask for a new trial. I believe that there is a lack of evidence in the record to support the jury's verdict and no reasonable jury would have sat here for four days and listened to what they listened to and been able to come back with the verdict that they did. For those reasons, Your Honor, we would ask that you set aside the verdict and grant Mr. Colclough a new trial.

THE COURT: Mr. Donald?

MR. DONNALD: Your Honor, I would just rest on the same arguments that I made at the time Mr. Derieg made those motions for a directed verdict. I think that there does exist evidence. I think the jury deliberated and fairly reached it's decision. I'm certain that what he got was a fair and just verdict.

THE COURT: All right. All right. I'm going to respectfully deny your motion. If y'all would please place the Defendant in sentencing posture, I will sentence at a quarter to five. That will give you an opportunity to have the victims speak and he can have someone speak on his behalf.

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1 MR. DONNALD: Your Honor.

2 THE COURT: Yes, sir.

3 MR. DONNALD: If I may, just as a housekeeping matter,
4 there was an in camera conversation between the two attorneys
5 and Your Honor and we discussed whether or not Mr. Derieg
6 would be required to make any motion for directed verdict at
7 the close of the State's case and then not put up testimony
8 and make another -- renew his motion. I think we all agreed
9 that would not be necessary. That we would not require it. I
10 just want that on the record.

11 THE COURT: Okay. And I think we made that pretty clear.
12 Just make sure that all proper motions have been made by Mr.
13 Derieg. So, if y'all would put the Defendant in sentencing
14 posture, I'll sentence him at a quarter 'till five. Thank
15 you. Court's in recess until a quarter to five.

16 (Break)

17 SENTENCING

18 THE COURT: Thank you. Please take your seats. All right.
19 Solicitor, do you have the sentencing sheets?

20 MR. DONNALD: I do, Your Honor, if it please the Court?

21 THE COURT: Yes, sir.

22 MR. DONNALD: And may I approach?

23 THE COURT: You may.

24 MR. DONNALD: I have four sentencing sheets, one for each
25 of the arrest warrants in this case and under this

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1 indictment.

2 THE COURT: Okay.

3 All right. The Court at this time will hear from members
4 of the victims' families, if necessary.

5 MR. DONNALD: Your Honor, I've been informed the only
6 person -- first of all everybody to the, to your left side of
7 the courtroom is the victims' family.

8 THE COURT: All right.

9 MR. DONNALD: I've been informed there's only two who
10 wish to actually address the Court.

11 THE COURT: All right.

12 MR. DONNALD: The first victim would be Janice Chatman.

13 JANICE CHATMAN: Good afternoon, Your Honor.

14 THE COURT: Yes, ma'am. Good afternoon.

15 MR. DONNALD: You'll remember Ms. Chatman, she actually
16 testified during the trial.

17 THE COURT: Absolutely. Yes, ma'am. Ms. Chatman.

18 JANICE CHATMAN: My name is Janice Chatman. I'm Rayshawn
19 Holmes' mother and the aunt of Willie Chatman. I'm just here
20 to say this has been a long road for me and my family. This
21 has been a hard journey. Even though we are happy now that we
22 are getting some comfort for this, we still feel sorry for
23 the Defendant's family, because now his mom is losing a child
24 also and all of this was so senseless and we are really going
25 to miss our boys and nothing in the world can bring them back.

1 and that's all I want to say.

2 THE COURT: All right. Thank you.

3 JANICE CHATMAN: You're welcome.

4 MR. DONNALD: Your Honor, we also have Brittany Davis who
5 wishes to address the Court. You heard some testimony, Your
6 Honor, that Rayshawn had a son.

7 THE COURT: Yes, sir.

8 MR. DONNALD: He was four at this time. This is the son's
9 mother.

10 THE COURT: All right. Yes, ma'am, Ms. Davis.

11 BRITTANY DAVIS: I'm Brittany Davis and I'm Rayshawn's
12 son's mom and this brings a little bit of peace to the whole
13 situation and ---

14 THE COURT: Could you get a closer to the microphone. I
15 really want to hear you.

16 BRITTANY DAVIS: This brings a little more peace to the
17 situation of my son growing up and he will know someone
18 brought justice for this and he was a good person and a great
19 father to my son and knowing he won't be able to see his son
20 and his son know his daddy. It's kind of hard.

21 THE COURT: Thank you.

22 MR. DONNALD: Thank you, Your Honor.

23 THE COURT: Mr. Derieg, would anyone like to speak on
24 behalf of your client or would you client like to say
25 anything?

1 MR. DERIEG: Yes, Your Honor. Several members of Mr.
2 Colclough's family would wish to address Your Honor.

3 THE COURT: All right.

4 MR. DERIEG: The first is Ms. Charlene Moody, the mother
5 of Arsenio Colclough.

6 THE COURT: Okay. Yes, Ms. Colclough. I mean, Ms. Moody.
7 Excuse me.

8 CHARLENE MOODY: I just wants to say that from the very
9 beginning ---

10 THE COURT: Is that microphone on?

11 MR. DONNARD: It is, Your Honor.

12 THE COURT: It is?

13 CHARLENE MOODY: --- that this happened, my heart has
14 been out to Rayshawn's family and the other young man who I
15 don't know, but to his family. I'm a praying Christian woman
16 and I've raised my children to respect, not to say that my
17 son is an angel or has done everything right. I'm proud of
18 him. I'm proud of him for fighting for his truth and for his
19 life. I just can only pray that God give us all peace that
20 surpasses all understanding. And I just want the family know
21 that one day soon that the right people will stand up. I
22 truly don't feel like justice was served today, but I
23 understand and I have to trust my God and he's going to make
24 it all right. I refuse to believe that my child was born in
25 this world to be in this state, but sometimes you have to go

1 through something to get to where God really wants you to be.
2 And to my son, I love you and I'm proud of you, son. I'm so,
3 so, proud of you. More now than I've ever been. If you've
4 ever won a football team or basketball game, I'm more proud
5 of you now than I've ever been in my entire life and I'm
6 going to continue to lift you up and prayer and I want you to
7 continue to lift yourself up in prayer because you know God
8 first more than anything. That's all I have to say.

9 THE COURT: Thank you, ma'am.

10 CHARLENE MOODY: I love you and I'm proud of you. I'm not
11 ever going to give up on you. Now, do you hear me?

12 ARSENIO COLCLOUGH: Yes, ma'am.

13 THE COURT: Please state your name for the record.

14 SIERRA COLCLOUGH: Sierra Colclough.

15 THE COURT: Ms. Colclough, how are you today?

16 SIERRA COLCLOUGH: I'm fine. How are you?

17 THE COURT: Fine, thank you.

18 SIERRA COLCLOUGH: I just want to say that I'm still
19 praying for our family and their family. I don't believe that
20 justice was served in here today and looking at everything
21 that has occurred from day one till now, evidence on down,
22 it's not adding up. I do believe that a few months from now
23 somebody will come forward and tell the truth and be honest
24 that they will find the right killer. I don't want nobody to
25 feel like my brother's some kind of monster because he's not.

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1 And that it's just hard for both sides of the family and I
2 understand that, but I will still be praying for both sides
3 of the family.

4 THE COURT: Thank you.

5 TONY SMITH: My name is Tony Smith. I've been best
6 friends with Shoes for about twelve, thirteen years. I know
7 him like the back of my hand. This just ain't right, like
8 y'all doing this to the wrong person.

9 MR. DERIEG: Your Honor, I think that's all the family
10 members that would like to address Your Honor.

11 THE COURT: All right. Would you like to say anything on
12 behalf of your client or would your client like to say
13 anything?

14 MR. DERIEG: My client would like to address Your Honor
15 and I would, as well.

16 THE COURT: Yes, sir. Mr. Colclough.

17 ARSENIO COLCLOUGH: For as long as I could remember, I
18 try to always be honest and be up front about who I am. Sir,
19 I tell you and I tell this courtroom the same thing I've been
20 saying from the time of my arrest, I ain't killed nobody. I
21 had nothing to do with it. I loved Shawn. That was somebody
22 that was really, really close to me, like we ate from the
23 same table, we wore each other's shoes, and six months after
24 his funeral, I was charged with his murder. I came to his
25 funeral. I came to his wake. And I just don't understand. I

1 honestly don't understand. But, I just -- I'm trying. I'm
2 trying my best, but I just don't -- like, his mama, Ms.
3 Janice, she used to feed me. Like, I love her. His sister,
4 Deshia, I love her and I was at her graduation. I was there.
5 I remember my first time seeing his little boy. We was in his
6 yard and the baby mama come. She pulled up in the yard. I was
7 telling him that I want to go find John to look at me and he
8 started laughing. He said, man, go ahead and do it. I went to
9 voc rehab. I started working. Right then and there I felt the
10 change in me. I saw something different in me where I was
11 going in life and it just seem like once my life started
12 going right, then I lose my best friend, and now I'm losing
13 me for a crime that I didn't even commit. Sir, I can only ask
14 that you please don't take my life from me. Please, because I
15 got kids, too. I've got a eleven year old son, I've got a
16 three year old son and I've got a one year old daughter.
17 She's not really my daughter, Your Honor, but I been raising
18 this little girl like she was my daughter from the time I
19 found out about her. When I came home from my bond I didn't
20 get in any trouble. I didn't -- I picked right up where I
21 left off. I got my job back and I started back working and I
22 live for my family. I just want Ms. Janice to know I did not
23 kill Shawn. I did not have nothing to do with it. And it's
24 crazy because the evidence that was presented pointed to my
25 first cousin and it hurt me, because I thought all of us was

1 friends. I thought me, all it was, was friends. My cousin did
2 this to me. Sir, I have a family. I have kids that's going to
3 need me. It's -- I'm just confused, Your Honor. I don't know
4 what to do. I'm just being honest. As a man, I try to always
5 have the answers because I'm my mama only son and the only
6 father that my sisters know and I don't have a answer for
7 them. I can't look back at them and tell them it's going to
8 be all right. I can't look at my fiancé and tell her that
9 it's going to be all right. Your Honor, I didn't kill anybody
10 and I think the evidence showed that today. For the past four
11 days, you know, my name's Arsenio, not John. John is my first
12 cousin and I'm sure that the family will see this one day.
13 Mama Janice, I still love you. Thank you, Your Honor.

14 THE COURT: Yes, sir. Mr. Derieg.

15 MR. DERIEG: Thank you, Your Honor, may it please the
16 Court?

17 THE COURT: Yes, sir.

18 MR. DERIEG: I've been working in the criminal justice
19 system now as a, lawyer for about twelve years and this is by
20 far the hardest day that I've experienced as an attorney.
21 I've spent the last two-and-a-half years with Arsenio between
22 the twenty-five months that he spent in jail begging for a
23 trial and the State not trying him and over and over and over
24 to the point where he actually got out of jail and got to
25 spend a couple of months at home and right now I'm very, very

1 thankful for Judge King and him granting Arsenio that time
2 prior to trial because I would echo my client's confusion,
3 Your Honor, particularly after having spoken with the
4 alternates that stuck around and wanted to talk to me and I
5 think talked to Mr. Donnalld. After hearing what they had to
6 say, confusing doesn't even begin to describe what's my
7 feelings towards this verdict right now. There was never a
8 single day that Arsenio ever wavered from his absolute claim
9 of innocence and I've sat countless hours at the Sumter Lee
10 Regional Detention Center, and even Clarendon, and watched
11 the pain that this man endured from being incarcerated and
12 being accused of killing one of the people that he loved most
13 in the world. And if you recall during my opening, I
14 described Rayshawn Holmes as like Arsenio Colclough's right
15 hand. The reason I said that is because that is how Arsenio
16 has always described him, has always described Rayshawn
17 Holmes to me. They were like each other's right hand. They
18 knew each other as well as they knew the back of their own
19 hand. And having sat through this trial, Your Honor, you've
20 had an opportunity to view all the evidence and hear all the
21 testimony and it's just very difficult at this point to
22 reconcile what came from that stand, what was entered into
23 evidence, and then the alternate jurors and the way they felt
24 about this case, it's very difficult to understand how those
25 twelve people came to the same agreement. I'm not arguing

1 with them. I'm sure they did the best that they can. I hope
2 that the verdict wasn't a compromise to be done with jury
3 service faster. Your Honor, I would respectfully, I would
4 respectfully request that you give Mr. Colclough two
5 concurrent thirty year sentences and allow him an opportunity
6 to see his family, this family behind him again and to see
7 the children that he has again. Please. Thank you, Your
8 Honor.

9 THE COURT: Thank you. Anything further from the State?

10 MR. DONNALD: Your Honor, would you care to hear the
11 Defendant's record?

12 THE COURT: Yes, sir.

13 MR. DONNALD: He has a burglary second degree conviction
14 from 2008. He has an assault and battery of a high and
15 aggravated nature conviction from 2010 and a receiving stolen
16 goods conviction from 2010. He has a threatening the life of
17 a person or family of a public official conviction. That was
18 a juvenile conviction from 2002. He has a receiving -- I
19 apologize, Your Honor. He has a nolle pross -- since I
20 started, he has a nolle pross for receiving stolen goods. He
21 has a -- I beg the Court's indulgence -- he has a burglary
22 second degree conviction in 2005. He has a possession of
23 marijuana twenty-eight grams or less from 2005. He has a
24 burglary first degree conviction. A burglary in the first
25 degree charge that was, ultimately, a burglary in the second

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1 degree conviction from 2007.

2 THE COURT: These are all different charges?

3 MR. DONNARD: Yes, Your Honor. Your Honor, the State's
4 position would be that you've heard the evidence. You heard
5 the testimony at trial and you saw the jury and its demeanor
6 as, you know, it came back with a verdict of guilty. We place
7 it in your hands to do what we think is fair or what you
8 think is fair and adjudicate this case as you think is the
9 right way to handle it.

10 THE COURT: Thank you. It's been a long week. A lot of
11 testimony has been presented to this Court, but the jury had
12 an opportunity to listen to all the evidence. The jury had an
13 opportunity to debate amongst themselves the weight, the
14 value, and the truth of the evidence that was given in this
15 trial, a lot of it circumstantial. Circumstantial evidence is
16 good evidence. This was a terrible situation where -- this is
17 a perfect example, Mr. Colclough, of where a life of crime
18 leads. I mean, I'm looking at convictions back ten years.
19 You've been living a life of crime for a long time and it
20 finally lead to the death of your friends, people that you
21 have stated that you actually took baths together as little
22 kids, but that's what happens when you lead a life of crime.
23 This was the logical progression with your record. You're
24 just lucky it didn't happen to you, because it sure could
25 have.

1 Now, with that being the case, although you are still
2 alive, on both of these charges under indictment
3 2014-GS-43-896, count one in the death in the murder of
4 Willie Jermaine Chatman, you will be incarcerated in the
5 State Department of Corrections for the balance of your life.

6 Under indictment 2014-GS-43-896, count two, in the
7 murder of Rayshawn Sherrod Holmes, you'll be incarcerated in
8 the State Department of Corrections for the balance of your
9 natural life. The other charges of possession of a weapon
10 during a violent crime, because he's been sentenced to life
11 without parole, they will not apply.

12 Now, Mr. Colclough, although you are going to spend the
13 rest of your life in prison, your eternal future will be in
14 the hands of our God. As we approach this Easter weekend, I
15 remind you that two thousand years ago Jesus died on the
16 cross and was resurrected so that the grace of God, by the
17 Grace of God, your sins will be forgiven. I urge you to take
18 advantage of the saving grace that is now offered to all
19 mankind. That is my sentence. This court is hereby adjourned.

20 MR. DERIEG: Your Honor?

21 THE COURT: Yes, sir.

22 MR. DERIEG: May he be allowed to hug his mother and his
23 fiancé one last time?

24 THE COURT: He is a convicted two-time murderer. That
25 will be up to the security officers. Let me see both

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1 attorneys up here for a minute.

2 (Bench conference)

3 (Court was adjourned)

STATE OF SOUTH CAROLINA)
)
COUNTY OF FLORENCE) CERTIFICATE

BE IT KNOWN THAT I, THE UNDERSIGNED JO RICE, OFFICIAL COURT REPORTER FOR THE TWELFTH JUDICIAL CIRCUIT OF THE STATE OF SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE FOREGOING TRANSCRIPT REPRESENTS A TRUE, ACCURATE AND COMPLETE TRANSCRIPT OF RECORD OF THE TRIAL IN THE CAPTIONED CASE, RELATIVE TO APPEAL, BEFORE THE CIRCUIT COURT FOR SUMTER COUNTY, SOUTH CAROLINA, SO GIVEN ON MARCH 21-24, 2016, TO THE BEST OF MY SKILL AND ABILITY;

THAT I AM NOT RELATED TO NOR AN EMPLOYEE OF ANY OF THE PARTIES HERETO, NOR A RELATIVE OR EMPLOYEE OF ANY ATTORNEY OR COUNSEL EMPLOYED BY THE PARTIES HERETO, NOR INTERESTED IN THE OUTCOME OF THIS ACTION.

IN WITNESS WHEREOF I HAVE HERE UNTO SET MY HAND AND SEAL THIS 24TH DAY OF AUGUST, 2016.

s/Jo Rice

JO RICE
OFFICIAL COURT REPORTER

THE STATE OF SOUTH CAROLINA VERSUS ARSENIO COLCLOUGH

STATE OF SOUTH CAROLINA)

INDICTMENT FOR

COUNTY OF SUMTER)

Murder

Possession of weapon during violent crime

At a Court of General Sessions, convened on October 23, 2014 the Grand Jurors of
SUMTER County present upon their oath:

COUNT ONEMURDER

That Arsenio Donta Colclough did in Sumter County, on or about April 12, 2013, willfully, feloniously, and intentionally kill the victim, Willie Jermaine Chapman, with malice aforethought, either express or implied, by means of shooting the victim several time in the arm, chest and back, and the victim did die as a proximate result thereof on or about April 22, 2013 in Sumter County, in violation of Section 16-03-0010, S. C. Code of Laws, 1976, as amended.

COUNT TWOMURDER

That Arsenio Donta Colclough did in Sumter County, on or about April 12, 2013, willfully, feloniously, and intentionally kill the victim, Reyshaun Sherrod Holmes, with malice aforethought, either express or implied, by means of shooting the victim in the back, and the victim did die as a proximate result thereof on or about April 12, 2013 in Sumter County, in violation of Section 16-03-0010, S. C. Code of Laws, 1976, as amended.

COUNT THREEPOSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME

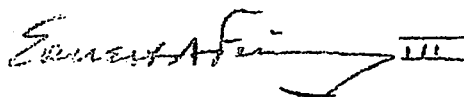
That Arsenio Donta Colclough did in Sumter County, on or about April 12, 2013, possess a firearm, or visibly display what appeared to be a firearm, or visibly displayed a knife, during the commission or attempted commission of a violent crime, in violation of Section 16-23-0490, S. C. Code of Laws, 1976, as amended.

COUNT FOURPOSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME

That Arsenio Donta Colclough did in Sumter County, on or about April 12, 2013, possess a firearm, or visibly display what appeared to be a firearm, or visibly displayed a knife, during the commission or attempted commission of a violent crime, in violation of Section 16-23-0490, S. C. Code of Laws, 1976, as amended.

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

Solicitor



9/9

WITNESSES

Melissa E. Addison Sumter County Sheriff

05-18-2016

12:55:53 p.m.

ARREST WARRANT NUMBER

2013A4310201046 2013A4310201047

2013A4310201048

2013A4310201049

ACTION OF GRAND JURY

True Bill

M. E. Addison

Foreperson of Grand Jury

Date: 10.23.14

VERDICT

8034362223

Foreperson of Petit Jury

Date:

DOCKET NO. 2014-GS-43-0896

The State of South Carolina

County of SUMTER

COURT OF GENERAL SESSIONS

OCTOBER

TERM

2014

THE STATE

VS.

ARSENIO DONTA COLCLOUGH

Indictment for

Murder

Possession of weapon during violent crime

Ernest A. Finney III

ERNEST A. FINNEY, III, SOLICITOR

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STATE OF SOUTH CAROLINA)
)
COUNTY OF SUMTER)

COURT OF GENERAL SESSIONS

State of South Carolina)

PLAINTIFF,)

v.)

Arsenio Colclough,)

DEFENDANT.)
_____)

TRANSCRIPT OF MOTIONS

C/A No. 2014-GS-43-00896

Sumter County Courthouse
Friday, April 17, 2015

BEFORE:

HONORABLE HOWARD P. KING, PRESIDING JUDGE.

APPEARANCES:

Assistant Solicitor Eddie Donnalld
Attorney for State of South Carolina

Lir P. Derieg, Esquire
Attorney for Defendant, Arsenio Colclough

TAKEN BY MELISSA R. SINGLETARY
CERTIFIED VERBATIM REPORTER

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Certificate of Service

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(There were no exhibits marked during this hearing) .

State of South Carolina vs. Arsenio Colclough

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1 The Court: All right. Mr. Donnald.

2 Mr. Donnald: Thank you, Your Honor. The State calls
3 Arseno Colclough.

4 The Court: All right. Come around, please. Give me
5 your name, sir.

6 Mr. Derieg: Your Honor, my name is Lir Derieg.

7 The Court: All right.

8 Mr. Donnald: Your Honor, standing before you is
9 Arseno Colclough, he's represented by Mr. Lir Derieg.
10 He's here on Mr. Derieg's motion and I believe it's two
11 motions, Your Honor. It's a motion for a speedy trial as
12 well as a motion for a bond reduction. Approximately, a
13 year ago you set a bond on Mr. Colclough. My notes had
14 that it's a total of \$200,000 bond, which is two
15 \$100,000.00 bonds.

16 The Court: Do you have the warrants?

17 Mr. Donnald: I do, Your Honor. He's ...

18 The Court: Is it indicted or is it just ...

19 Mr. Donnald: It is indicted, Your Honor. It's two
20 separate charges for murder and the accompanying of
21 weapons during the commission of a violent crime.

22 The Court: Just let me have a copy of the
23 indictments then if it's indicted.

24 Mr. Donnald: Let me pull that right quick, Your
25 Honor.

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1 The Court: Okay.

2 Mr. Derieg: Your Honor, I believe, without objection
3 I would ask if we could amend the speedy trial motion to
4 also include two burglary warrants that are still pending
5 on Mr. Colclough.

6 The Court: What's the status of the bond on those
7 Mr. Derieg?

8 Mr. Derieg: He has made bonds. Those bonds have not
9 been revoked and the bond is still good?

10 The Court: Okay. Are the burglary charges indicted
11 Mr. Donnald?

12 Mr. Donnald: They are, Your Honor. Also, Your
13 Honor, I'll get those numbers for you right now. But,
14 also, I want to let the Court know that I believe
15 everyone remaining in the court room is somehow connected
16 to the case. We have numerous, it's two different
17 victims and we have numerous family members from both of
18 the victims as well. I don't know, but I assume Mr.
19 Derieg has some folks here.

20 The Court: We'll come back to that in a minute.

21 Mr. Donnald: Yes, sir.

22 The Court: So, what we've got here on this
23 indictment are two counts of murder and two counts of
24 possession of a weapon during the commission of a violent
25 crime. The previous Order that I entered on April the 8th

1 of 2014, it looks like that I set a \$200,000.00 surety
2 bond with GPS monitoring on the two murder counts but the
3 little form order it doesn't appear that I addressed the
4 possession of a weapon during the commission of a violent
5 crime. Mr. Derieg, did he have bond set by the
6 magistrate on those?

7 Mr. Derieg: Yes, sir. I believe he did. It was the
8 two murder warrants that bond had been denied and we were
9 coming before you and try and set a bond.

10 The Court: Okay. I did set bond on the murder.

11 Mr. Derieg: Yes, you did.

12 The Court: Two Hundred Thousand.

13 Mr. Derieg: Yes, sir.

14 The Court: I don't need to address the matter of the
15 possession of the weapon or the burglary as far as bond
16 is concerned, is that right?

17 Mr. Derieg: I believe that to be the case, Your
18 Honor, but my client tells me he has never had a bond
19 setting for the possession of the firearm charges either.

20 The Court: All right. Let me ask the Clerk?

21 Deputy Clerk: I'm not showing a bond for the
22 possession of a weapon charge.

23 The Court: You don't show any bond for the
24 possession of a weapon?

25 Deputy Clerk: No, sir.

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1 The Court: Any objection to my considering the
2 matter of bond for both the two murder charges and the
3 counts three and counts four for the possession of a
4 weapon in this indictment, Mr. Donnald?

5 Mr. Donnald: Certainly not, Your Honor.

6 The Court: Okay. So we will consider all four
7 charges in this indictment.

8 Mr. Derieg: If Your Honor would like I could hand up
9 the motion that I filed with the court that includes all
10 four of those warrant numbers on the motion.

11 The Court: I don't need the warrant numbers, I have
12 the indictments.

13 Mr. Donnald: I'm sure, Your Honor, that it was
14 merely an oversight and had he been able to make the bond
15 on the murder we would have quickly dealt with the
16 weapons bond.

17 The Court: All right. So, what we have here today,
18 as I understand it, Mr. Derieg is your motions to revisit
19 or reduce the \$200,000.00 surety bond with GPS monitoring
20 as well as motions for speedy trial on both the charges
21 in this indictment and, is it two burglary charges?

22 Mr. Derieg: Yes, sir.

23 The Court: Two?

24 Mr. Donnald: There's two.

25 The Court: All right. Let me state first of all

1 that a defendant in a criminal case is under our
2 constitution presumed to be innocent of the charges
3 against him until he either pleads guilty or is found
4 guilty by a jury or by the Court. He is also entitled to
5 a bond unless it can be shown that his presence to answer
6 the charges cannot be expected or he is a danger to the
7 community. The question of guilt or innocence is not
8 before the court today but will be before the court at
9 another time. The court is interested in only if he is a
10 danger to the community or a risk of flight and the
11 factors that the court considers are those matters set
12 forth in Section 17-15-30 of the Code of Laws. They
13 include family ties, employment, financial resources,
14 character, known condition, his criminal record and any
15 record of flight. However, in order to address those
16 facts and to make a determination of the factors that I
17 need to consider, I need to know a little bit about the
18 fact background on this case Mr. Donald and I don't
19 recall it. So my memory needs to be refreshed.

20 Mr. Donald: Yes, sir, Your Honor. And, on that
21 note, I have with me Lieutenant Melissa Addison with the
22 Sumter County Sheriff's Department, Your Honor, who is
23 the lead case agent on this case.

24 The Court: Okay.

25 Mr. Donald: Should I not be able to give you

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1 sufficient details she is available to discuss it. Your
2 Honor, on August 22, 2012, I'm sorry, Your Honor, that's
3 the wrong, I gave you the wrong date.

4 The Court: April 12, according to the indictment.

5 Mr. Donnald: That's correct, Your Honorable.

6 The Court: 2013.

7 Mr. Donnald: There was a shooting that occurred here
8 in Sumter County. Shots were fired and reported. When the
9 Sheriff's Department responded there were two folks
10 laying face down in what was basically an abandoned house
11 or a house that had the electricity shut down. An
12 investigation was conducted. Ultimately, Your Honor, and
13 those victims are Rashaun Holmes and Willie Chapman.
14 Ultimately, Your Honor, there were charges brought by Ms.
15 Addison on the charge of murder against Mr. Colclough
16 based on a couple of things. The investigation turned out
17 there was actually a statement by someone who carried
18 sufficient detail, things that no one else would have
19 known outside of the room that says that Mr. Colclough
20 had confessed to the charges or confessed to committing
21 the crime. There is also, and let me --- I need to be
22 specific about this. There was an item of clothing that
23 was found at the scene that has been submitted to SLED
24 for DNA testing. The reason the case is in a stand still
25 is because it is still at SLED awaiting the DNA testing

1 but it is of such a nature, it's kind of an usual item,
2 it's a ball cap. And it was found at the scene of this
3 incident and should carry the DNA of the person who was
4 there. And, so, really the only hold up is we are
5 waiting on that DNA evidence. There was a witness who
6 informed the police that Mr. Colclough confessed to him
7 that he was the one that did it and he was worried about
8 it because he left that article of clothing behind. He
9 was afraid that was what was going to end up catching
10 him. The rest of the clothes were disposed of in a field
11 and there have been some clothes ... that has been
12 followed up with and there has been some clothes found in
13 that field. The Sheriff's Office is now trying to tie
14 that directly to Mr. Colclough. I don't know, I'm kind
15 of arguing instead of just giving you the facts now. Is
16 that sufficient facts for, Your Honor.

17 The Court: Yes, I think that gives me a little bit
18 of background and I do remember a little bit about it.
19 Apparently, these individuals were hanging out in this
20 abandon house or a house that had no electricity or ...

21 Mr. Donnald: That's correct, Your Honor.

22 The Court: And for some reason, in fact, I assume
23 the method of homicide by a firearm?

24 Mr. Donnald: That's correct, Your Honor. It was a
25 pistol. In fact, the bullets from this pistol also match

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1 bullets from another murder that occurred here in Sumter
2 County.

3 The Court: Has the pistol been recovered?

4 Mr. Donnald: No, Your Honor, we haven't found the
5 pistol. Your Honor, Ms. Addison is correcting me. I
6 guess in my house it was an abandoned house, she says
7 that they were actually living there but the electric
8 bill had not been paid and had been cut off.

9 The Court: They being who?

10 Mr. Donnald: Mr. Holmes, the victims, Your Honor, as
11 well as another individual by the name of Eric Davis, I
12 believe, who was subsequently interviewed and has not
13 been made a suspect in this charge.

14 The Court: Well, I guess I'm trying to get a handle
15 about what we're talking here, is it drugs, gangs, what's
16 the situation?

17 Mr. Donnald: Actually the initial speculation and we
18 don't know for sure because the victims can't tell us,
19 but the initial speculation was that one of the victim's
20 parents had given them enough money to pay the power bill
21 which was about \$1,200.00 and the initial suspicion was
22 that it may have been a robbery attempt for that cash
23 that one of them had in their hand. But these folks are
24 also the kind of folks that could be involved in a drug
25 altercation so that is certainly not aside of the rim of

1 possibilities.

2 The Court: Okay. I know this is not the time to try
3 the case but it does sound like to me that right now the
4 State doesn't have much of a theory as to what happened.
5 Alright, now tell me, as a part of the motion for a
6 speedy trial, tell me a little bit about the burglary.
7 Is that before this or after this, well, it had to be
8 before this because he's been in jail every since, I
9 guess.

10 Mr. Donnald: That's correct, Your Honor. He has a
11 2012 burglary, an indictment 2012 and a burglary that was
12 indicted in 2013. Your Honor, I will agree to the speedy
13 trial motion on the two burglary charges. There's no
14 reason, I could go into the factual details but I would
15 be doing it from the top of my head because I didn't
16 bring the file upstairs but there is no reason for those
17 to be delayed like we believe there is a reason for the
18 murder case in that we are waiting on some investigation.

19 The Court: All right. Let me address the families
20 of the victims in this case. You have the right to have,
21 to be kept advised of everything that is going on and I'm
22 sure the solicitor's office and the victim's rights
23 advocate has kept you advised of what's going on during
24 the process of this matter. You also have the right to
25 be present whenever there is any matter that comes up in

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1 court concerning the charges against this defendant for
2 these two alleged murders and possession of the weapons.
3 And you also have the right to address the court or a
4 representative of the family has the right to address the
5 court so if there is anybody here on behalf of either
6 Willie Jermaine Chapman or Rashaun Holmes, who would like
7 to address the court, please stand or come on up.

8 Mr. Donnald: Your Honor, for the record, we also
9 have Ms. Harrison who is the Victim's Advocate in our
10 office present and ready to assist the Court.

11 The Court: Okay. All right. Tell me your name,
12 ma'am.

13 Ms. Chapman: Janice Chapman. I'm the mother of
14 Rashaun Holmes and I'm the aunt of Willie Chapman.

15 The Court: Okay. I'll be glad to hear from you.

16 Ms. Chapman: I don't think he need to have a bond
17 because he lives around the corner from me and he could
18 commit two murders and he usually stay in my house and he
19 done stay in my son's house and he done kill a friend
20 that's a threat to our community. Not only that his mom
21 and them just recently got some money so he also a risk
22 flight. And he don't need a bond hearing, he don't need
23 bond whatsoever. He need to suffer.

24 The Court: Okay. Thank you, ma'am. Thank you for
25 being here.

1 Ms. Chapman: Thank you.

2 The Court: Yes, sir. Your name?

3 Mr. Holmes: My name is Earl Holmes. I'm Rashaun's
4 uncle. I'm representing myself and Rashaun's father who
5 is out of town on work. Due to the notice of this
6 schedule he didn't have time to get back in town. He
7 asked me to express to the court that he does not want
8 this man to have a bond because he's a menace to society
9 and it could happen to someone else and speaking on
10 behalf of myself I wouldn't want him to be back out on
11 the street because from what I'm hearing in here with
12 other burglaries and other crimes that he's committed he
13 is continually doing things that seem to be detrimental
14 to society.

15 The Court: Thank you, sir. Thank you for being here.

16 Mr. Holmes: Thank you.

17 The Court: Yes, ma'am.

18 Ms. Goldman: My name is Ms. Kenayna(sp) Goldman.

19 I'm Willie Chapman sister. I really don't think he
20 deserves bond because, I mean, he killed my brother and
21 my best friend.

22 The Court: Okay. Thank you, ma'am. We're not going
23 to have a parade now ...

24 Ms. Harrison: This is the father.

25 Mr. Wilson: My name is Willie Wilson. I'm the

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1 father of Willie Chapman and I don't feel that he should
2 get his freedom back out like that because I got
3 grandkids from Willie and they ask me about their daddy
4 every time I go pick them up. They miss their daddy and
5 all that and I don't really feel he deserve to get a bond
6 because that's something else I got to tell my grandkids
7 that their daddy's suppose to be murderer is out on bond.

8 The Court: All right. Thank you, sir.

9 Mr. Wilson: Thank you.

10 Mr. Donnald: Your Honor, I personally spoke with
11 Ronnie Holmes who is the father of Rashaun Holmes. He is
12 a truck driver and he is actually somewhere in Texas,
13 well, he was yesterday afternoon. I assume he's still
14 there but I can't tell you exactly where he is but he
15 expressed the same that he wish for me to express to the
16 court that he did not want to see Mr. Colclough's bond
17 reduced from what the court has already set.

18 The Court: All right. Mr. Derieg, I'll be glad to
19 hear from you both on the motion to reduce the bond and
20 also your motion for speedy trial.

21 Mr. Derieg: Thank you, Your Honor, may it please the
22 Court. A little over a year ago I stood before you next
23 to Mr. Colclough and I asked that he get a bond and I
24 also asked that you compel the solicitor's office to give
25 us discovery because for the first six months of this

1 case we literally didn't have a single sheet of paper in
2 discovery.

3 That day on April the 8th of last year we got about
4 400 pages of discovery. I hired a private investigator
5 and for the last year this private investigator and I
6 have been working tirelessly on this case. And what I
7 can tell you that we have found in the last year, Your
8 Honor, is a witness that puts this murder weapon in Juan
9 Frances hand. Juwan(sp) Frances is this witness that
10 they are talking about and the only person and the only
11 evidence that they have against Mr. Colclough is a
12 statement by Mr. Frances and a statement by Mr. Frances'
13 girlfriend. What my investigator is uncovered over the
14 last year is that we have a witness that can put the
15 murder weapon directly in Mr. Frances hand being given to
16 this witness after the murder and before the shooting
17 happened in the city that that gun is tied too.

18 Additionally, I got another witness that was in jail
19 when Mr. Frances in August of 2013 that says that back in
20 August of 2013 he admitted to him --- that Mr. Frances
21 admitted to him that he was setting Arsenio Colclough up
22 for something that he had done.

23 I also --- and, Your Honor, these are all things
24 that I have shared with Mr. Donnald. I've also got an
25 alibi witness who has written a letter to both me and Mr.

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1 Colclough who says that she was with him the night of the
2 incident and has pictures on a tablet with the date stamp
3 from the night of the murder of the two of them together
4 at her house. There is still no physical evidence that
5 links Mr. Colclough to this crime.

6 We're waiting on DNA testing that two years later we
7 are still waiting on DNA testing. The clothes that were
8 found by law enforcement, my private investigator has
9 uncovered facts that make it very likely that these
10 clothes actually came from the house where Mr. Frances
11 was staying and that Mr. Frances had access to these
12 clothes. I also have a witness that would come to court
13 and testify that this red ball cap that we're talking
14 about she watched Mr. Colclough literally take off of his
15 head after taking a picture in a backyard one day and
16 hand to Juwan Frances and Juwan Frances had that ball cap
17 on several occasions after that. He was his red ball
18 cap.

19 And, I think, it's also worth noting that their
20 theory of the case that it may have been armed robbery or
21 drug related, well when Mr. Frances came forward in
22 August of 2013 about something that he says that he knew
23 from April of 2013, well, he was sitting in jail for
24 armed robbery and he's plead guilty to strong armed
25 robbery and he's been sitting in DOC doing five years

1 now. And, I think, that the whole impetus for his
2 statement was to try and get himself out of trouble and
3 he has gone from an armed robbery where he took a gun and
4 put it in a gas station clerk's face and stole money down
5 to a strong armed charge where he is serving five years.

6 And then finally, in terms of Mr. Frances there's a
7 statement that Mr. Frances girlfriend said --- that's Mr.
8 Frances girlfriend said that Mr. Colclough also said that
9 he did it in front of her. Well, I've got a witness who
10 would be willing to come and testify that says that on
11 multiple occasions since this incident happened he has
12 gotten phone calls from this women, I believe, her name
13 is Shakeria(sp) Lawson asking this guy what he thinks,
14 what kind of trouble he thinks she could get in for lying
15 for Juwan Frances. So, while the state may not have very
16 much of a theory, as I think you noted, we have a very,
17 very strong theory. We believe that the person that gave
18 them the details that only the murderer could know was
19 the murderer. I can put the gun in Juwan Frances hand.
20 Juwan Frances has access, had access and actually in
21 possession of all these items that we're waiting to be,
22 two years later to be processed by SLED. There is a
23 mountain of evidence and it all stacks toward the
24 witness, not Mr. Colclough.

25 Mr. Colclough has been sitting in jail for over a

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1 year and a half now, Your Honor. Who knows when SLED is
2 coming back with these items to be processed.

3 The Court: The offenses alleged to have happened on
4 April 12, 2013, Mr. Derieg, when was he arrested?

5 Mr. Derieg: Well, he was served these murder
6 warrants October the 1st of 2013 because once Juwan
7 Frances was arrested for a Armed Robbery of a Cheap way
8 Gas Station and he was sitting in jail at Sumter/Lee
9 Regional Detention Center that he came forward to
10 Lieutenant Addison.

11 The Court: Tell me about the situation with the
12 burglaries and that stuff. He's got a bond on the
13 burglaries?

14 Mr. Derieg: Yes, sir.

15 The Court: And he made that bond?

16 Mr. Derieg: Yes, sir.

17 The Court: How much was the bond?

18 Mr. Derieg: Twenty Thousand.

19 The Court: Surety?

20 Mr. Derieg: Yes, sir.

21 The Court: Is that what you told me or no?

22 Clerk: I'm checking. One of them it's a \$30,000.

23 That one is not showing that it's posted.

24 The Court: Ma'am.

25 Clerk: That one is not showing that it's posted on

1 the one from August. Let me check the other one.

2 The Court: All right. Take your time.

3 Mr. Derieg: There were four burglary charges. Two
4 have already been dismissed. I guess one was a
5 conspiracy charge. There were three burglaries and one
6 conspiracy and a burglary and a conspiracy have already
7 been dismissed. There still should be just two burglaries
8 pending.

9 Clerk: It's a \$20,000.00 bond.

10 The Court: Twenty Thousand Dollars for two
11 burglaries?

12 Clerk: For two; yes, sir.

13 The Court: When were the burglaries supposed to have
14 happened, Mr. Derieg?

15 Mr. Derieg: One is in March of 2012 and the other is
16 in August of 2012. And, the one regarding March of 2012
17 was on the trial docket for the first week of this month.
18 We were told that we were probably going to be going to
19 trial but lo and behold some three years later we still
20 didn't have a fingerprint analysis report and when Mr.
21 Donald checked on that, it turned out that the
22 fingerprints that they found on this t.v. were not Mr.
23 Colclough's and it's been taken off the trial roster.

24 The Court: So, you've still got two pending
25 burglaries. One from March of 2012 and one from August

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1 of 2012. Neither one are on the trial docket right now,
2 is that right, Mr. Donnald?

3 Mr. Donnald: That is correct. What Mr. Derieg tells
4 you is true. There was one of the burglaries placed on
5 the previous trial docket, there was some missing
6 evidence, or the evidence I didn't have in my file would
7 follow up --- was going to result in it being taken off
8 the trial docket.

9 The Court: All right.

10 Mr. Donnald: It will either go back on the trial
11 docket or be resolved via nolle posse before the next
12 term of court.

13 The Court: Is that just one of them? There is still
14 another one, the August --- you're not talking about the
15 August 2012, you're talking about the earlier one?

16 Mr. Donnald: I can't recall the dates on which one
17 is which, Your Honor, but yes, sir.

18 The Court: But one of them you think is still a
19 viable charge from the standpoint of the ... the State's
20 standpoint?

21 Mr. Donnald: It's viable except that I've had a
22 witness that has recanted what they had told us earlier
23 but that's being followed up with as well, Your Honor.

24 The Court: You've got two 2012 burglaries, both of
25 which have been indicted?

1 Mr. Donnald: That's correct.

2 The Court: And bond has been set on those at
3 \$20,000.00?

4 Mr. Donnald: That's correct.

5 The Court: I believe you told me, Mr. Derieg, that
6 he has posted bond on those?

7 Mr. Derieg: Yes, Your Honor. He was out on bond
8 when he was picked up for this murder charge.

9 The Court: Okay.

10 Mr. Derieg: And to my knowledge that bond has not
11 been revoked.

12 The Court: What does the State anticipate from the
13 standpoint of being prepared to go forward on the murder
14 charges. When do you expect the results from SLED on the
15 DNA and the information that you're trying to get Mr.
16 Donnald? You've got a case that is two years old, he's
17 been arrested for a year and a half and doesn't seem like
18 it's any closer to trial now then it was a year ago when
19 I heard this matter.

20 Mr. Donnald: I think you're right with the exception
21 of a couple of pieces of evidence that have turned up.
22 We have asked SLED, I say we, Ms. Addison has asked SLED
23 when they expect to have these items, she's asked them on
24 numerous occasions when they expect to have these items
25 identified and analyzed and we've been unable to get an

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1 answer on that question. Who did you call?

2 Ms. Harrison: Yes, sir. Please the Court. I
3 actually spoke with the analyst at SLED, her name was
4 Kathryn, on yesterday. As the attorney stated, I have
5 called several times. On yesterday she advised that she
6 is going to take a look at them in the next couple of
7 weeks. That's the best that I could get out of her
8 between a week or the next couple of weeks that she would
9 take a look at the evidence, Your Honor.

10 Mr. Donnald: Your Honor, I would ask to have an
11 opportunity to respond to some of the things that Mr.
12 Derieg said.

13 The Court: All right. I'm going to in just a
14 moment. I'm trying to get an overall picture of this
15 whole thing. All right. Mr. Derieg, is there anything
16 else that you'd like to add at this time?

17 Mr. Derieg: Your Honor, not at this time. Though,
18 Mr. Colclough at the appropriate time says that he wishes
19 to address the court.

20 The Court: I'll be glad to hear from him but keep in
21 mind that he's got privilege against incrimination and
22 whatever he says in connection with it could be used
23 against him and it could be a waiver of his privilege
24 against self incrimination. I don't mind hearing from
25 him but, you know ...

1 Mr. Derieg: I think that he wants to ...

2 The Court: He's not immune from what he says and
3 that statement is being used against him.

4 Mr. Derieg: Yes, Your Honor. He doesn't wish to
5 address the Court regarding his case at all. That's my
6 job. But he just wants to, he can better inform, Your
7 Honor, of his home situation and why he desperately wants
8 to not sit in jail.

9 The Court: All right. I'll be glad to hear from
10 him. Go ahead Mr. Colclough.

11 Mr. Colclough: Sir, I understand that the family
12 lost somebody, but I lost somebody too. These are not
13 just my friends, Your Honor, Rashaun Holmes is like a
14 brother to me. This is, like his mother said, I stayed in
15 the house with this man. I ate at the table with him.
16 And for me to be sitting in jail for being accused of
17 their murders, the same tears they share, I've cried too.
18 The same way they got family, they love them, I got
19 family too. I got kids too. I got a daughter that I
20 ain't never seen or touched. My daughter was born while
21 I was locked up, incarcerated for murders that I ain't
22 even had nothing to do with. I was home. This man Juwan
23 Frances knows my cousin. I don't have nothing to do with
24 this person. I'm just asking the Court to have leniency
25 on me. Let me / I'm not trying to run or nothing. I'm

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1 willing to go to trial because I know I'm innocent. I
2 told Ms. Addison from day one. I even volunteer to take
3 a polygraph test, everything. I ain't kill nobody, I
4 don't know what happened to Shaun and them the only thing
5 I know is when I got the phone call that Rashaun and them
6 was dead it hurt me. I went to the funeral home and I
7 couldn't do nothing but cry because I felt like if I
8 ain't had, if I was just there maybe my friend would have
9 still been here. Or maybe I would have felt like if I
10 had died, if I was there and I died in the house with him
11 then who would be standing here taking the blame for
12 this. Who would they be alleging did it then. Because
13 these are my friends. If I wasn't, you know, in
14 relationship with a female who moved me from around that
15 area, I would have been in that house. Then it wouldn't
16 have been two victims it would have been three victims,
17 me included.

18 The Court: All right, sir. Thank you, sir. I
19 understand and I appreciate what you have to say. All
20 right. Mr. Donnald, what else do you want to add?

21 Mr. Donnald: Your Honor, I can assure you that
22 nobody wants this thing to move or get the SLED evidence
23 back more than we do. I have, the State has run down
24 every question to the evidence that I have been informed
25 by Mr. Derieg, with the exception of one witness that he

1 had asked me if I had talked to and that somehow slipped,
2 but we are going to get to that as soon as we possibly
3 can. The problem with that is this witness that he tells
4 you that can put the gun in Juwan Frances hand is a
5 second degree relative to Mr. Colclough. Has a last name
6 of Colclough, but that's not the problem in and of
7 itself, the problem with that is that's not what he told
8 my investigator when she went out and talked to him. She
9 didn't say yes I can put that gun in mister --- or he
10 didn't say I can put that gun in Mr. Juwan Frances hand
11 by any stretch of the imagination. So, even though, and
12 I know we're not trying the case today so the evidence
13 that we would put forth ...

14 The Court: Well, that's what we need to do. That's
15 what we need to be moving toward. It's not really - I
16 know there is a dispute as to the facts as to who did
17 what and who gave the gun and all that sort of stuff and
18 the purpose of having a trial is to get to the truth of
19 those matters. The concern here is that we are a year
20 and a half down the line since the arrest, two years
21 since the murder and we still don't seem to be anywhere
22 close to getting the matter up for trial so that the
23 truth can come out. And that's the concern of the Court.

24 Mr. Donald: I can appreciate that and I do
25 appreciate, Your Honor, but the truth of the --- the

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1 bottom line is the County could not try this case without
2 the benefit of the evidence that is being processed by
3 the State agency and there's nothing that we can do, that
4 I know of, that I can do to hurry them up anymore then
5 has already been done. We have called and asked them to
6 hurry up and that's really the remedy that we have to
7 make that happen.

8 Mr. Derieg: Your Honor, if you're inclined to give
9 him a bond that he's able to make so that he doesn't have
10 to continue to sit in jail for the pendency of the SLED
11 investigation, the SLED...

12 The Court: I understand.

13 Mr. Derieg: ... processing we'd be more than happy
14 to GPS monitoring and house arrest. He just wants to go
15 home and see his baby for the first time.

16 The Court: All right. With regard to the Motion for
17 Speedy Trial on the burglary, the two burglaries, the
18 motion is granted. The Court is ordering that one or
19 both of the burglary cases be called for trial within
20 ninety (90) days. On the Motion for a Bond Reduction or a
21 Bond change previously set by this Court a year ago, the
22 Court does reduce the bond from \$200,000.00 to
23 \$100,000.00 again with GPS monitoring, no contact with
24 the victims. And a Speedy Trial Motion is granted and
25 one or both of the cases must be called within One.

1 Hundred and Eighty (180) days.

2 All right. I've done a little form Order on the
3 murder cases. I don't have anything on the burglary
4 cases. Just the Order of the Court is that one or both
5 of the burglary cases has got to be called within ninety
6 (90) days.

7 The bond on the Murder cases are reduced to
8 \$100,000.00 with GPS monitoring and a Speedy Trial within
9 One Hundred and Eighty (180) days.

10 Mr. Derieg: Thank you, Your Honor.

11 Mr. Donnald: Thank you, Your Honor.

12 The Court: All right.

13 (End of Hearing)

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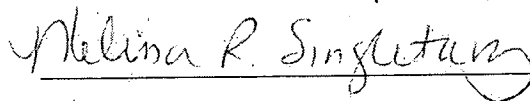
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CERTIFICATE

This is to certify that the transcript in the matter of State of South Carolina vs. Arsenio Colclough, consisting of Twenty-Seven (27) pages is a true and correct transcript; said hearing was reported by the method of Stenomask with Backup.

I further certify that I am not employed by any of the parties in this matter or their counsel; nor do I have any interest, financial or otherwise, in the outcome of same.

IN WITNESS WHEREOF I have hereunto set my hand and seal this 19th day of July, 2016.



Melissa R. Singletary
Certified Court Reporter

State of South Carolina)
)
County of Sumter)
)

The State of South Carolina, Bond Hearing
Plaintiff 2014-GS-43-00896

vs.

Arsenio D. Colclough October 14, 2015
Defendant Sumter, S.C.

Before the Honorable Howard P. King, Judge.

A P P E A R A N C E S:

Mr. Edgar R. Donnald, Jr.,
Assistant Solicitor for the State

Mr. Lir Patrick Derieg
Attorney for Defendants

Margaret T. Sullivan,
Court Reporter

1 MR. DONNALD: Your Honor, the next thing
2 whenever you're ready.

3 THE COURT: Yes, sir, I'm ready.

4 MR. DONNALD: Your Honor, the next thing
5 will be Arsenio Colclough. I will let the court
6 know this is Mr. Derig's motion regarding bond. I
7 do have Mr. Colclough present in the courtroom.
8 And there are numerous family members of the
9 victims also present in the courtroom.

10 MR. DERIEG: Your Honor, this is not a
11 motion for bond. This is a motion to dismiss.

12 THE COURT: Motion to dismiss?

13 MR. DERIEG: Yes, Your Honor.

14 THE COURT: Let me have a copy of the
15 motion.

16 MR. DERIEG: Your Honor, may I also hand
17 up an order that was written last time in court
18 before Your Honor on April 17th?

19 THE COURT: Yes, sir. The matter is
20 before the court upon the defendant's motion to
21 dismiss, because the defendant's constitutional
22 rights have not been complied with in granting him
23 a speedy trial. I have read the motion that has
24 been filed with the court. And I also have a copy
25 of my prior order dated April 17th 2015. It is

1 your motion, Mr. Derieg, I will be glad to hear
2 from you. If there's anything you want to add to
3 what you have in your written motion and anything
4 you would like to add or put on the record.

5 MR. DERIEG: Thank you, Your Honor. May
6 it please the court. Just very briefly, the
7 procedural posture of this case. Mr. Colclough was
8 arrested on October 1st 2013. I do need to correct
9 one thing that's in that motion. It said that we
10 came before you in October of 2014, on a motion to
11 compel discovery and to set bond. That was actually
12 done on April 8th of 2014.

13 And then a year and 9 days later, we were
14 back before Your Honor. We made a speedy trial
15 motion, and a motion to reduce Mr. Colclough's
16 bond. You cut Mr. Colclough's bond in half from
17 \$200,000 to \$100,000. And ordered that, my notes
18 reflect that your order was that the burglaries
19 would be tried within 90 days. At which time
20 Mr. Donnald asserted to the court that those
21 burglary charges would be placed back on the
22 docket after they had been taken off, or that
23 would be nol-prossed by the next term of court,
24 which I believe would have been the next week.
25 Currently those burglary charges are still all

1 pending.

2 Additionally, Your Honor, you had said
3 that the matter---

4 THE COURT: I don't think I considered
5 anything with regard to the burglary charges, did I?
6 My order only reflects that -- well that April 17th
7 order only reflects that I dealt with the two counts
8 of murder, and possession of a weapon during a
9 violent crime.

10 MR. DERIEG: At the beginning of that
11 motion hearing, I asked if we could amend that
12 motion that I had made to include the two burglary
13 warrants and Mr. Donnald consented to that
14 happening. It is certainly not memorialized in
15 that order. I have contacted the court reporter,
16 Ms. Singletary, for that day. And asked her,
17 because I wasn't aware that there was going to be
18 disagreement as to what was said that day. And I
19 never received a copy of that in the mail. So I
20 got that copy this morning.

21 After speaking with Mr. Donnald, after
22 getting that copy, I contacted Ms. Singletary to
23 get a rushed---

24 THE COURT: This was filed probably the
25 day that I did it, because I always fill these out

1 and that hand them to the clerk and make them
2 available to the lawyers at that time. I really
3 feel like Mr. Derieg memorialized what I recall
4 hearing in open court. And you certainly could have
5 gotten a copy from the clerk at the time of the
6 ruling. And if it was in error, I would have been
7 in a position I could have amended it at that time.

8 MR. DERIEG: Yes, sir, and that was my
9 mistake. And in order to try and correct that
10 mistake, I ordered that transcript to be done
11 overnight, and I should have that transcript
12 tomorrow. If Your Honor would like to continue this
13 until tomorrow, I would have no problem doing that
14 so we could exactly the words that were said.

15 THE COURT: Before I do that, and I may
16 not end up ruling on it at this time. But tell me
17 again what you think was before me in April.

18 MR. DERIEG: Well besides the burglary, I
19 believe the burglaries were set, because the
20 burglaries had been on the docket. They were from
21 2012. They were even much older than the murder
22 case from 2013. It's my recollection that you gave
23 the solicitor's office 90 days to try the burglary
24 case. And at that time Mr. Donald said that he
25 would put those burglary cases back on to the

1 rolling trial docket by the next term of court or
2 that they would be nol-prossed. That has not
3 happened.

4 Additionally, it is my recollection and
5 reflected in my notes, that you said that if the
6 murder charges were not tried within 180 days,
7 which is exactly 180 days, today is 180 days from
8 April the 17th, that the murder charges would
9 additionally be dismissed.

10 THE COURT: I am not sure I would have
11 said that. But I will have see the transcript on
12 that. Because it's normally not my policy to
13 dismiss the charges if it's not tried within 180
14 days, it's to address the confinement situation.
15 But I'll -- I don't think that I -- I can be
16 corrected by the record, but I don't normally say
17 that the charges can be dismissed if it is not tried
18 within a certain period of time. What I normally
19 say is that a defendant would be released on their
20 own recognizance if it's not tried without good
21 excuse. But we'll see on that.

22 Go ahead. Is that anything else you want
23 to add?

24 MR. DERIEG: Just that since April the
25 17th, there have been approximately 11 terms of

1 court. And four of which at least two judges here.
2 And there's been ample times to try this case.
3 Mr. Colclough, I don't know if it's coincidentally
4 or intentionally has been put on the trial docket
5 for next week, which is at day 185. And he is
6 currently slated third up next week. And I just
7 want to be clear that at this time I'm not making
8 make a motion pursuant to Langford. Though that is
9 reflected in that written motion. Just that
10 Langford has made the solicitor's control of the
11 docket unconstitutional. I am not making the motion
12 today based on the four-factor test reflected---

13 THE COURT: The supreme court is still
14 wrestling with what to do with Langford.

15 MR. DERIEG: Correct. But the Langford
16 and Barker v. Wingo and all the progeny that deal
17 with this case---

18 THE COURT: How long has he been in jail?

19 MR. DERIEG: Two years. Well as of today,
20 2 years and 12 days.

21 THE COURT: Arrested first for the
22 burglary charges?

23 MR. DERIEG: Yes, sir. But he was out on
24 bond.

25 THE COURT: He was out on bond on those,

1 and then the murder -- and then the homicide. I'm
2 calling it a homicide and not a murder, because I
3 don't know what happened at this time. But then the
4 homicide happened and he was arrested on that, what
5 date?

6 MR. DERIEG: October the 1st of 2013.

7 THE COURT: And so it has been 2 years
8 since his arrest, and he has been continuously in
9 jail since then?

10 MR. DERIEG: Yes, Your Honor.

11 THE COURT: Let me hear from the State.

12 MR. DONNARD: Thank you, Your Honor. The
13 hold up in this case was certain DNA that was not
14 being produced by sled. It was produced, and the
15 sled report was finalized. And about the middle of
16 July it was peer reviewed, and I had access to it in
17 August. I believe I gave it to Mr. Derieg sometime
18 around the middle of September. I put the case on
19 the trial roster. It is third up, and I intend to
20 call it if we can get to it next week. If it
21 doesn't get called next week, I expect it to be
22 first up the first term in November.

23 THE COURT: Well, and this thing that
24 troubles, Mr. Donnard, is that I gave the State a
25 deadline. And there was no motion made before the

1 court or anything else to extend that deadline,
2 because you hadn't received the evidence from sled.
3 You just kind of ignored my order.

4 MR. DONNARD: Your Honor, I don't -- and
5 certainly it wasn't in my mind that I was ignoring
6 your order, nor would I ever entertain to do so.
7 My recollection was not as Mr. Derieg asserts
8 today, that the case was ordered that it would be
9 dismissed if it wasn't tried.

10 THE COURT: Well regardless of whether it
11 was ordered, the written order is pretty clear.
12 Speedy trial motion granted on -- granted, one or
13 both cases. And this deals only with the two counts
14 of murder, to be called within 180 days. That was
15 on April the 17th. That 180 days would expire when,
16 Mr. Derieg? I'm sure you figured it up. Today?

17 MR. DERIEG: Today. Yes, sir. That's why
18 we're here before you today.

19 THE COURT: So that order is pretty
20 clear, Mr. Donnard, as to when it was supposed to
21 be called by. And if you all couldn't meet that
22 deadline for reasons beyond your control, then it
23 should have come back before the court, advising
24 the court of why you can't meet that deadline. I
25 mean this individual has been in jail now for over

1 two years awaiting trial on this matter. And
2 that's just not acceptable. I know that the sled
3 lab is behind, but I don't think they are two
4 years behind. If the homicide occurred around
5 October, September or October of 2013.

6 MR. DERIEG: Your Honor.

7 THE COURT: Yes, sir.

8 MR. DERIEG: The homicide occurred in
9 April of 2013.

10 THE COURT: April of 2013. He was
11 arrested in October.

12 MR. DERIEG: Yes, sir.

13 MR. DONNALD: Your Honor, the analysis was
14 performed on June 17th of 2015 at the sled lab.
15 It was then peer reviewed and turned over for us
16 to use. I can't explain how far sled is behind.
17 All I can tell you is when the analysis was
18 performed. And that's what we were waiting on
19 when the first speedy trial motion was made.

20 MR. DERIEG: Judge, since June the 17th,
21 there have been 6 terms of court that this case
22 could have been tried.

23 THE COURT: I understand. All right
24 considering the overall factors in this matter,
25 including the present status of the matter, the

1 motion to dismiss the charges against the defendant
2 is denied. I can't conceive that I would have
3 indicated that I was going to dismiss the charges if
4 it wasn't called by that date. As I said, it's
5 normally my policy to revisit the bond situation if
6 it's not called within the time.

7 I really think that the purpose of the
8 speedy trial, for one of the main purposes of a
9 speedy trial is that people will not languish in
10 jail pending the disposition of the case.
11 Especially in view of the fact that the matter is
12 currently scheduled for next week, as I understand
13 it with two judges being here. I am going to
14 consider it a violation of my order that it not be
15 called within 180 days. And my normal policy to
16 revisit the bond situation if the case is not
17 disposed of as specified by the court. And that's
18 exactly what I am going to do.

19 So what I am going to do is deny the
20 motion to dismiss. I am going to order that the
21 the matter be disposed of. At least one of the
22 cases, one of the two murder cases, because that's
23 what I have a written order on, be called for
24 trial by October the 23rd, which is next week,
25 when there will be two judges here, of 2015. Or

1 this court, and I am going to retain jurisdiction
2 for this purpose, or this court will retain
3 jurisdiction for purposes of revisiting the bond
4 situation probably with the idea personal of
5 allowing the defendant to be released on personal
6 recognizance with certain conditions, which I will
7 impose. If one of the two cases is not called for
8 trial and disposition by the end of the term, of
9 the two judge term next week.

10 So that is only a delay of about 10 days
11 until the State is going to have to call one of
12 the two cases for trial, and go forward or this
13 court will retain jurisdiction for revisiting the
14 bond situation with probably the idea of what I
15 have in mind right now. I'm not going to be
16 committed to this, but what I have in mind right
17 would be a personal recognizance bond with certain
18 conditions that would protect the public.

19 MR. DERIEG: Your Honor, when I obtain
20 that transcript that I have ordered, if it reflects
21 something different, may I bring this back in front
22 of Your Honor?

23 THE COURT: You certainly may, but I am --
24 it's not going to change my mind about dismissing
25 the case just because of the deadline like that,

1 because I just don't think that that's the
2 appropriate relief in this case. But you can
3 certainly look at the transcript, and I will be glad
4 to look at it.

5 MR. DERIEG: Thank you, Your Honor.

6 --End of Requested Transcript of Record--

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C-E-R-T-I-F-I-C-A-T-E

I, Margaret T. Sullivan, Court Reporter, for the Third Judicial Circuit of the State of South Carolina, do hereby Certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in General Sessions Court on October 4, 2015, in Sumter County, Sumter, South Carolina.

I do further certify that I am neither kin, counsel, nor interest to any party hereto.

7.10.16
DATE

Margaret T. Sullivan

COURT REPORTER

My Commission expires: 9/7/21

STATE OF SOUTH CAROLINA) COURT OF GENERAL SESSIONS
COUNTY OF SUMTER)

STATE OF SOUTH CAROLINA)

STATE,)

v.)

TRANSCRIPT OF RECORD
14-GS-43-0896

ARSENIO COLCLOUGH,)

DEFENDANT.)

October 28, 2015
Kingstree, South Carolina

B E F O R E :

THE HONORABLE HOWARD P. KING, JUDGE

A P P E A R A N C E S:

EDGAR R. DONNARD, JR., ESQ.
Assistant Solicitor

LIR P. DERIEG, ESQ.
Attorney for Defendant

FRANCES B. RAY, RPR
Circuit Court Reporter

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EXHIBITS**COURT'S:**

No.	Description	I.D./EVD.
1	DNA report	24/24
2	Affidavit	24/24

1 MR. DONNARD: Your Honor, this is the
2 State v. Arsenio Colclough. This is a Sumter
3 matter.

4 THE COURT: What's he charged with?

5 MR. DONNARD: Your Honor, he's charged
6 with two counts of murder. It is indictment number
7 2014-GS-43-0896.

8 THE COURT: All right. First of all,
9 counsel, let's get a little background on this
10 matter on the record and let me tell you what I
11 recall about it, and then I'll ask both of you to
12 supplement that as far as a factual basis of where
13 we are at this point. And then, Mr. Derieg, I'll
14 hear from you with regard to whatever your motion
15 is. But it's my recollection is that, my
16 recollection with this case came back sometime in
17 spring of this year at which time you came before me
18 for a bond reduction at which time he had a two
19 hundred thousand dollar surety bond and I reduced it
20 to a hundred thousand dollars. There may have even
21 been a motion for speedy trial made at the same
22 time, and I indicated that I would reduce it to a
23 hundred thousand dollars and require that it be
24 tried within six months. That six months would have
25 been around the first of October. And it came

1 before me maybe last year, I mean, last month,
2 September. Mr. Derieg and Mr. Donnald, at which
3 time, again Mr. Derieg, I recall that you had moved
4 for a dismissal because they had not tried the case,
5 and I indicated that it was probably improbable that
6 I had said you could move for dismissal, that I
7 would entertain that; but I would entertain it on
8 the bond issue and apparently it was not reached.
9 Mr. Donnald at that time told me it was on the trial
10 roster for the October term in Sumter County but
11 apparently has not been reached. Is that from
12 basically a summary of where we are, Mr. Donnald?
13 Anything you want to add to that?

14 MR. DONNALD: Nothing factually, Your
15 Honor.

16 THE COURT: Okay. Anything you want to
17 add to that, Mr. Derieg?

18 MR. DERIEG: Just that, Your Honor, we
19 came before you on October the 14th which was
20 exactly 180 days from the prior spring hearing of
21 April the 17th.

22 THE COURT: Okay.

23 MR. DERIEG: And I told you at the hearing
24 that I had requested the transcript from April 17th
25 and I've been in contact with the court reporter as

1 late as 11:00 last night, and she has still not been
2 able to give me that transcript based on her
3 workload so ---

4 THE COURT: That was Ms. Singletary?

5 MR. DERIEG: Yes, Your Honor.

6 THE COURT: Okay. So we still don't know
7 initially, although I, I mean, my recollection is --
8 and I think I indicated to you -- I probably did not
9 indicate that I would grant motion to dismiss, but
10 that I would entertain a motion to alter the bond if
11 it wasn't tried by that date. And then that was all
12 in October the ---

13 MR. DERIEG: 14th.

14 THE COURT: 14th. And then there was a
15 term of court during the week of October the 19th in
16 which case which at which time I understand the case
17 was on the docket for trial at that time but wasn't
18 reached. Is that right, Mr. Donald?

19 MR. DONNARD: That's correct, Your Honor.

20 THE COURT: Okay. All right, and your
21 motion now, Mr. Derieg, is what?

22 MR. DERIEG: Your Honor, I'll be making a
23 motion for a PR bond because at that October 14th
24 hearing Your Honor indicated that if my client was
25 not tried by October the 23rd that you would retain

1 jurisdiction over this matter and you would be
2 inclined, but certainly not obligated to, grant my
3 client a PR bond. He was not tried by October the
4 23rd. I believe that Mr. Donald indicated to you
5 that we were third up for the October 19th term of
6 court and that if it wasn't tried October 19th, that
7 we would be first up in the next November term of
8 court. I believe that next November term of court
9 is November the 2nd. I've yet to see a published
10 trial list for that week, and I've certainly not
11 received any specific notice or any sort of
12 paperwork confirming that we are, in fact, going to
13 trial on November 23rd.

14 THE COURT: Which would be next Monday.

15 MR. DERIEG: Yes, Your Honor.

16 THE COURT: All right. That is my
17 recollection is, that I indicated I would entertain
18 motion for a PR bond, not that I would grant it but
19 I would entertain a motion if the case were not
20 tried. And my recollection, also, is that it was,
21 the Court was advised it was third case for trial;
22 and as I understand it, Mr. Donald, two cases ahead
23 of it that were there last week were both tried
24 during the whole week; is that right?

25 MR. DONNARD: Both tried.

1 THE COURT: Is that right?

2 MR. DONNARD: That's correct, Your Honor.
3 Both were murder cases, both were tried. They took
4 up the whole week. There were only two trials
5 adjudicated, two cases adjudicated last term of
6 trial court and that was by trial.

7 THE COURT: But the Brock case, as I
8 understand it, resulted in a mistrial.

9 MR. DONNARD: That's correct. And Mr.
10 Meadors tried a -- I can't remember the defendant's
11 last name, but it resulted in a conviction of a 45
12 years sentence. That jury came back after lunch on
13 Friday.

14 THE COURT: That case was, was a
15 conviction but the other case was one that the
16 Solicitor tried, and that was James Brock that
17 resulted in a mistrial because the jury was unable
18 to reach a verdict.

19 MR. DONNARD: Hung jury, that's correct,
20 Your Honor.

21 THE COURT: All right. For my
22 information, and again, I don't remember the
23 situation here, give me just a summary of the facts
24 from the State standpoint on this matter and what
25 the allegations are and let me -- I've got to, one

1 of the things I really still got to consider is
2 danger to the community and risk of flight because
3 it is a murder case, and I don't recall the facts so
4 give me a brief summary of the facts, Mr. Donnald.

5 MR. DONNALD: Yes, sir. Your Honor, on or
6 about April 12th of 2013 a, on Confederate Avenue in
7 Sumter County somebody who the State believes was
8 Mr. Colclough along with what the State may now
9 believe was another individual, entered a mobile
10 home or a -- it wasn't a mobile home but it was a
11 home that did not have power. There were two
12 individuals within that home, one named Rashawn
13 (ph), the other named Willie Chapman. And through
14 the course of what looked like to be a struggle upon
15 investigation they were both shot, one in the back
16 and one in the chest. They were lying dead side by
17 side in the hallway when the mother of one of these
18 two young men who I don't see -- is anybody here on
19 Arsenio Colclough's case?

20 (There was no response.)

21 MR. DONNALD: We did notify them of the
22 hearing today but I don't see anybody.

23 Ma'am?

24 UNIDENTIFIED PERSON: They're outside.

25 MR. DONNALD: They're outside?

1 THE COURT: You better have them come in
2 if you want me to hear from them.

3 MR. DONNARD: If you'll give me the
4 leisure of going to get them, Your Honor.

5 THE COURT: Yes, sir.

6 (Pause.)

7 THE COURT: All right, back on the record,
8 Mr. Donnard, did you find some of the members of the
9 victim's family?

10 MR. DONNARD: I did, Your Honor.

11 THE COURT: Have them come up.

12 MR. DONNARD: Anyway, the individual I was
13 speaking of, Ms. Janice Chapman, is the first one
14 who walked in. She's the lady sitting there with
15 the red shirt on. She actually entered the home,
16 found the two individuals laying in the floor.
17 Investigation revealed a potential witness who named
18 Mr. Arsenio Colclough as being the perpetrator of
19 this offense, and he was subsequently arrested due
20 to those statements. The holdup, Your Honor, if you
21 want me to get into -- that's basically the factual
22 background.

23 THE COURT: We'll get into that. Let me
24 see if I understand what happened.

25 MR. DONNARD: Okay.

1 THE COURT: He had a home that was not
2 occupied; is that correct? I mean, it was not being
3 used as a residence by anybody or was it a vacant
4 house or what was it?

5 MR. DONNARD: It was a home that the power
6 had been turned off. They were living there. The
7 occupants of the home were in there the night. They
8 were in there asleep. We think this was probably a
9 robbery. They were in there asleep. Even though
10 the power was turned off they were occupying the
11 home.

12 THE COURT: Who were the owners?

13 MR. DONNARD: Mr. Rashawn Garner and
14 Willie Chapman. Rashawn Holmes, I'm sorry.

15 THE COURT: Rashawn Holmes and?

16 MR. DONNARD: Willie Chapman.

17 THE COURT: And the only ones that were
18 there ---

19 MR. DONNARD: They was another individual
20 named Eric ---

21 THE COURT: Only ones there at the time?

22 MR. DONNARD: No, sir, there was another
23 individual named Eric Davis who was also there at
24 the time, but he was not injured.

25 THE COURT: And Mr. Holmes and

1 Mr. Chapman, you say?

2 MR. DONNARD: That's correct, Your Honor.

3 THE COURT: Are the victims who were
4 killed?

5 MR. DONNARD: It is their murder with
6 which Mr. Colclough is charged.

7 THE COURT: And this was on April the 13th
8 of 2013?

9 MR. DONNARD: That's correct, Your Honor.
10 Mr. Colclough wasn't arrested until October the 1st
11 of 2013. He's been incarcerated ever since.

12 THE COURT: All right. So we've got a
13 double murder, Mr. Holmes, Mr. Chapman.
14 Mr. Colclough is the, indicted for those murders
15 that occurred on April 13th, 2013. He was arrested
16 on October the 1st, 2013, and has now been in jail
17 for two years and a month.

18 MR. DONNARD: That is correct, Your Honor.

19 THE COURT: All right. I think I
20 understand the factual background. Tell me what the
21 State's position is with regard to the motion for a
22 reduction in the bond to, as Mr. Derieg has said, a
23 personal recognizance bond, why that should or
24 should not be done, and what the State's position is
25 and when the State expects this matter be called for

1 trial.

2 MR. DONNALD: Your Honor, the State's
3 position on the PR bond is we'd ask you to deny his
4 bond. We believe he, that Mr. Colclough does remain
5 a danger to the community just based on his criminal
6 record which I can give you whenever you wish and
7 it's not that extensive. But also, mainly the
8 seriousness of these crimes, Your Honor. I've also
9 had reports, personal reports to me, of
10 Mr. Colclough threatening potential witnesses
11 against him through other members of the community.

12 THE COURT: Has he been indicted or
13 charged with that?

14 MR. DONNALD: No, Your Honor, these are
15 recent threats. These are recent threats that have
16 been, that have been relayed to my in preparation of
17 this case for trial.

18 THE COURT: How recent?

19 MR. DONNALD: Within the last month, your
20 Honor.

21 THE COURT: Do you have statements from
22 the witnesses that have allegedly been threatened?

23 MR. DONNALD: I have been told by them
24 themselves, but I don't have a written statement
25 from those witnesses, Your Honor. Your Honor, the

1 delay in this trial is -- and first of all, let me
2 say that Mr. Derieg hasn't received a trial notice
3 it's true, but our next term of trial court is not
4 this coming Monday, it's the following Monday. So
5 our trial list will be turned in this afternoon
6 and are due on Friday but Mr. Colclough is not gonna
7 be on that list and I'll tell you why. And in
8 developing this case one of the holdups in this case
9 was the fact that this gun that was used in the
10 murder that Mr. Colclough is charged with was also
11 used in another shooting approximately a month
12 later, and it was used by an individual by the name
13 of John Colclough, the State believed. In trying to
14 tie down what happened with that gun, the State
15 prepared a case against Mr. John Colclough. That
16 was my case also, Your Honor, prepared it for trial.
17 On the eve of trial Mr. John Colclough pled guilty
18 to using the particular gun that was used to, in the
19 case that's before you now, to shoot a third party
20 that's unrelated to this whatsoever. John Colclough
21 we think, is unrelated to this whatsoever, other
22 than the fact that he had in his hand the same gun
23 that was used on the murder on Confederate Avenue.
24 Once he pled guilty he indicated that he wished to
25 give us helpful information as to how he came into

1 possession of the gun. We knew from the statement
2 from another individual that John Colclough and
3 Arsenio Colclough were together with a person named
4 Kuji, street name of Kuji who is -- neither one of
5 the Colclough boys are eligible to purchase a gun.
6 Kuji can purchase a gun so they went with Kuji and
7 purchased this particular gun, a gun matching this
8 caliber from a pawnshop. Mr. John Colclough is the
9 one who was able to tell me, yes, that is in fact
10 the exact same gun. He has an alibi for the
11 Confederate Avenue shooting so we knew that it was
12 not likely to be him, and he has now giving us a
13 statement that Mr. John -- that Mr. Arsenio
14 Colclough was in possession of the gun, was, that he
15 got the gun from Arsenio Colclough.

16 All of that being said, Your Honor, that
17 case was prosecuted and Mr. Colclough pled guilty in
18 July, July 21st of this year. He got 13 years in
19 the Department of Corrections for that. Your Honor,
20 there was a, another -- that could not have been
21 developed until the last couple of months is what
22 I'm trying to tell you, but that also led us to a
23 second individual that Mr. John Colclough has
24 indicated he believed took part in this offense. He
25 was also within the Department of Corrections, Your

1 Honor. And that became important for the purpose of
2 seeking justice because there, the initial delay in
3 the spring from the State's point of view was DNA
4 evidence. There was DNA collected from the scene
5 that has not been processed by SLED. That was true
6 —

7 THE COURT: Run that by me again. DNA was
8 collected from the scene. That was April 13th,
9 2013. How long did it take to get that DNA
10 processed?

11 MR. DONNALD: Two years, Your Honor.

12 THE COURT: So it was basically you had
13 the results of the DNA in April of 2015.

14 MR. DONNALD: No, sir, I got the results
15 in — the analysis was performed itself, the actual
16 analysis was performed in July of 2015. I got the
17 results in August of 2015, relayed them to Mr.
18 Derieg. We had our first discussion about them in
19 September.

20 THE COURT: What was the DNA of?

21 MR. DONNALD: The DNA was of -- there was
22 some blood found in a car that we believe was used
23 in this incident. There was scrapings and debris
24 taken from a article of clothing that was left
25 behind at the scene that investigation developed did

1 not belong to either of the deceased persons who was
2 laying there.

3 THE COURT: Was DNA linked to this
4 individual?

5 MR. DONNARD: The car DNA is; the hat DNA
6 is not. And that's ---

7 THE COURT: The car DNA is?

8 MR. DONNARD: Yes, sir. That is part of
9 the -- when we got that information back, Your
10 Honor, of course, that was a couple of months ago.
11 And the reason it ties into what I was telling you
12 earlier about the gun is this, Your Honor. The DNA
13 analysis indicated, as I said, that there were --
14 the deceased DNA, Mr. Cokely's DNA was in the car.
15 The hat did not come back as Mr. Colclough, but came
16 back to an unknown individual.

17 THE COURT: What's the connection of the
18 car?

19 MR. DONNARD: The car that we believe was
20 used to drive to the Confederate Avenue house and
21 then drive back from the Confederate Avenue house.

22 THE COURT: And how do you know -- you
23 believe that, how would you prove that?

24 MR. DONNARD: We have a witness who was,
25 told us that he borrowed their car to, for a

1 particular, for two hours during the evening that
2 the shooting happened.

3 THE COURT: Does he say when he borrowed
4 that car that he drove this individual to and from
5 the house?

6 MR. DONNARD: No, Your Honor, but ---

7 THE COURT: What does he say he did with
8 the car? I don't follow. I don't understand how
9 you link this gentleman to the car.

10 MR. DONNARD: This gentleman's girlfriend
11 has given police a statement that said he was with
12 her at the house. He borrowed her car for the hours
13 I believe -- and this is off the top of my head --
14 between 11 and 1 and returned. I also have a -- and
15 returned there and his blood was found in the car
16 along with...

17 MR. DERIEG: Your Honor, I have an extra
18 copy of this DNA report if you'd like to look at it.

19 THE COURT: Yes.

20 (Document tendered to the Court.)

21 THE COURT: Well, looking at the DNA
22 report, I'll hear from you if you want to hear from
23 me some more, Mr. Donnard, but it seems like as a
24 result, the DNA profiles from the number 43 mixture
25 is a swab from the rear passenger door, mixture of

1 two individuals and they are excluded from this
2 defendant and two others are excluded as possible
3 minor contributors to that mixture. Number 42,
4 they're also excluded from the swab from the front
5 passenger seat so it seems like that 40.2 from the
6 red baseball cap, he cannot be excluded as a
7 possible minor contributor to this mixture, but it
8 doesn't say definitely that it is his.

9 MR. DONNARD: Yes, Your Honor, you're
10 reading it accurately.

11 THE COURT: Go ahead.

12 MR. DONNARD: At any rate there is,
13 continuing to read and also in that same report is
14 an unidentified individual who contributed DNA.

15 THE COURT: All right, I see that.

16 MR. DONNARD: Okay. Now, Mr. John
17 Colclough gave me an idea of who that unidentified
18 individual is and he's not unknown to Mr. Colclough
19 or Mr. Derieg -- this Mr. Colclough, or Mr. Derieg.
20 It's a gentleman by the name of Juan (ph) Francis
21 who is the initial person who gave a statement about
22 Mr. Colclough. So we had, I think, justice
23 require -- the reason it's not on trial is I think
24 justice requires that we run the same DNA analysis
25 against Mr. Juan Francis. In fact, Mr. Derieg asked

1 me to do that very thing on September 15th.
2 However, the sample -- in talking with SLED, and
3 this is where we were the last time we talked. In
4 talking to SLED the chemist in this case Your Honor
5 whose name is Katherine Licey who performed the
6 report you have in your hand, the sample that was
7 taken from the scene and from the car are not of
8 sufficient quality to run against the CODIS data
9 base, for whatever rules and regulations they have,
10 simply because these folks have DNA in the system
11 they can't just run it. They can't run it against
12 an individual in the system. They have to run it
13 against the entire data base and it has to be a
14 pristine sample before they can do that, and these
15 samples aren't pristine. If they had a sample from
16 Mr. Francis they could run it against him; however,
17 as you know, we only have two ways of getting
18 samples from an individual. One is by charging them
19 and having a Smerber hearing having them ordered to
20 give a sample, or simply asking him.

21 When we were before the Court the last
22 time the State had not had an opportunity, I had not
23 had opportunity to have Mr. Francis come in and see
24 if he would voluntarily submit to a DNA sample.

25 THE COURT: Why don't you just apply with

1 the magistrate for a search warrant? I mean, that's
2 the way to get it.

3 MR. DONNALD: Well, I don't need to
4 because Mr. Francis voluntarily gave us a sample,
5 which is now at SLED and is being performed.

6 THE COURT: When was this?

7 MR. DONNALD: This was within the last
8 three weeks.

9 THE COURT: When did you learn that
10 Francis was involved?

11 MR. DONNALD: When I spoke with
12 Mr. Colclough in preparation for this trial.

13 THE COURT: Which was when?

14 MR. DONNALD: Within the last three weeks.
15 Mr. Colclough was unwilling to talk to us prior to
16 that point, Your Honor, and he had pending charges
17 up until September, I mean, up until July.

18 THE COURT: July. In July at that point
19 in time he pled guilty with the idea of cooperating
20 couldn't you have moved forward with your forensic
21 evidence at that time.

22 MR. DONNALD: Your Honor, he did not plead
23 guilty with the idea of cooperating. There was no
24 mention of cooperating at the time he pled guilty.

25 THE COURT: Well, even after he pled

1 guilty though he was -- anything was res judicata to
2 him. Why couldn't apply for a search warrant at
3 that time to get his DNA at that time?

4 MR. DONNARD: Mr. Francis' DNA at that
5 time?

6 THE COURT: Yeah, I don't understand
7 what's the holdup of getting the DNA. I mean, I
8 don't understand all the parties in this case, but
9 it seems like to me what we got here is a defendant
10 who has been in jail for now two years and one
11 month.

12 MR. DONNARD: Yes, sir.

13 THE COURT: And the State is still not
14 ready to go to trial.

15 MR. DONNARD: Yes, sir. I can't disagree
16 with that at all, but I can tell you that none of
17 this could have been developed any faster than it's
18 been developed. It was dependent on John Colclough
19 pleading guilty and then being, deciding to be
20 cooperative, and then giving us the name of who we
21 suspect may be the unidentified individual.

22 THE COURT: When did he decide to plead
23 guilty?

24 MR. DONNARD: He pled guilty in July.

25 THE COURT: All right. Then why couldn't

1 he -- that's what I don't understand. Why couldn't
2 you have got the information from him then and then
3 move forward with the DNA?

4 MR. DONNARD: He was not cooperative in
5 July, Your Honor. He had no reason to be. He pled
6 guilty with a jury sitting in the jury box so it
7 wasn't a matter of negotiated guilty plea or working
8 this thing up. He pled guilty when he saw the
9 witnesses were willing to come testify against him
10 in court in Sumter County, he decided to enter a
11 guilty plea. He went that day to SCDC and was
12 unavailable to the State for three weeks to a month
13 anyway 'cause he's in R&E.

14 THE COURT: He's not unavailable to the
15 State. The State had him in jail. He was not
16 unavailable. Just because he's out of town doesn't
17 make him unavailable. Go ahead.

18 MR. DONNARD: Your Honor, he was not, he
19 was not willing to cooperate any sooner than we got
20 the statement from him that named Juan Francis. Up
21 until that point I had no reason to get the DNA from
22 Juan Francis other than Mr. Derieg asking for it.

23 THE COURT: When you knew that my deadline
24 was approaching, Mr. Donnard, why didn't come to me
25 and tell me we've got this problem? We can't try

1 this man in October like you ordered. Nobody came
2 to me and told me that.

3 MR. DONNALD: Your Honor, that's why we're
4 here now.

5 THE COURT: After the fact. I was not
6 even told this last week or whenever I came, when we
7 came before.

8 MR. DONNALD: Your Honor, my email to you
9 indicated that I agree that we need to come before
10 you ---

11 THE COURT: I'm talking about when Mr.
12 Derieg appeared before me and you told me the matter
13 was on the trial roster, and I was not aware of any
14 outstanding forensic evidence that you needed to get
15 before you could go to trial.

16 MR. DONNALD: Your Honor, that was before
17 Mr. Colclough gave us the name of Juan Francis.

18 THE COURT: That was before October 14th?

19 MR. DONNALD: I didn't have that
20 information, Your Honor, until ---

21 THE COURT: Who did?

22 MR. DONNALD: Mr. Colclough had the
23 information and had not given it to me.

24 THE COURT: You hadn't gotten it before
25 October 14th?

1 MR. DONNALD: That's correct, Your Honor.

2 THE COURT: Which is two weeks ago.

3 MR. DONNALD: That's correct. He was not
4 brought back from SCDC to sit down and talk to me
5 until after we had that hearing, or I would have
6 told you or just -- or I would have gotten DNA
7 sooner than that. I just didn't know.

8 THE COURT: All right, Mr. Derieg.

9 MR. DERIEG: Your Honor, I've spoken with
10 Mr. John Colclough and the first time that the State
11 ever even made an attempt to speak with him was the
12 very next day after our hearing on October 14th. On
13 October 15th he was taken to Sumter and that's where
14 he spoke with Mr. Donald and investigator, or I
15 think lieutenant at this point, Melissa Addison.
16 I've been asking Mr. Donald to speak with Mr. John
17 Colclough since at least April the 17th of that bond
18 hearing that we had where you reduced his bond to a
19 hundred thousand dollars. Mr. Colclough tells me
20 that the first time that the State ever made any
21 attempts to contact him was October the 15th, the
22 day after our last hearing, and he did not indicate
23 to anyone that he was wanting to cooperate. He was
24 woken up that morning surprised and brought to
25 Sumter and spoke with Mr. Donald for the first time

1 about this case on October the 15th.

2 Your Honor, additionally, this DNA that
3 we're talking about from a red cap and from a car,
4 neither one of these would ever even be admissible
5 in a trial. This red cap was in the possession of
6 one of the victim's mothers for seven months after
7 the incident. The incident happened in April of
8 2013. The red hat was brought forward and given to
9 the police in November of 2013. Additionally, the
10 car swabs that we're talking about didn't happen
11 until December of 2013 so that we have a seven month
12 time gap on the red cap and we have an eight month
13 time gap on a car. And as Mr. Donald told you, Mr.
14 John Colclough was convicted on July 21st of 2015.
15 The State made its first attempt to ever even talk
16 to John Colclough on October 15th of 2015.

17 Additionally, Your Honor, it has come to
18 my attention from speaking with the two witnesses
19 that gave statements, or allegedly gave statements
20 against my client that has kept him in jail for
21 these two years and one month, and based on what
22 they have told me it appears that there has been
23 evidence that has been suppressed in this case. The
24 female that gave a statement named Shakier Lawson
25 says that she actually wrote out a statement. That

1 statement has never been turned over to us. She
2 tells me she was never give an copy of it. She
3 doesn't know if Mr. Donnald has a copy of it but
4 she's never — in fact, she told me that Mr. Donnald
5 told her that he has no idea where her written
6 statement is. The only mention of her and her
7 statement is in investigative notes by Lieutenant
8 Addison. Additionally, Juan Francis tells me that
9 Melissa Addison has come to him and told him that
10 there have been letters from other inmates to her
11 stating that it was Juan Francis that committed this
12 murder, not my client. None of those had ever been
13 turned over to us. Specifically, one such
14 individual by the name of Larry Archie.

15 Finally, in regards to the suppressed
16 evidence, both Shakier Lawson and Juan Francis both
17 tell me that they were interviewed together at the
18 Sheriff's Department by Melissa Addison, that that
19 interview was recorded on video. I've never been
20 given a copy of that video; nor, is it ever
21 mentioned in any investigative note or on any
22 discovery checklist. And finally, your Honor, in
23 regards to this new evidence that they say that
24 implicates not only my client, but also Juan
25 Francis, I just happened by dumb luck to go as an

1 attempt to speak with John Colclough in preparation
2 for what I would hope would be that October the 19th
3 trial, wanted to interview all the potential
4 witnesses in the case. By dumb luck I happened to
5 come to the jail approximately an hour-and-a-half
6 after he had gotten back from Sumter. What Mr.
7 Colclough tells me is that he was told by the
8 State -- and I'm not sure, I believe he indicated
9 that it was Melissa Addison that told him this,
10 though I'm not hundred percent positive which person
11 it was that told him this -- indicated to him if he
12 would be willing to cooperate and link my client to
13 only one body instead of two and implicate someone
14 else on the second body that they would be, he would
15 be saving my client from the death penalty. Now
16 these guys are first cousins so he was told that if
17 he would say that Arsenio as well as Juan Francis
18 committed this and on shot one and one shot the
19 other, that they would be, that he would be saving
20 his first cousin from a potential death penalty,
21 even though this case has never ever been noticed
22 for any type of death penalty. Additionally, Your
23 Honor, he was told if he would say those things he
24 would also be brought before whichever judge is the
25 trial judge after Mr. Colclough's trial was over and