

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

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SC Court of Appeals

Appeal from Anderson County

Honorable R. Scott Sprouse, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ROYRES ANTWON PATTERSON,

APPELLANT

APPELLATE CASE NO. 2016-001084

RECORD ON APPEAL

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1 -8316. I don't know if it will show up on
2 there. I'll try to, ladies and gentlemen, show this to
3 you.

4 As you will see right here, if I may try to zoom
5 in on that a little bit -- that's about the best it
6 will do. The dates -- I'm sorry. Maybe I was hitting
7 the wrong one. Very good. The dates in question were
8 June 7, 2014, from 4:56 p.m. through 6/8, which would
9 be June 8, 2014, at 8:19 a.m. So what I did is I took
10 the entire T-Mobile records that were given to me,
11 they're known as CDRs. Would you like for me to
12 explain how CDRs work?

13 Q Those have been explained.

14 A Okay. Great. So what I did was I took the CDRs,
15 and I basically went through them and noted all the
16 traffic. When I say "traffic," that means calls made
17 to the phone bearing that device -- I mean bearing that
18 number or receiving calls to that number on that
19 device. And what I was able to do is then find all the
20 towers that had been utilized during those dates and
21 that time and then plot them accordingly.

22 Now, I plotted them by their longitude and
23 latitude for accuracy, not their street address.
24 Sometimes in the records you will get both. Best thing
25 to do is you always take the longitude and latitude of

1 the tower itself so you have the exact tower. And then
2 what I did is this here is a culmination of all those
3 calls. And as you can see in certain areas, there was
4 a lot of traffic performed during certain dates and
5 times. Down here, at this tower up here. And then I
6 was asked to also place on the map the crime scene
7 location as well as AnMed Hospital and a Spirits Bar
8 located over in Belton.

9 Q Now, Mr. Slovenski, maybe we can get a little
10 closer to those.

11 A I was going to go to this one.

12 Q Okay.

13 A Okay. Now, this is a view of the traffic around
14 AnMed and East Main Street.

15 Q Market?

16 A I'm sorry.

17 Q Would you review and make sure that's the address?

18 A I am so sorry. Yes, right here. It's Market
19 Street. Don't ask me why I put "Main" up there. I'm
20 sorry. I've got a lot of cases, and I'm sorry, you
21 know, that error occurred.

22 But, yes, it is Market Street. Right here. Okay.
23 So, anyway, I went ahead and plotted those locations
24 and put them in reference to the towers that were
25 utilized around those locations.

1 Again, I meant Market Street. I was asked to find
2 the approximate distance from a location to a tower.
3 From AnMed to this tower was approximately .287 miles.
4 From this tower to this tower is approximately
5 .270 miles. And then from the location down to East
6 Market Street -- I'm sorry -- this location here, from
7 this tower to this tower is 1.14 miles, ladies and
8 gentlemen. Please excuse me.

9 From this location to this location is .27 miles,
10 from the tower to East Market Street. And then
11 down here I have the crime scene marked. And as you
12 can see on each of these towers, I also placed the time
13 and dates of the calls made or received while utilizing
14 that tower from that particular telephone number.

15 Q Now, can you go through generally the dates and
16 times for each tower?

17 A Okay. I could probably do that better by bringing
18 this one in, if you wish. Let me zoom this in. There
19 we go.

20 This tower here, it was utilized anywhere from
21 June 7, 2014, from 6:55 p.m. clear to 6/8/14 at 8:19
22 a.m.

23 Q And there are -- are there breaks in the times
24 when other towers are used throughout that night?

25 A Yes.

1 Q Okay.

2 A And what I will do is show here. Sorry. Let me
3 get the first one. There we go. There we go. This
4 tower, which is tower 10062, was utilized June 7, 2014,
5 at 9:48 p.m. This tower up here was utilized on
6 June 7, 2014, at 4:56 p.m.

7 Q Can you pull that down for us, please?

8 A You mean back?

9 Q Yeah. They couldn't see the top tower. There you
10 are.

11 A There we go. Okay. This one right here. Okay.
12 This tower here, you'll notice it's a different icon.
13 I did that for clarification purposes. You will notice
14 that most of my towers are a big red dot. The big red
15 dot rather than a pinpoint I put to help clarify ease
16 of use, easier to pick up. This is a tower that a call
17 ended on at June 8, 2014, at 8:19 a.m. What happened
18 is the call was started on that tower, and it ended on
19 that tower. That was within the time frame I was given
20 to plot so I went ahead and put that in. That shows
21 either mobility there, change in traffic in that the
22 person could have moved because your tower will be
23 utilized by your device, not necessarily the closest
24 tower, but the strongest signal that it can get off a
25 tower. Because the phone is looking for three to five

1 cell towers at any given time.

2 We have this tower here which was near AnMed.

3 That was utilized on June 7, 2014, at 9:48 p.m. Crime
4 scene is here. Then we go all the way down here. Now,
5 this is near Starr, okay. And this tower was used from
6 June 8, 2014, at 2:12 a.m. to June 8, 2014, at 4:07 --
7 I'm sorry, at 7:47 a.m. Next time I'm going to bring
8 my reading glasses.

9 Q So, Mr. Slovenski, looking at that tower and
10 Starr --

11 A Yes, ma'am.

12 Q -- you said 2:12 a.m. to 7:47 a.m.?

13 A Yes, ma'am. Yes, 7:47 a.m. You are correct.

14 Q Okay. And you have marked on your map the
15 location of the Spirits Bar in Belton?

16 A Right there.

17 Q Okay. Would it be possible for someone to be at
18 the Spirits Bar in Belton using that cell phone but
19 still reflecting use on the tower in Starr?

20 A It's going to be nearly impossible.

21 Q And why is that?

22 A Well, here's the distance. Here's the tower
23 that's located right by Starr, ladies and gentlemen.
24 Here's Spirits Bar. The distance from that tower,
25 which is 11191, that's the number they gave it, to

1 Spirits Bar is approximately 13.6 miles. So roughly
2 14 miles.

3 The way that that tower was acting during that
4 time, in other words, that number kept utilizing that
5 tower down there, down there, down there during those
6 times. Belton is so far away that there would not be a
7 signal reached that far. Normally what happens is your
8 provider, T-Mobile, Sprint, AT&T, Verizon, whoever,
9 their main concern is keeping you connected because if
10 you're connected, you will continue the service. You
11 get dropped calls, you start looking for another
12 vendor. So what they're going to do, they're going to
13 make sure that they have towers in places that you can
14 then go from one to the other without dropping. Okay?

15 So this tower here at the bottom, that's the one
16 by Starr. That was used all those times. And then you
17 will see that the traffic then goes back up toward
18 Anderson. There's no traffic going that way. There's
19 no continualness, there's too much in between. It's
20 nearly impossible that, based on my experience,
21 training, education, and doing this for so many years
22 that a phone utilizing that tower on down here at Starr
23 would then use a tower up by Spirits Bar.

24 Q Okay. So let's look at the East Market
25 Street location.

1 A I'm presuming you're referring to this.

2 Q Yes.

3 A Is that good?

4 Q Back up just a smidge.

5 A Say when.

6 Q When. So you have the crime scene marked on this
7 document; is that correct?

8 A Yes, ma'am.

9 Q Where is that?

10 A It's going to be right here.

11 Q Okay. Now, you also have East Market Street
12 located on this?

13 A Right there.

14 Q And is East Market Street in the tower range
15 for the tower you have listed up there?

16 A Yes, ma'am.

17 Q If an individual was at East Market Street
18 and using that cell phone, would that be an accurate
19 reflection of their usage?

20 A Yes.

21 Q Okay. Is there one incident where the individual
22 is not in the range of that tower during the evening?

23 A Well, yeah, because if you see right over here and
24 there again in relation to AnMed, this tower was
25 utilized here on June 7th at 9:48 p.m.

1 Q 9:48 p.m.?

2 A Yes, ma'am.

3 Q When is the last instance of traffic for that
4 phone before traffic comes off the tower near AnMed
5 Hospital?

6 A Okay. Let me understand this correctly.

7 Q Yes.

8 A In regards to those two towers?

9 Q Yes. Chronologically, where is the last traffic
10 before the traffic at the tower near AnMed?

11 A Okay. Last traffic is June 7, 2014, at 7:59 p.m.

12 Q 7:59 p.m.?

13 A Yes, ma'am.

14 Q And then there is?

15 A A gap.

16 Q A gap?

17 A Yes.

18 Q In activity?

19 A Yes.

20 Q On that cell phone?

21 A Yes.

22 Q Until when?

23 A There's a gap coming back to that tower at
24 10:32 p.m. same day.

25 Q Okay.

1 A It's approximately two hours and 73 -- 2.73 hours'
2 difference there of a gap. In between that you have
3 this traffic being hit, for want of a better term. I
4 don't like to use the term "ping." But you have that
5 tower being utilized there same date, 9:48 p.m.

6 Q Throughout the date and time that you looked at,
7 times that you looked at --

8 A Uh-huh.

9 Q -- is there another gap of that length in usage?

10 A No. No.

11 Q So from 7:59 p.m. until 9:48 p.m., there's no
12 outgoing activity on that phone?

13 A That's correct.

14 Q Okay. And the next activity, the activity closest
15 to, if you were given the approximate time of 9:46 p.m.
16 as when a call came in for an incident that occurred at
17 the crime scene, then the next tower hit is at
18 9:48 p.m. by the hospital?

19 A Correct.

20 Q Okay. Did you reach any other conclusions in your
21 analysis?

22 A Here I was able to give you the order of the
23 towers as they were utilized.

24 Q Okay. Would you go through that with the court.

25 A This is sort of a summary so you can kind of see

1 the movement that the device was taking, okay. Number
2 one was a tower up here hit at 4:57. Then we come down
3 here from 6:55 to 7:59. Remember that tower right
4 there by Market Street? Then we go over here to 9:48.
5 Now we're back over here at 10:32 to 1:42 -- I'm sorry
6 a.m. And then we go from there all the way down to
7 here. So from 2:12 a.m. to 7:47 a.m. this tower was
8 being utilized. Then we go back at 8:19 a.m. back to
9 that original tower that we talked about and there was
10 a call made on there or received, and then that call
11 that was right there at 8:19 a.m. started on that tower
12 but it ended on that tower up there.

13 Q Okay. One moment.

14 Thank you so much, Mr. Slovenski. Please answer
15 any questions that Mr. Byrholdt has for you at this
16 time.

17 MR. BYRHOLDT: May it please the Court.

18 CROSS-EXAMINATION

19 BY MR. BYRHOLDT:

20 Q Mr. Slovenski, can you tell the jury who made
21 those calls?

22 A I can only tell you the number that was used and
23 the device that it was utilized on.

24 Q So your answer is no?

25 A As for a person, no, sir, I can't tell you that.

1 Q The call at AnMed tower at 9:48?

2 A Yes.

3 Q That was an incoming call or outgoing call?

4 A I would have to look at the records, sir, which
5 I'd be more than happy to. I've got the original
6 sheets. That's only going to say the traffic.

7 Q Have you got the original sheets?

8 A I have them.

9 Q Can you get those, please, with the Court's
10 permission?

11 THE COURT: Yes, sir.

12 THE WITNESS: Please excuse my makeshift sheet.
13 This is how I verify my work. It's one thing to see it
14 on a screen. It's another thing to see it on paper, so
15 I have to print it out and then piece it together and
16 so that way I can check and double-check my work.

17 And, sir, you were saying 9:48?

18 BY MR. BYRHOLDT:

19 Q The 9:48 call that you said hit on the AnMed
20 tower.

21 A Uh-huh.

22 Q Was that an incoming or outgoing call?

23 A That is showing an outgoing call, sir.

24 Q All right. And that hit on what tower and
25 location?

1 A The first tower was, it's called 10062. That's
2 the number that T-Mobile assigned to it.

3 Q So that tower would be starting at?

4 A Yes, sir.

5 Q And where did it finish at?

6 A Same tower, sir.

7 Q So started and finished on the same tower?

8 A That is correct.

9 Q Let me hand you what's been provided to me in
10 discovery. I've got a number of 10062, 9:48, but have
11 a 17796 number.

12 A That's the last tower's LAC not its I.D. number.

13 Q Okay. And what's the LAC tell you?

14 A The LAC is a group of towers. It will be like a
15 region. Sort of like a ZIP code. You know, Greenville
16 will have 29601 and it will take in a specific area.
17 Well, what happens with cell towers, they're called LAC
18 and CID. All right? LAC is the ZIP code. CID is your
19 house, that particular tower.

20 Q That dot?

21 A Yes, sir, the dot.

22 Q Now, I think you testified on direct that a phone
23 call does not necessarily go to the closest tower?

24 A That is correct.

25 Q Do you know what the range of the towers are at

1 AnMed and on, I think it's Campson which are the two
2 towers. I think you had tower, I think it would be two
3 and four. The one closest to Market Street, do you
4 know what the range is on that one?

5 A The specific technical range, no. T-Mobile did
6 not give us those records.

7 Q Would you say within a mile and a half?

8 A We would be safe in saying that.

9 Q Have you had a -- you can do this with any phone
10 number, correct?

11 A Yes, if the carrier will.

12 Q If you're provided a phone number and the carrier?

13 A Yes, sir.

14 Q Because that's what you need, correct?

15 A Yes, sir. Yes, sir.

16 Q If you have been provided, say, a call is claimed
17 to have been made around the time of the incident?

18 A Yes, sir.

19 Q Had you been provided the number and carrier, you
20 could have certified whether that call, a call was made
21 from that number at that time?

22 A Yes. We would have to figure out who the provider
23 was and then go to that specific provider with the
24 proper legal writ.

25 Q Okay. And the only number you were provided in

1 this case was the one they asked for?

2 A That is correct.

3 Q Thank you, sir.

4 A Thank you.

5 MS. PRICE: No further questions.

6 THE COURT: All right. Any objection to this
7 witness being excused?

8 MR. BYRHOLDT: None whatsoever. Be careful,
9 Mr. Slovenski.

10 MS. PRICE: Not from the State.

11 THE COURT: Thank you, Mr. Slovenski. You are
12 excused.

13 MS. PRICE: Your Honor, the State rests.

14 THE COURT: Okay.

15 Mr. Bailiff, would you please take our jury to the
16 jury room.

17 (WHEREUPON, the jury exited the courtroom
18 at 11:22 a.m.)

19 THE COURT: Any motions?

20 MR. BYRHOLDT: Please the Court. On behalf of the
21 defendant in this case, first, I'd move for a directed
22 verdict of not guilty on the attempted murder of
23 Rayshawn Cowan. The only evidence in the record is
24 from Dr. Woodard who testified on direct the injuries
25 were not life-threatening. To prove attempted murder,

1 they have to prove every element of murder, and I think
2 there is a total lack of evidence in that case.

3 We would also make a motion for a directed verdict
4 of acquittal on the other two charges, but I think at
5 this point it's a factual issue. I think on the
6 attempted murder, I think with Dr. Woodard being the
7 only testimony offered, the victim didn't testify, and
8 he said they were not life-threatening injuries, I'd
9 move for a directed verdict on that count.

10 THE COURT: Ms. Price.

11 MS. PRICE: Thank you, your Honor. May it please
12 the Court. In viewing the evidence in the light most
13 favorable to the State pursuant to *State v. Raul* and
14 looking at whether there's any direct evidence or
15 circumstantial evidence reasonably tending to prove the
16 guilt of the accused, then the case would be properly
17 submitted to the jury. And in this instance, certainly
18 I believe that the State has put up substantial
19 evidence as to the murder, the attempted murder, and
20 the possession of the weapon during the commission of a
21 violent crime.

22 If the Court has concerns about the attempted
23 murder, I would submit to the Court that not only did
24 Dr. Woodard testify as to the injuries sustained by
25 that individual, we also brought in a statement by that

1 individual as to causation of those injuries. Your
2 Honor, there were independent witnesses who were called
3 who said that that individual was there and who also
4 said that they viewed him saying he's hit, he's hit,
5 and that he received injury that night. We're not
6 required to put up the victim in the case as long as we
7 submit evidence to the crime committed, and the intent
8 to kill doesn't have anything to do with the skill of
9 the shooter in the case. He was hit four times, and as
10 Dr. Woodard testified, he miraculously received no
11 life-threatening injuries. It doesn't go to the
12 success, it goes to the intent.

13 THE COURT: All right. I have heard the evidence
14 presented, and in taking it in a light most favorable
15 to the State, I find there is sufficient evidence in
16 the record to avoid a directed verdict.

17 So, Mr. Byrholdt, I would rule this is a jury
18 question and I would deny your motions at this time.

19 Okay. Mr. Byrholdt, would you have your client
20 stand, please, sir.

21 (WHEREUPON, the defendant was sworn.)

22 THE COURT: Mr. Patterson, at this time I'm going
23 to explain to you some of your rights. If you do not
24 understand anything that I say, please let me know and
25 I will explain it in more detail. If you answer the

1 question, I will assume that you understood the
2 question.

3 Do you understand?

4 THE DEFENDANT: Yes, your Honor.

5 THE COURT: We have reached the stage in the trial
6 where you may present your defense. You have the right
7 to claim the protections given to you by the Fifth
8 amendment to the constitution of the United States.
9 This amendment says in part, "No person shall be
10 compelled in any criminal case to be a witness against
11 himself." This means that you cannot be required to
12 testify in this case. On the other hand, you have the
13 right to testify on your own behalf should you choose
14 to do so. However, no one can make you testify. This
15 is a personal right, and no one can waive this right
16 except you. If you decide to testify, you will be
17 subject to the same rules that govern other witnesses,
18 and you may be examined and cross-examined on any
19 relevant issue in this case.

20 In addition, if you have any conviction involving
21 dishonesty or false statement or for crimes punishable
22 by imprisonment for more than one year and this court
23 determines the probative value of admitting this
24 evidence outweighs its prejudicial effect to you, the
25 solicitor will be able to introduce your record to

1 attack your credibility. If you decide to testify,
2 this decision on your part must be freely, voluntarily,
3 and intelligently made with knowledge of the
4 protections given to you by the Fifth Amendment and the
5 consequences of your decision to testify.

6 If you decide not to testify, I will instruct the
7 jurors that they cannot give the fact that you did not
8 testify any consideration whatsoever and that there is
9 to be absolutely no prejudice to you because you did
10 not testify. It is left entirely up to you whether or
11 not to testify. You may talk to your attorney, your
12 family, friends, or anyone else, but the final decision
13 is to be left entirely up to you.

14 Do you understand what I have explained to you?

15 THE DEFENDANT: Yes, your Honor.

16 THE COURT: Do you have any questions?

17 THE DEFENDANT: No, your Honor.

18 THE COURT: Okay. We're going to take a break,
19 and I'm going to give you, Mr. Patterson, an
20 opportunity to discuss with your attorney whether or
21 not you wish to testify and then we'll go back on the
22 record after a recess.

23 MR. BYRHOLDT: Thank you, your Honor.

24 THE COURT: We'll be in recess.

25 (WHEREUPON, a recess was taken from 11:28 a.m.

1 to 11:39 a.m.)

2 THE COURT: Mr. Patterson, have you had an
3 opportunity to talk with your attorney about whether or
4 not you have decided to testify?

5 THE DEFENDANT: Yes, your Honor.

6 THE COURT: What is your decision?

7 THE DEFENDANT: Don't, your Honor.

8 THE COURT: Thank you.

9 Anything you want to put on the record,
10 Mr. Byrholdt?

11 MR. BYRHOLDT: It's also my understanding we're
12 not going to offer a defense. We're going to rest and
13 that's truthful, right, Mr. Patterson?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Is that correct, Mr. Patterson?

16 THE DEFENDANT: Yes, sir.

17 MR. BYRHOLDT: I'll get on the record and I'll
18 rest formally.

19 THE COURT: That's noted for the record.

20 Now, before we -- it is --

21 MS. PRICE: Judge, may we approach?

22 THE COURT: Yeah. Let's get a game plan.

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

25 THE COURT: Okay. After conferring with the

1 attorneys in a conference over the proposed charges and
2 mapping out the rest of our day, I think this is a
3 breaking point. I'm going to send the jury to lunch
4 early today, and then we will reconvene at 1:45, and if
5 either attorney has any specific jury charges -- I've
6 been over my standard charges with the attorneys. If
7 you have any specific charges, any case law that you
8 would like the Court to consider, just bring those back
9 at 1:45.

10 Mr. Bailiff, if you will go get our jury for us.

11 (WHEREUPON, the jury entered open court at
12 11:47 a.m.)

13 THE COURT: Mr. Byrholdt.

14 MR. BYRHOLDT: May it please the Court. The
15 defense will rest in this case.

16 THE COURT: All right. Ladies and gentlemen, we
17 have reached the point in the trial where the testimony
18 and the evidence that is being presented has concluded.

19 Before we go into the next stage of the trial, I'm
20 going to let you go to an early lunch. The next stage
21 of the trial will be closing arguments, and then I will
22 charge you on the law. That will be a lengthy process.
23 So I'm going to let you go to lunch early today. We'll
24 take a little bit longer lunch today to be sure the
25 attorneys have enough time to prepare for the next

1 stage, so be back in the jury room at 1:45. Just be
2 back in the jury room.

3 That will give you a little bit longer lunch
4 today, but the same instructions ring true. Again, you
5 can't talk about the case with anyone, any third
6 parties. You can't deliberate amongst yourselves until
7 I tell you to at the end, and you can't do any
8 independent research. So I hope everyone has a good
9 lunch, and we'll see you back at 1:45.

10 (WHEREUPON, the jury exited open court at
11 11:49 a.m.)

12 THE COURT: Anything from either party before we
13 go into recess?

14 MR. BYRHOLDT: I renew my motion. I understand
15 the same ruling would apply.

16 THE COURT: So noted for the record with the same
17 ruling.

18 MR. BYRHOLDT: Thank you, your Honor.

19 (Lunch recess was taken from 11:50 a.m.
20 to 2:02 p.m.)

21 MS. PRICE: Your Honor, may we approach?

22 THE COURT: Yes, ma'am.

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

25 THE COURT: All right. Anything further before we

1 bring our jury in?

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

3 THE COURT: Mr. Bailiff, if you will get our jury
4 for us, please, sir.

5 (WHEREUPON, the jury entered open court at
6 2:06 p.m.)

7 THE COURT: All right. Ladies and gentlemen, I
8 hope everyone had a good lunch. We are ready to go to
9 the next stage of the trial in which we will have
10 closing arguments from counsel. The State will open on
11 the law, then defendant will close, then the State will
12 have the final closing argument.

13 Ms. Price.

14 MS. PRICE: Thank you, your Honor. May it please
15 the Court.

16 Ladies and gentlemen, this is the closing on the
17 law. The State has to prove this case beyond a
18 reasonable doubt. So what is a reasonable doubt?
19 Well, a reasonable doubt is the kind of doubt that
20 would cause a reasonable and prudent person to hesitate
21 to act. The State has the burden of proving the
22 defendant guilty beyond a reasonable doubt.

23 Now, some of you may have heard in civil cases
24 that it is only a situation where you have to prove
25 something by more likely than not. That's not the case

1 in a criminal trial. In a criminal trial, the burden
2 is to prove the case beyond a reasonable doubt. But
3 there are very few things in life that we know with
4 absolute certainty, and in criminal cases, you don't
5 have to prove the case beyond absolute certainty
6 either. It simply means at the end of the State's
7 case, you are firmly convinced of the defendant's
8 guilt.

9 Now, there are two types of evidence which are
10 generally presented in criminal cases. There is direct
11 evidence and there is circumstantial evidence. Direct
12 evidence is the testimony of a person who claims to
13 have actual knowledge of a fact sufficient as an
14 eyewitness or evidence which immediately establishes a
15 main fact to be proved in the case. Circumstantial
16 evidence is proof of a chain of facts and circumstances
17 indicating the existence of a fact. It's evidence
18 which immediately establishes collateral facts from
19 which a main fact may be inferred. Circumstantial
20 evidence is based on inference and not on personal
21 knowledge or observation.

22 Ladies and gentlemen, you heard from many
23 witnesses in this case, and so necessarily you will
24 have to determine the credibility of witnesses. It is
25 up to you to determine their credibility. And

1 credibility simply means believability of each witness.

2 In determining the believability of witnesses who
3 have testified in this case, you may believe one
4 witness over several or you may believe no witnesses.
5 You may believe part of the testimony or you may
6 believe none of the testimony. You may consider
7 whether any witness has exhibited to you any interest,
8 bias, prejudice, or other motive in this case. You may
9 also consider the appearance and manner of a witness
10 while they were on the stand in assessing their
11 credibility.

12 Now, normally a person can't give opinion
13 testimony, but when they have been declared an expert,
14 they can give opinion testimony, but you are not to
15 give their opinion or their testimony any more weight
16 than a normal witness. It is up to you to assess their
17 expertise and their opinions in this case.

18 Now, ladies and gentlemen, the defendant has been
19 charged with murder. And murder is the killing of
20 another person with malice aforethought. What is
21 malice? Malice is meanness. Malice is intent to kill.
22 It's hatred, ill will, or hostility towards another
23 person. It's the intentional wrongdoing -- intentional
24 doing of a wrongful act without just cause or excuse
25 and with an intent to inflict an injury or understand

1 circumstances that the law will infer an evil intent.

2 Malice aforethought can be either expressed or
3 implied. Express malice and inferred malice do not
4 mean different kinds of malice, but they mean the
5 manner in which that malice is expressed. So express
6 malice would be something, for example, when a person
7 says something that indicates that they have meanness
8 or intent towards killing another. Implied malice can
9 be -- inferred malice can be inferred from the
10 circumstances surrounding that person's actions.

11 An attempt, ladies and gentlemen is just that,
12 it's an effort to accomplish a crime which does not
13 succeed. In this case it was an attempt to accomplish
14 a murder and they were unsuccessful.

15 Possession of a weapon during the commission of or
16 attempt to commit a violent crime. This defendant is
17 charged with possession of a weapon during the
18 commission of a violent crime. Certain crimes in our
19 state are designated as what's called a violent crime.
20 Murder is a violent crime. Attempted murder is also a
21 violent crime.

22 If you determine that the defendant was armed at
23 the time, had a gun, had a weapon on his person, and
24 that he also committed murder or attempted murder, then
25 you would necessarily find the defendant guilty of

1 possession of a weapon during the commission of those
2 crimes.

3 Ladies and gentlemen, in this case there is an
4 issue of transferred intent. If the defendant
5 attempted to kill someone or did kill someone but meant
6 to kill another individual, you can transfer the intent
7 of the person that they meant to kill to the person
8 they actually killed. The defendant had the intent to
9 kill and still had the intent to kill. It just means
10 that the intent is transferred from the original person
11 to the actual person killed or injured.

12 Ladies and gentlemen, a statement was alleged to
13 have been made by the defendant in this case, and it's
14 been admitted into evidence. While the Court
15 determined that the statement is admissible, you make
16 the ultimate decision of whether or not the defendant
17 made those statements.

18 Thank you, ladies and gentlemen.

19 THE COURT: All right.

20 Mr. Byrholdt.

21 MR. BYRHOLDT: May it please the Court.

22 On behalf of Mr. Patterson, I'd like to thank you
23 for the close attention you have paid during this
24 trial. It hasn't been a long trial, but as I told you
25 Monday, it's an important trial.

1 Mr. Patterson is not the only one on trial today.
2 It's our system of justice, the way the State goes
3 about trying to convict somebody of a serious crime and
4 put them away. You took an oath to hold the State of
5 South Carolina to the high burden of proving each and
6 every element of proof beyond a reasonable doubt.

7 Now, to convict Mr. Patterson of murder, I guess
8 you would have to base it on the testimony of a drug
9 dealer, two guys going to buy drugs that were smoking
10 grass all day. Because that's the only -- and only two
11 of those point a finger at Mr. Patterson. That's
12 Mr. Bennett and Mr. West.

13 And you will notice the State's got those fine
14 phone records they put in today. You can't tell who
15 made the call. Can't tell what those calls were about.
16 But it's amazing that Mr. Bennett said he called Kujo,
17 one of the victims in this case, Rayshawn Cowan, to go
18 get drugs. Well, that phone call would be nice to
19 have, wouldn't it? Because it would sure prove
20 Mr. Bennett's telling the truth because if he made a
21 phone call at 8:30, as Mr. Hamilton said this occurred,
22 or sometime after 10:00 as Mr. West and Mr. Bennett
23 testified -- now, the State is going to say they're
24 confused about the time. But if we had that phone
25 call, A, we'd see if a phone call was even made and

1 what time it was made. It's a big piece of pie that's
2 missing. Why is it missing?

3 Mr. Patterson has no duty to prove anything. When
4 he pled not guilty, he tells the State, "You have got
5 to prove your case." Worst investigation I've seen. I
6 have been doing this 36 years. No fingerprints. They
7 didn't check the car for any gunpowder, trace of
8 gunpowder. We have got trace evidence. Check it for
9 hair. Check it for anything that can tie these people
10 to the story. That wasn't done. This is the 21st
11 Century. The State has that that ability. Wasn't
12 used.

13 They got these two statements from these fine
14 gentlemen. They didn't do anything. Mr. Patterson
15 turns himself in. Mr. Barton questions him. They
16 didn't put his statement in, did they? Said he took
17 the statement, didn't put it in. Mr. Barton said
18 repeatedly and Royres Patterson, "I didn't shoot
19 anybody. I wasn't there."

20 Detective Barton has a conversation with Royres'
21 sister and says Mr. Bennett, Mr. West said they left at
22 9:30. Mr. Barton admitted that that's nowhere in their
23 statements. You have to make that to fit it into the
24 time frame because the young man was killed and the
25 other man injured sometime around 9:45. So if they

1 left at 10 o'clock, as they said, their story is not
2 true.

3 I'm kind of at a disadvantage today. I put in one
4 piece of evidence, my little drawing. And because of
5 that, the State gets last argument. So when I finish,
6 I don't have a chance to come back and rebut what she
7 says. That puts me at a little disadvantage. But it's
8 amazing that one little piece of paper -- well, from
9 the witnesses got three different stories. You got
10 David Bennett saying the shooting happened on Perry
11 Street. You got Mr. West saying it happened going up
12 Oliver Street and the shots were to the right-hand
13 side. Then you got the physical evidence that it was
14 on Oliver Street with the car coming the other way and
15 the shots were over opposite of what Mr. West said. So
16 the three eyewitnesses, two of which put the gun, they
17 say, in Mr. Patterson's hand, totally different
18 stories.

19 Now, the State is going to say they're confused.
20 They're confused about the time. They are confused
21 about the location. But David Bennett said he was
22 familiar with the horseshoe. He's the one that made
23 the call over there. I wish we had the cell phone from
24 Mr. Bennett. I wish we had the cell phones, all those
25 numbers they put up on the people they say were called.

1 Who were they? Where are they? We don't have them.

2 The government said, "Well, Mr. Bennett is telling
3 the truth. He wouldn't tell a story." Last year he
4 was convicted of giving false information to a police
5 officer to help himself. He also gave a statement in
6 this case because he said he was told, "You're not
7 being charged." Poor Mr. West got charged. David got
8 a free walk. Mr. West's charges were reduced. And
9 they have reason to tell a lie. You tell a lie to
10 benefit yourself to get out of trouble.

11 The 911 call said it was -- I mean, it was
12 amazing. I looked at it and I said, "The hamster car?"
13 Kia Soul. That's their commercial. That's what the
14 call went out, 911 for a silver Kia Soul. Not a
15 Mitsubishi, a Kia Soul. A silver box-type vehicle.
16 We've got 100 percent opposite stories from the
17 eyewitnesses. None of them match.

18 The judge is going to charge you the law, what
19 reasonable doubt is. That's a doubt to cause a person
20 to hesitate to act. This case is replete with
21 reasonable doubt. I'm pulling out just a few. We have
22 got statements that are inconsistent. We've got the
23 State's eyewitnesses admit they were drinking and
24 smoking dope. We've got the other guy that had been
25 smoking all day and was a drug dealer. Wasn't working.

1 The State asked him, "What kind of work do you do?" "I
2 don't work." He works. He sells drugs.

3 This is a terrible case. It's a tragedy. A young
4 man got killed. A young man got shot. But has the
5 State proven to you beyond a reasonable doubt that
6 Royres Patterson had a gun in his hand? We don't have
7 a murder weapon. We don't have anything. We've got
8 different types of shells that went out. And, well,
9 somebody hit the wrong button. Well, this is what puts
10 innocent people in jail, hitting the wrong button.
11 This is the only thing we have left in our country is
12 our system of justice. If we lose it, based on
13 speculation, based on lies, we've lost everything.

14 Now, they're going to say this is retaliation.
15 Mr. Willingham was an innocent victim. They were after
16 some other guy. That's what the State is going to tell
17 you. But they didn't put up Hitman. They didn't put
18 up Royres' brother. They could have asked him, "Did
19 Hitman shoot you? Did he get a shot?" They didn't do
20 that. Based on speculation, based on hearsay.

21 The State is going to ask you to convict
22 Mr. Patterson of all three charges beyond a reasonable
23 doubt on the testimony of a drug dealer, two dope
24 heads, without a murder weapon, without any gunshot
25 residue. Amazing thing is they took gunshot residue on

1 the two victims. See any results for that? Never even
2 sent it off. Just didn't do it. It might have been
3 they got another call. You heard they got a call on
4 another homicide that day. They just dropped the ball.
5 Well, in sports, if you drop the ball, you get an
6 incomplete pass. You don't get a touchdown.

7 Again, I'm not going to have the opportunity to
8 respond. There is one thing I left out. We've got a
9 bunch of evidence up here. I mean, some 50, 60 pieces.
10 When you go back there, the photos of the house at
11 Gosset Street where they found guns, drugs, everything,
12 got nothing to do with this case. That was stuff that
13 was found afterwards. I don't know why they put it in.
14 It may be that they figure if they've got enough stuff
15 sitting up here you will say, "Well, they must have a
16 case." But ask yourself does any of that, other than
17 the pictures of the scene that night, the shells, the
18 four shells they say they found or they say like seven
19 or eight shots went off and they say, well, cars picked
20 them up. I mean, the police were there within a short
21 time. I mean, 911 call, they're out there. You've got
22 a gun that's got nothing to do with this case. You got
23 live rounds that have nothing to do with this case from
24 a .38. I don't know why it's in evidence, I really
25 don't.

1 But you've got to determine this case, I guess, on
2 believability of two people because anybody can tell a
3 lie. Like I asked Detective Barton, if me and Bob say
4 Charlie shot the guy, is that enough to convict
5 somebody of murder? Well, he can make his case. But I
6 hope we haven't come to that.

7 On behalf of Mr. Patterson, thank you for the
8 close attention you have paid. Like I say, it was two
9 trials going on today, State versus Royres Patterson
10 and our system of justice. And I'm going to ask
11 Mr. Patterson if he has anything he wants me to add.
12 If not, I'll complete my argument in just a minute.

13 (Mr. Byrholdt confers with the defendant.)

14 MR. BYRHOLDT: Royres wanted me to say he's just
15 sorry for the victim's family.

16 Again, thank you for the close attention you have
17 paid during this case. We appreciate it.

18 MS. PRICE: May it please the Court.

19 THE COURT: Yes, ma'am.

20 MS. PRICE: I am a little bit heightened here so
21 please forgive the coverage.

22 Ladies and gentlemen of the jury, thank you for
23 your time and your patience over the past three days.
24 I want to take a few moments to go over the evidence
25 that was put before you by the State in this case. And

1 I want to talk to you about why it does show that these
2 charges have been proven beyond a reasonable doubt
3 against Mr. Patterson.

4 Now, after I'm done arguing, the judge will send
5 you back to deliberate. But before he does that, he's
6 going to go over the law with you. If anything that
7 I've said or that Mr. Byrholdt has said is different
8 than what the judge tells you, you have to go with what
9 the judge tells you.

10 You've heard that this defendant comes into the
11 courtroom innocent, and Mr. Byrholdt has made a great
12 deal out of the system of justice. Ladies and
13 gentlemen of the jury, I agree with Mr. Byrholdt. This
14 defendant is innocent until proven guilty. That's a
15 fundamental concept of American law, and I would have
16 it no other way. But I want you to keep something in
17 mind. If the proof beyond a reasonable doubt standard
18 was impossible for the State to meet, there would be no
19 criminal convictions in any charge from seemingly the
20 smallest charge of speeding to something like a murder.
21 The burden is the same. So if a state has ever
22 convicted someone in any charge, then they have met
23 that burden. If it was an impossible burden, we
24 wouldn't have any criminal convictions at all. And
25 beyond a reasonable doubt, I believe the judge will

1 tell you does not mean beyond all doubt. What it means
2 is that you are firmly convinced based on what you've
3 heard and what we've presented of this defendant's
4 guilt.

5 Now, ladies and gentlemen of the jury, you have
6 before you today charges of murder, attempted murder,
7 and possession of a weapon during commission of a
8 violent crime. Possession of a weapon during
9 commission of a violent crime I told you means that you
10 believe that this defendant had a weapon when he
11 committed the two crimes of murder and attempted
12 murder. It's that simple.

13 Murder, as I told you, is the killing of another
14 person with malice aforethought, express or implied,
15 but malice aforethought doesn't mean that the crime had
16 to be planned ahead of time. It doesn't mean there's
17 somebody in a castle doing this, you know, plotting
18 some sort of murder. It could be conceived -- malice
19 could be conceived at the very moment the crime is
20 committed. At that instant, that individual who pulled
21 the trigger can have malice in their heart. That's
22 malice aforethought. It means ill will or hatred. It
23 means the intentional wrongdoing. It means that he
24 meant to pull that trigger and he meant to hit
25 somebody.

1 Now, how do you determine whether or not a person
2 had malice? It's a state of mind. How are you
3 expected as the jury to read someone's mind? Well,
4 you're not. As I told you earlier, there are two types
5 of malice. There's express malice and inferred malice.
6 Express is direct evidence of the malice, and inferred
7 is something you can infer from the circumstances
8 surrounding the event.

9 In this case, you have evidence of both. You
10 heard evidence from Terennce West that he heard a gun
11 being cocked. Defendant leaned out of the window and
12 began firing. You heard evidence from multiple people
13 in this case that multiple shots were fired. This
14 wasn't accidental. There was time at the very moment
15 of the assault for malice to form. You can imply it
16 from the actions of this defendant.

17 He thought the guy that he was trying to shoot had
18 shot his brother the night before. Cornelius (sic)
19 Hamilton told you that it looked like the shooter in
20 this case was targeting two people with dreadlocks.
21 Why? David Bennett testified that immediately
22 following the shooting, this defendant told his
23 brother, "I got the guy that shot you." That's express
24 malice. Those are his words. He intended to hit those
25 targets. He was trying to exact revenge. You have a

1 motive in this case for the murder and the attempted
2 murder.

3 Sergeant Danny Barton told you that the night
4 before this happened, the brother of this defendant
5 showed up at AnMed with a gunshot injury. David
6 Bennett told you that he saw the defendant's brother
7 wearing a bandage the night of this incident, and you
8 heard testimony from Sergeant Barton that a person of
9 interest was developed as a shooter in the case where
10 the brother had been shot. That person's name was
11 Jarkeelas Lee. He's otherwise known as Hitman. You
12 heard his name mentioned several times by several
13 witnesses throughout the course of this trial. You
14 have a picture of Hitman in evidence. You have
15 pictures of this victim in evidence. Cornelius
16 Hamilton said that they looked similar in build and
17 they have the same hairstyle. He knows both of these
18 men. I want you to look at these pictures side by
19 side. Wow. Victim. Intended target. Victim.
20 Intended target. Victim. Intended target. No wonder
21 he made a mistake. No wonder he was so confident that
22 he had shot the boy who shot his brother. But he
23 didn't.

24 I submit to you that, based on the defendant's
25 statement to his brother, "I got the guy that shot

1 you," he was trying to exact revenge against Jarkeelas
2 Lee, but instead he shot Brandon Willingham and
3 Rayshawn Cowan. And what did he do after shooting
4 them? He found out that he shot the wrong person. You
5 heard testimony that the phone number belonging to this
6 defendant as provided to Sergeant Barton by the
7 girlfriend of this defendant showed up on the tower
8 next to AnMed at 9:48. You heard testimony that the
9 shooting occurred sometime before 9:46. I submit to
10 you as members of the jury that this defendant, shortly
11 after being dropped off at East Market Street by
12 Terennce West and David Bennett, left that location to
13 go see about the carnage he just caused. Now, I don't
14 know if he found out that he hit the wrong people. I
15 don't know if he thought he got the right people. But
16 I know he went to the hospital.

17 MR. BYRHOLDT: I'm going to object here, your
18 Honor. There's no evidence that he went to the
19 hospital at all. That's outside --

20 MS. PRICE: I'll reference.

21 MR. BYRHOLDT: That's outside --

22 THE COURT: Sustained.

23 Rephrase your statement.

24 MS. PRICE: We know that the defendant's phone hit
25 off a tower within range of AnMed Hospital.

1 Does it matter that he hit the wrong person? No.
2 It doesn't matter that he shot the wrong people under
3 the law. If you intend to shoot someone but you
4 accidentally shoot someone else, or more than someone
5 else in this case, then you're still guilty. That's
6 called transferred intent. The intent to kill that
7 first person is transferred to the person or persons
8 who actually get shot. And this defendant is as guilty
9 as if he had hit the person he meant to shoot in the
10 first place if you find that he meant to shoot
11 Jarkeelas Lee.

12 Let's talk a little bit about David Bennett and
13 Terennce West. "You didn't see nothing. You don't
14 know nothing." That's what David Bennett said that
15 this defendant said in the car after turning on the
16 light. He was wrong. They saw everything. And they
17 know who the shooter was that night. They told you
18 they both clearly saw this defendant. They did not
19 hesitate whatsoever in identifying him in court or
20 identifying him to law enforcement.

21 Do I wish I had a Boy Scout or a pastor to put on
22 the stand in front of you? Yes. Absolutely I do. But
23 do I believe that Terennce West and David Bennett are
24 telling truth? Yes, I do. Ask yourselves why they
25 would make something like this up. Has there been any

1 testimony about a reason to lie? No. Terennce West is
2 this defendant's uncle. He's related to this
3 defendant. Why would you ever start family drama like
4 that? What possible reason would he have to make
5 something like this up? Why would he plead guilty to
6 charges related to this incident if it didn't even
7 happen?

8 And David told you he had just met Royres that
9 night. He had never met him prior to this incident.
10 So what possible reason would a total stranger have for
11 making up something like this? How much would you have
12 to actually hate a person to falsely accuse them of
13 committing a murder? If you believe Terennce and David
14 were there that night and you believe they saw the
15 shooting, then why would they invent the detail that
16 Royres was the shooter? They have no reason to make
17 that up. Yes, there are some details about times
18 they're not 100 percent consistent, but they both said
19 it was dark, they said they had been using drugs and
20 drinking, and they weren't paying careful attention to
21 time. But did they seem at all confused about who the
22 shooter was that night and whether or not they all
23 three were there? They did not. David said there was
24 a clip reloaded. Terennce said there wasn't, but
25 Terennce was driving away, and he said he didn't know

1 that area. He said he was focused on getting out of
2 there. Again, they had both been doing drugs and
3 drinking. Mr. Byrholdt mentioned his picture of the
4 scene and asked them to generally mark where the
5 shooting occurred. Neither one of them picked the
6 exact location where the shooting happened correctly,
7 but, ladies and gentlemen, this happened two years ago.
8 And when I showed them a picture of the location, not
9 some drawing on notebook paper that I did in the middle
10 of court but an actual photograph of the scene of the
11 crime, they both said, yes, that's where we were.

12 Now, some inconsistencies are expected in
13 situations like this, high adrenaline, stressful
14 moments. Even so, the majority of their testimony
15 matches up. They both agree they were in Terennce's
16 car, a new silver boxy car. A Mitsubishi Mirage. They
17 both say they left Anderson Gardens and went to
18 East Market Street, and they say the same people were
19 there. They give the same description of where
20 everyone in the car was seated. They both say David
21 started to get out of the car and then jumped back in
22 the car when the shooting happened. That was their
23 perception as people in the vehicle. Most importantly,
24 they both say that they saw Royres Patterson shooting a
25 gun outside the passenger window into that crowd of

1 folks.

2 Ladies and gentlemen, Terennce went to work after
3 this happened, and that's where he was arrested. He
4 had nothing to hide. He went about his daily business.
5 And when he was arrested, he gave a statement
6 immediately to law enforcement. David told you he was
7 scared. He went to New York. But when he was
8 contacted by law enforcement, he came to meet with
9 them, and he gave a statement as well. He had nothing
10 to hide. Where was this defendant? He wasn't at work
11 that week. If he had nothing to do with this, why did
12 he suddenly change his behavior? Terennce and David
13 both told you they haven't seen or spoken to each other
14 since the night of the incident, and yet their stories
15 are the same now.

16 Their account also matches the account given by
17 Carlandus Hamilton, the eyewitness on the scene at the
18 time of the shooting. You heard from him this morning.
19 He told you he also saw a silver box-type vehicle. He
20 told you it looked new. He never said what make
21 or model it was. He gave a general description.
22 Mr. Byrholdt's made a big deal with the rats in the car
23 and the hamsters in the car and it being a Kia Soul.
24 That's not what Carlandus Hamilton said at the time.
25 He said, "It looks kind of like that car in the

1 commercial." And he told you that from the witness
2 stand this morning.

3 He said that the people in the car were wearing
4 hats. You heard testimony from Terennce West that he
5 was wearing a hat. You heard that the defendant
6 snatched the hat off his head after this incident
7 occurred on the ride back to East Market Street.
8 Carlandus also showed you where the murder and
9 attempted murder took place. He was paying attention
10 to where that car was because it was a customer. He
11 was familiar with the area. His description matches
12 the forensics in the case. Even he told you this
13 morning that if you weren't familiar with the area,
14 that drawing would be confusing.

15 Now, the defense was trying to distract you from
16 the real evidence that's in front of you, this talk of
17 additional testing by the State. It's smoke and
18 mirrors. Keep your eye on what's actually been put in
19 front of you in terms of testimony and evidence.
20 Sergeant Barton followed every lead that came to him.
21 Even when he knew that those leads and tips were
22 fabricated or were red herrings, he still followed up.
23 He did his job. And every piece of evidence that was
24 collected in this case was examined and tested
25 appropriately.

1 Now, you heard a lot of testimony about the guns
2 and bullets yesterday, and that's because it's
3 important to exclude them as the murder weapon. It's
4 equally important as finding a murder weapon. If there
5 was a gun on the scene and the State hadn't explained
6 to you that it had been tested and we had determined
7 that it wasn't the murder weapon, my goodness, a
8 defense attorney would have a field day with that. So,
9 yes, we went through the testing. And, yes, we put
10 those results before you because it's important you
11 know what efforts were made to gather forensics in this
12 case.

13 No, we don't have the murder weapon and we don't
14 have the defendant's fingerprints, but this isn't
15 television. This is not CSI. Those things would be
16 great to have, certainly. But oftentimes, despite the
17 best efforts of law enforcement, we don't have lots of
18 physical evidence in cases. Furthermore, the defendant
19 was arrested five days after this incident occurred.
20 That's plenty of time to get rid of the murder weapon.
21 It's plenty of time for other evidence to be disposed
22 of. And, unfortunately, that's plenty of time for the
23 vehicle which was used in this case to be exposed to
24 the elements.

25 Law enforcement collected everything they could

1 from the scene, but there was still a gap in the time
2 that they arrived and the time of the incident. You
3 heard testimony that plenty of people were out there.
4 There was drug use and drug sales going on. So it
5 wouldn't be surprising if the scene was affected before
6 forensics arrived in some ways. Nevertheless, law
7 enforcement gave it their best effort.

8 You did hear today from a cellular expert, Tom
9 Slovenski. He interpreted the records provided by
10 T-Mobile for the number that this defendant's
11 girlfriend gave to law enforcement as belonging to this
12 defendant. You know from the records presented today
13 that this defendant's phone was at East Market
14 Street throughout that evening. That corroborates what
15 Terennce and David said. And you heard that the phone
16 was silent from 7:59 until 9:48 p.m. the night of the
17 murder. There was no other block of time with that
18 amount of silence. And that was during the exact time
19 this murder took place. What a coincidence.

20 Mr. Slovenski also told you that the phone was in
21 Starr the majority of the night and that there is no
22 way that the user of the phone could have been at
23 Spirits Bar in Belton. Well, that's where the
24 defendant told this detective he was. So assuming the
25 defendant had his telephone, why would he lie to

1 Detective Barton? Well, he told Detective Barton that
2 day, "That's my word against his word," when he was
3 talking about the incident and these witnesses.

4 MR. BYRHOLDT: Your Honor, again I'm going to
5 object. That's not in the record.

6 MR. PRICE: Yes, it is, your Honor.

7 THE COURT: Overruled. Proceed.

8 MS. PRICE: Well, if he's intentionally misleading
9 the sergeant by telling him he's in Belton when he's in
10 Starr all night, then his word is questionable. And
11 you heard he was smiling when he gave that statement.
12 If a person is falsely accused of a crime and has been
13 arrested, I would expect them to be sobbing, not to be
14 smiling.

15 Sergeant Barton told you that all of the people
16 this defendant said could account for his whereabouts
17 gave different versions of events. At least two of
18 them weren't even present that night.

19 Now, you didn't hear from Rayshawn Cowan this
20 week. Sergeant Barton told you he doesn't cooperate
21 with the police, but you saw his shirt which was
22 collected that night with a bullet hole and his blood
23 on it, and you heard from Dr. Woodard that Rayshawn was
24 shot four times. You heard from Carlandus Hamilton
25 that he saw Rayshawn had been shot. He saw him stiffen

1 up, catch his back, and you heard Carlandus Hamilton
2 say that he heard Rayshawn say he had been hit.

3 If you believe that Royres Patterson is the person
4 who shot and killed Brandon Willingham, then you must
5 also believe that in the same shooting incident he is
6 the one who shot Rayshawn Cowan. We have proven every
7 element of each crime the defendant was charged with,
8 and I submit to you we have proven these charges beyond
9 a reasonable doubt.

10 So what do you, as the jury, know today? You've
11 seen the evidence and you've heard the testimony. What
12 do you know to be true? You're the deciders of the
13 facts in this case. Focus on what you know as you
14 deliberate. Focus on what you saw this week. Focus on
15 what you heard this week. Focus on the motive.

16 Brandon Willingham died. Rayshawn Patterson was
17 shot four times. Neither person was the intended
18 target. Guns aren't toys. Taking someone's life isn't
19 a game. Street justice can be wrong. But what happens
20 here today is justice. What you do today as the jury,
21 that's justice.

22 Reasonable doubt doesn't mean all doubt. It means
23 you're firmly convinced. "You didn't see nothing. You
24 don't know nothing." That's what this defense said to
25 the witnesses. That's what the defense hoped you would

1 say at the close of this case.

2 But what have you seen this week? You've seen all
3 the evidence you need to convict this defendant. And
4 what do you know? I submit that you know now that this
5 defendant is guilty beyond a reasonable doubt of the
6 charges of murder, attempted murder, and possession of
7 a weapon during the commission of a violent crime. Do
8 justice today. Real justice today. Act without
9 hesitation and find this defendant guilty. Thank you.

10 THE COURT: Ladies and gentlemen, we have come to
11 the point in the trial where I instruct you on the law.
12 My instructions will be somewhat lengthy. They will be
13 in three parts.

14 First, there will be instructions on general rules
15 that define and control the jury's duties. Second,
16 instructions that state the rules of law you must
17 apply, what the State must prove to make its case, and
18 third, some rules for your deliberations.

19 The general rules begin with your duties as
20 jurors. It is your duty to find the facts from all of
21 the evidence in the case. To those facts you must
22 apply the law as I give it to you. You shall not be
23 concerned with what the law should be but what it is.
24 And you must not be influenced by any personal likes or
25 dislikes, opinions, prejudice or undue sympathy. That

1 means that you must decide the case solely on the
2 evidence before you in accordance with the law, the
3 very thing that you took an oath promising to do at the
4 beginning of the trial.

5 It is your responsibility and yours alone to
6 determine the facts of this case. I would therefore
7 charge you that if, during the course of this trial or
8 during this charge, you have been given or left with
9 the impression or feeling that I have a personal
10 feeling about the facts of the case or that I favor one
11 side or the other, I would specifically instruct you to
12 disregard that impression. Under our constitution, I
13 am not allowed to have an opinion as to the facts of
14 this case. You should not be influenced by any
15 objections or the Court's ruling on them.

16 You and you alone are the judges of the facts.
17 You determine the facts by evaluating or weighing the
18 evidence that you have heard during the trial. What is
19 evidence? Evidence is the sworn testimony from
20 witnesses and any exhibits that have been entered into
21 evidence. The statements by the attorneys are not
22 evidence. What they have said in opening statements,
23 closing arguments, and at other times are intended to
24 help you interpret the evidence, but they are not
25 evidence.

1 There are two types of evidence which are
2 generally presented in a trial, direct evidence and
3 circumstantial evidence. Direct evidence directly
4 proves the existence of a fact and does not require
5 deduction. Circumstantial evidence is proof of a chain
6 of facts and circumstances indicating the existence of
7 a fact.

8 Crimes may be proven by circumstantial evidence.
9 The law makes no distinction between weight or value to
10 be given to either direct or circumstantial evidence.
11 However, to the extent that the State relies on
12 circumstantial evidence, all the circumstances must be
13 consistent with each other, and when taken together,
14 point conclusively to the guilt of the accused beyond a
15 reasonable doubt. If the circumstances merely portray
16 the defendant's behavior as suspicious, the proof has
17 failed.

18 The State has the burden of proving the defendant
19 guilty beyond a reasonable doubt. The burden rests
20 with the State regardless of whether the State relies
21 on direct evidence, circumstantial evidence, or some
22 combination of the two.

23 What is a reasonable doubt in the law? A
24 reasonable doubt is the kind of doubt that would cause
25 a reasonable person to hesitate to act. Some of you

1 may have served as jurors in civil cases where you were
2 told that it is only necessary that a fact is more
3 likely true than not true such as by the greater weight
4 or preponderance of the evidence. In criminal cases,
5 the State's proof must be more powerful than that. It
6 must be beyond a reasonable doubt.

7 Proof beyond a reasonable doubt is proof that
8 leaves you firmly convinced of the defendant's guilt.
9 There are very few things in this world that we know
10 with absolute certainty, and in criminal cases, the law
11 does not require proof that overcomes every possible
12 doubt.

13 If, based on your consideration of the evidence,
14 you are firmly convinced of the defendant's guilt, then
15 you must find the defendant guilty. If, on the other
16 hand, you think that there is a real possibility that
17 the defendant is not guilty, you must give the
18 defendant the benefit of the doubt and find him not
19 guilty. A reasonable doubt may arise from the evidence
20 or from a lack of evidence. The defendant is entitled
21 to every reasonable doubt that may arise in the case.

22 If upon any issue of fact essential for a
23 conviction and a verdict of guilty on an offense, if
24 you have any reasonable doubt as to how to resolve that
25 issue, it is your duty to resolve that doubt in favor

1 of the defendant. Suspicion, however strong, is not
2 enough to sustain a conviction. The evidence presented
3 by the State must be substantial evidence that tends to
4 prove the guilt of the defendant beyond a reasonable
5 doubt.

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

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

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

11 I instruct you and emphasize that the fact that
12 the defendant did not testify is not a factor to be
13 considered by you in any way in your deliberation and
14 in your consideration on the questions of guilt or
15 innocence of the defendant. It must not be considered
16 by you in any manner whatsoever. A defendant has the
17 constitutional right to remain silent, and the
18 assertion of this right must not be considered by you
19 in your deliberations. I repeat. Under your oath, you
20 are to draw no conclusion whatsoever from the fact that
21 the defendant did not testify in this case. The fact
22 that the defendant did not testify should not even be
23 discussed in the jury room.

24 The burden of proof, as I have stated to you, is
25 on the State. The defendant is not required to prove

1 his innocence. The burden of proof remains on the
2 State to prove his guilt beyond a reasonable doubt.

3 Ladies and gentlemen, normally a person cannot
4 give opinion testimony in a case. Normally a person
5 must testify to what they either saw, heard, or sensed
6 by smell or something of that nature. However, there
7 is an exception when someone is qualified as an expert
8 because of education or experience.

9 Experts are permitted to give opinions in certain
10 areas if they are qualified as an expert in that area.
11 We had several witnesses qualified as expert witnesses
12 in this case. This does not mean that you are required
13 to accept their opinion. Like any other witness, you
14 may place whatever weight on that person's testimony
15 that you, as the judges of the facts, deem appropriate.

16 A statement alleged to have been made by the
17 defendant has been admitted into evidence in this case.
18 While the Court has determined that the statement is
19 admissible, I instruct you that you make the ultimate
20 decision of whether or not the defendant made the
21 statement. If the defendant did make the statement,
22 you must determine whether the statement was made by
23 the defendant voluntarily and of his own free will.
24 This means that the statement was not caused by
25 pressure, force, fear, threats, coercion, or

1 intimidation or by hope or a promise of leniency or a
2 reward of any kind.

3 In determining whether the statement was
4 voluntary, you should consider both the characteristics
5 of the defendant and the details of the questioning.
6 Some of the factors that you must consider are the age
7 of the defendant, the defendant's education or lack of
8 education, the defendant's mental ability or capacity,
9 the defendant's IQ or intelligence, the defendant's
10 background and environment, place and length of
11 detention, nature of the questioning, the advice or
12 lack thereof to the defendant of his constitutional
13 rights including but not limited to the right to remain
14 silent, that any statement could be used against him in
15 a court of law, the right to have a lawyer present,
16 that if he could not afford a lawyer, a lawyer would be
17 appointed to represent him without any cost, and that
18 he could stop making a statement at any time. You must
19 carefully consider all the surroundings circumstances
20 before you give any weight to an alleged statement.

21 The State has the burden of proving beyond a
22 reasonable doubt that the alleged statement was
23 voluntary. If you determine it was, you may give the
24 statement any further consideration that you deem
25 proper. You must decide what weight, if any, should be

1 given to the alleged statement. If you determine the
2 alleged statement was not free and voluntary, you
3 should not consider the statement at all.

4 The defendant has pled not guilty to these
5 indictments, and that plea puts the burden on the State
6 to prove the defendant guilty. A person charged with
7 committing a criminal offense is never required to
8 prove himself innocent. I charge you that it is an
9 important rule of law that a defendant in a criminal
10 trial, no matter what the seriousness of the charge may
11 be, will always be presumed innocent of that crime for
12 which the indictment was issued unless guilt has been
13 proven by evidence satisfying you of that guilt beyond
14 a reasonable doubt.

15 The presumption of innocence does not end when you
16 begin your deliberations, but it accompanies the
17 defendant throughout the trial until you reach a
18 verdict of guilt based on evidence satisfying you of
19 that guilt beyond a reasonable doubt. The presumption
20 of innocence is like a robe of righteousness placed
21 about the shoulders of the defendant which remains with
22 the defendant until it has been stripped from the
23 defendant by evidence satisfying you of the defendant's
24 guilt beyond a reasonable doubt.

25 The presumption of innocence is not mere legal

1 theory. It is not just a legal phrase. It is a
2 substantial right to which every defendant is entitled
3 unless you, the jury, are satisfied from the evidence
4 of the defendant's guilt beyond a reasonable doubt.

5 In order to establish criminal liability, criminal
6 intent is required. For example, the mental state
7 required to be proven by the State for a particular
8 crime might be purpose, intent, knowledge,
9 recklessness, or criminal negligence. Criminal intent
10 must be proven by the State beyond a reasonable doubt.
11 Criminal intent is always a matter that must be
12 determined by the jury from circumstances surrounding
13 the situation. There is no way to prove intent to a
14 mathematical certainty. There is no way medical
15 science can dissect a person's brain and determine what
16 that person had in mind, so the law says that criminal
17 intent may be inferred from the circumstances shown to
18 have existed. This is how you make a determination of
19 whether or not the element requiring intent was
20 present. It is not necessary to establish intent by
21 direct and positive evidence, but intent may be
22 established by inference in the same way as any other
23 fact, by taking into consideration the acts of parties
24 and all the facts and circumstances of the case.

25 Criminal intent is a mental state, a conscious

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

8 The indictments in this case allege several
9 different offenses against the defendant. The charges
10 are murder on indictment 2015-GS-04-00456, attempted
11 murder and possession of a weapon during the commission
12 of a violent crime on indictment 2015-GS-04-0457. Each
13 indictment charges a separate and distinct offense.
14 You must decide each indictment separately on the
15 evidence and the law as applicable to it uninfluenced
16 by your decision as to any other indictment.

17 The defendant may be convicted or acquitted on any
18 or all of the charges on the indictments. You will be
19 asked to write a separate verdict of guilty or not
20 guilty for each indictment. I remind you that the fact
21 that the defendant was arrested, charged, and indicted
22 in this case is not evidence and cannot be considered
23 by you as evidence of guilt. These documents are
24 simply the formal written instruments which contain the
25 charges against the defendant. Each is the formal

1 document by which the case is brought to court.

2 The defendant is charged with murder. The State
3 must prove beyond a reasonable doubt that the defendant
4 killed another person with malice aforethought. Malice
5 is hatred, ill will, or hostility toward another
6 person. It is the intentional doing of a wrongful act
7 without just cause or excuse and with an intent to
8 inflict an injury or under circumstances that the law
9 will infer an evil intent.

10 Malice aforethought does not require that malice
11 exist for any particular time before the act is
12 committed, but malice must exist in the mind of the
13 defendant just before and at the time the act is
14 committed. Therefore, there must be a combination of
15 the previous evil intent and the act.

16 Malice aforethought may be express or inferred.
17 The terms "express" and "inferred" do not mean
18 different kinds of malice but merely the manner in
19 which the malice may be shown to exist. That is,
20 either by direct evidence or by inference from the
21 facts and circumstances which are proved.

22 Express malice is shown when a person speaks words
23 which express hatred or ill will for another or when
24 the person prepared beforehand to do the act that was
25 later accomplished. For example, lying in wait for a

1 person or any other acts of preparation going to show
2 that the deed was within the defendant's mind would be
3 express malice. Malice may be inferred from conduct
4 showing a total disregard for human life.

5 The defendant is charged with attempted murder.
6 In order to prove this crime, the State must prove the
7 defendant attempted to kill another with malice
8 aforethought, either express or implied. Malice is
9 hatred, ill will, or hostility toward another person.
10 It is the intentional doing of a wrongful act without
11 just cause or excuse and with an intent to inflict an
12 injury or under circumstances that the law will infer
13 an evil intent.

14 Malice aforethought does not require that the
15 malice exist for any particular time before the act is
16 committed, but malice must exist in the mind of the
17 defendant just before and at the time the act is
18 committed. Therefore, there must be a combination of
19 the previous evil intent and the act.

20 Malice aforethought may be express or inferred.
21 These terms "express" and "inferred" do not mean
22 different kinds of malice but merely the manner in
23 which the malice may be shown to exist, that is, either
24 by direct evidence or by inference from the facts and
25 circumstances which are proved.

1 Express malice is shown when a person speaks words
2 which express hatred or ill will for another or when
3 the person prepared beforehand to do the act which was
4 later accomplished. Malice may be inferred from
5 conduct showing a total disregard for human life.

6 If facts are proved beyond a reasonable doubt
7 sufficient to raise an inference of malice to your
8 satisfaction, this inference would simply be an
9 evidentiary fact to be considered by you, the jury,
10 along with other evidence in the case. You may give it
11 the weight you decide it should receive. A specific
12 intent to kill is not an element of attempted murder,
13 but there must be a general intent to commit serious
14 bodily injury.

15 Intent means intending the result which actually
16 occurs, not accidentally or involuntarily. Intent may
17 be shown by acts and conduct of the defendant and other
18 circumstances from which you may naturally and
19 reasonably infer intent. Evidence of the character of
20 the act, the character of the instrument used, the
21 manner in which it was used, the purpose to be
22 accomplished and the resulting wounds or injuries may
23 be considered in determining the intent with which the
24 act was committed.

25 Intent may also be inferred when it is

1 demonstrated that the defendant voluntarily and
2 willfully commits an act, the natural tendency of which
3 is to destroy another's life.

4 If the defendant with malice aforethought attempts
5 to kill another person but by mistake injures or kills
6 a different person, the defendant still has the intent
7 to kill. The intent to kill is merely transferred from
8 the original person the defendant attempted to kill to
9 the actual person killed or injured.

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

19 In order to find the defendant guilty of
20 possession of a weapon during the commission of a
21 violent crime, you must first find the defendant guilty
22 of either committing a violent crime or attempting to
23 commit a violent crime. Murder and attempted murder
24 are violent crimes. The State must prove beyond a
25 reasonable doubt that the weapon further advanced or

1 helped in the commission of the crime.

2 Ladies and gentlemen, we're almost to the point
3 where I send you to the jury room to begin your
4 deliberations. This has been a long instruction on the
5 law, but I leave you with some final thoughts. You
6 were chosen as jurors because both sides believed that
7 you could be fair and impartial in deciding this case.

8 I instruct you to make use of your life
9 experiences, your common sense, and your sense of logic
10 and reason in evaluating the evidence in this case.
11 You are not partisans or advocates for either side.
12 You have no friends to reward nor any enemies to
13 punish. You are the judges of the facts. Your sole
14 interest is to find the truth from the evidence
15 presented in the case.

16 Be courteous with one another, listen to your
17 fellow jurors, take the amount of time necessary for
18 you to thoroughly evaluate the evidence. This case is
19 important to both sides, and this is their only day in
20 court.

21 Madam Forelady, I'm going to go over the verdict
22 form with you. The verdict form lists the three
23 charges, and you start on page one. It says, "We, the
24 Jury, unanimously find on the indictment," this is
25 indictment 456, "that the defendant, Royres Antwon

1 Patterson, is," and it gives you two choices, "not
2 guilty" or "guilty," and you will check the appropriate
3 box.

4 Then on page two, it says, "We, the Jury,
5 unanimously find on indictment," and it's indictment
6 457, "the defendant, Royres Antwon Patterson, is," and
7 again this is the attempted murder charge. It gives
8 you two choices, "not guilty" or "guilty." You would
9 check the appropriate box.

10 And then the final part of it on page two regards
11 the charge of possession of a weapon during the violent
12 crime, and you're given the same choice, "not guilty"
13 or "guilty." It's specified on the form, and it's very
14 important that you understand in order to find the
15 defendant guilty of the firearms charge, you must first
16 have found him guilty of either murder or attempted
17 murder. If you find him not guilty of the murder
18 charge and the attempted murder charge, then you must
19 find him not guilty on the firearm charge.

20 Place no significance on the order that the
21 choices are placed on the verdict form. One simply had
22 to go on the page before the other. Your verdict must
23 be unanimous. Once you have reached a unanimous
24 verdict, you will knock on the door.

25 Madam Forelady, you will sign the verdict form

1 above your name which has been provided and date it,
2 knock on the door and give it to the bailiff and let
3 the bailiff know a verdict has been reached.

4 Now, I am going to send you to the jury room at
5 this point. Do not begin your deliberations until I
6 send the verdict form back with the exhibits. When I
7 send those back, I will send instructions for you to
8 begin your deliberations.

9 So, Mr. Bailiff, if you will take the jury to the
10 jury room at this point.

11 (WHEREUPON, the jury exited open court at
12 3:13 p.m.)

13 THE COURT: All right. Are there any exceptions
14 to my charges from the State?

15 MS. PRICE: None from the State, your Honor.

16 THE COURT: Are there any exceptions to my charges
17 from the defense?

18 MR. BYRHOLDT: No, your Honor.

19 THE COURT: All right. I would like each attorney
20 to come forward, count the exhibits, make sure all the
21 exhibits are there before we send them back.

22 Now, I would like the exhibits that are the live
23 ammunition rounds to be kept in the courtroom. If the
24 jury would like to see those, they can see those
25 separately.

1 Does either attorney have any objection to that?

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

3 MR. BYRHOLDT: No, your Honor.

4 THE COURT: I'm very uncomfortable about live
5 rounds being sent back with a firearm. So if they
6 request that, we'll send those back. Okay? So count
7 the exhibits and then we'll send it back.

8 MS. PRICE: Your Honor, for sake of ease, it may
9 be actually easier for us to hold the weapon and those
10 two live rounds here, and if they request to see the
11 weapon, because they're all packaged together.

12 THE COURT: Well, that's fine. I just don't want
13 the live rounds and the pistol going back.

14 MR. BYRHOLDT: Don't send either.

15 MS. PRICE: Yes, sir.

16 THE COURT: Has each attorney been able to count
17 the exhibits?

18 MR. BYRHOLDT: Yes, sir.

19 THE COURT: Ms. Price, you satisfied all the
20 exhibits are there?

21 MS. PRICE: Yes, sir.

22 THE COURT: Mr. Byrholdt?

23 MR. BYRHOLDT: Yes, sir.

24 THE COURT: Each of you reviewed the verdict form
25 and have any exceptions to it?

1 MS. PRICE: None from the State.

2 MR. BYRHOLDT: None from the defense.

3 THE COURT: Okay. All right.

4 Mr. Clerk, if you would take the exhibits and the
5 verdict form back to the jury room, instruct them they
6 can begin their deliberations, and bring the two
7 alternates back out here.

8 THE CLERK: Can I say that I've got the gun?

9 THE COURT: Instruct them that that exhibit may be
10 viewed separately from the other exhibits.

11 THE CLERK: Okay.

12 (WHEREUPON, the alternates enter the courtroom.)

13 THE COURT: Ladies, now that the case has been
14 submitted to the jury, your duty is finished. As
15 alternates, you are welcome to stay if you would like
16 to find out how it turns out. On the other hand, you
17 are free to leave if you choose to do that.

18 But we thank you for your service. We know you
19 have been here three days and now you're not getting to
20 take part in the deliberations, but it's very
21 important, service as an alternate, because you never
22 know when something is going to happen with a juror.
23 Someone might get ill or something and not be able to
24 finish, and if we didn't have alternates -- there is a
25 reason that the attorneys requested two alternates in

1 this case, because they knew the case was going to take
2 more than a day. And the longer a case goes, the odds
3 are increased that something may happen with a juror
4 and they're not able to finish. So you performed a
5 very important service even though you're not getting
6 to take part in the deliberations. And, again, the
7 Court appreciates your service, so you're free to go if
8 you so desire.

9 (WHEREUPON, the alternates left the courtroom.)

10 THE COURT: We'll now be in recess.

11 (Court in recess, pending verdict, from 3:25 p.m.
12 until 3:50 p.m.)

13 (WHEREUPON, all parties are present.)

14 THE COURT: All right. We have received a
15 question from the jury Forelady which is a two-part
16 question. Number one, "What was T West's charge before
17 and after he pled guilty?" Two, "What was the official
18 time of death for Jugg Money?" And it's signed by the
19 Forelady.

20 Now, my general response to these type questions
21 is that this type of question is a factual question,
22 and it would be inappropriate for the Court to comment
23 on the facts, that the jury will have to base their
24 decision on the evidence now before them. And unless
25 either party has a better instruction, that's the

1 instruction I will give the jury.

2 MS. PRICE: No. I'm in agreement with that, your
3 Honor.

4 MR. BYRHOLDT: Yes, sir.

5 THE COURT: Okay. All right.

6 Mr. Bailiff, would you go get our jury for us.

7 THE COURT: I have received another question.

8 "What would be reasonable doubt?" I can read them my
9 instruction on reasonable doubt again.

10 MS. PRICE: Yes, your Honor. I'm in agreement
11 with that.

12 MR. BYRHOLDT: That's a legal issue on that one.

13 (WHEREUPON, the jury entered open court at
14 4:03 p.m.)

15 THE COURT: Madam Forelady, I have received your
16 questions. Your first question that consisted of two
17 parts: One, "What was T West charged with before and
18 after he pled guilty?" And two, "What was the official
19 time of death for Jugg Money?"

20 I received the first question -- can everybody
21 hear me now? These questions would require the Court
22 to comment on the facts. These are factual questions.
23 It is improper for a Court to comment on facts,
24 basically the evidence in the case. Factual questions
25 have to be decided by the jury, therefore, you are to

1 base your decision on the evidence now before you. The
2 Court cannot comment on the facts.

3 Now, the second slip of paper asks, "What would be
4 reasonable doubt?" Again, I cannot comment on the
5 facts of the case. I can give you the legal definition
6 of a reasonable doubt again. I can read that to you
7 again, and I will do that at this time.

8 What is a reasonable doubt in the law? A
9 reasonable doubt is the kind of doubt that would cause
10 a reasonable person to hesitate to act. Some of you
11 may have served as jurors in civil cases where you were
12 told that it is only necessary to prove a fact is more
13 likely true than not true such as by the greater weight
14 or preponderance of the evidence.

15 In criminal cases, the State's proof must be more
16 powerful than that. It must be beyond a reasonable
17 doubt. Proof beyond a reasonable doubt is proof that
18 leaves you firmly convinced of the defendant's guilt.
19 There are very few things in this world that we know
20 with absolute certainty, and in criminal cases, the law
21 does not require proof that overcomes every possible
22 doubt.

23 If, based on your consideration of the evidence,
24 you are firmly convinced that the defendant is guilty
25 of the crimes charged, then you must find the defendant

1 guilty. If, on the other hand, you think that there is
2 a real possibility that the defendant is not guilty,
3 you must give the defendant the benefit of the doubt
4 and find him not guilty.

5 A reasonable doubt may arise from the evidence or
6 from a lack of evidence. The defendant is entitled to
7 every reasonable doubt that may arise in the case. If,
8 upon any issue of fact essential to a conviction in a
9 verdict of guilty of an offense, if you have any
10 reasonable doubt as to how that issue should be
11 resolved, it is your duty to resolve that doubt in
12 favor of the defendant. Suspicion, however strong, is
13 not enough to sustain a conviction. The evidence
14 presented by the State must be substantial evidence
15 that tends to prove the guilt of the defendant beyond a
16 reasonable doubt.

17 That is the definition of reasonable doubt. So
18 I'm going to send you back to the jury room and have
19 you resume your deliberations.

20 (WHEREUPON, the jury exited open court at
21 4:07 p.m.)

22 THE COURT: Any exceptions to my instruction to
23 the jury from the State?

24 MS. PRICE: None from the State.

25 THE COURT: Any from the defense?

1 MR. BYRHOLDT: None, your Honor.

2 THE COURT: All right. We'll now go back into
3 recess.

4 (Court in recess, pending verdict, from 4:07 p.m.
5 until 5:54 p.m.)

6 (WHEREUPON, all parties are present.)

7 THE COURT: All right. I have been informed that
8 the jury has reached a verdict. Anything from either
9 party before we bring the jury back?

10 MS. PRICE: Your Honor, maybe just an instruction
11 as to when the verdict is read, no reactions from the
12 crowd no matter what.

13 THE COURT: Well, that's --

14 MR. BYRHOLDT: I've informed my people of that,
15 your Honor, but I would ask the Court to --

16 THE COURT: I understand that families and friends
17 are here for both sides. I understand this is an
18 emotional case. We will keep order in the courtroom
19 regardless of the outcome.

20 Okay, Mr. Bailiff.

21 (WHEREUPON, the jury entered open court at
22 5:57 p.m.)

23 THE COURT: All right.

24 Madam Forelady, I understand the jury has reached
25 a verdict.

1 JURY FORELADY: We have, yes, sir.

2 THE COURT: Would you hand that to the bailiff,
3 please, ma'am.

4 Okay. Mr. Clerk, would you publish the verdict.

5 THE CLERK: This is the State of South Carolina,
6 County of Anderson, in the Court of General Sessions,
7 Indictment Number 2015-GS-04-00456 and
8 2015-GS-04-00457, the State of South Carolina versus
9 Royres Antwon Patterson, defendant. This is the
10 verdict form: Indictment number 2015-GS-04-00546,
11 murder: We, the Jury, unanimously find on this
12 indictment that the defendant, Royres Antwon Patterson,
13 is guilty of murder.

14 On indictment number 2015-GS-04-00457, attempted
15 murder: We, the Jury, unanimously find on this
16 indictment that the defendant, Royres Antwon Patterson,
17 is guilty of attempted murder.

18 On indictment number 2015-GS-04-00457, the
19 possession of a weapon during the commission of a
20 violent crime: To find the defendant guilty of
21 possession of a weapon during the commission of a
22 violent crime, the defendant must be found guilty of
23 murder or attempted murder.

24 We, the Jury, unanimously find on this indictment
25 that the defendant, Royres Antwon Patterson, is guilty

1 of possession of a weapon during the commission of a
2 violent crime.

3 This is signed by the Forelady, Anderson, South
4 Carolina, April 27, 2016.

5 Ladies and gentlemen of the jury, if this is your
6 verdict, would you signify by raising your right hand.

7 Your Honor, everybody is unanimous.

8 THE COURT: Okay. Anything from the jury for the
9 State?

10 MS. PRICE: Nothing from the State, your Honor.

11 THE COURT: Anything from the defense?

12 MR. BYRHOLDT: I'd like the jury polled, your
13 Honor.

14 THE COURT: All right.

15 Mr. Clerk.

16 THE CLERK: When I call your number, will you give
17 us your verdict.

18 Juror Number 3.

19 JUROR: Guilty.

20 THE CLERK: Juror Number 14.

21 JUROR: Guilty.

22 THE CLERK: Juror Number 21.

23 JUROR: Guilty.

24 THE CLERK: Juror Number 41.

25 JUROR: Guilty.

1 THE CLERK: Juror Number 74.

2 JUROR: Guilty.

3 THE CLERK: Juror Number 80.

4 JUROR: Guilty.

5 THE CLERK: Juror Number 119.

6 JUROR: Guilty.

7 THE CLERK: Juror 130.

8 JUROR: Guilty.

9 THE CLERK: Juror 147.

10 JUROR: Guilty.

11 THE CLERK: Juror 151.

12 JUROR: Guilty.

13 THE CLERK: Juror 165.

14 JUROR: Guilty.

15 THE CLERK: Juror 170.

16 JUROR: Guilty.

17 THE COURT: All right.

18 Ladies and gentlemen, thank you for your service.

19 Mr. Clerk, would you take the jury to the jury
20 room.

21 This will conclude your service for the week.

22 There are no more trials, so the clerk is going to take
23 you back to the jury room and you will be dismissed
24 from there momentarily.

25 (WHEREUPON, the jury exited open court at

1 6:01 p.m.)

2 THE COURT: All right. We will go into recess
3 just for a moment to allow both attorneys to gather any
4 information that you would like to present to the Court
5 for sentencing. Let's take about five minutes. We'll
6 be in recess.

7 (WHEREUPON, a recess was taken from 6:01 p.m. to
8 6:10 p.m.)

9 THE COURT: Okay.

10 Mr. Byrholdt, would you and your client come on
11 forward.

12 Ms. Price and any persons that you have that wish
13 to address the Court.

14 MS. PRICE: Yes, sir.

15 THE COURT: Yes, ma'am.

16 MS. PRICE: Thank you, your Honor. May it please
17 the Court. The jury has convicted Mr. Patterson. If
18 you would like to hear his prior record, I'd be happy
19 to tell you.

20 THE COURT: I would like to hear the prior record.

21 MR. BYRHOLDT: Your Honor, I would have a motion.

22 THE COURT: Yes, sir.

23 MR. BYRHOLDT: I would ask the Court to set --
24 make a motion to set aside the verdict, grant a new
25 trial on the basis of my previous motions, and I would

1 add in there that yesterday when Mr. Bennett testified
2 that he made a phone call to Mr. Cowan during the time
3 of the alleged incident, we have not had time to try
4 and see if that is, in fact, true. But I would make
5 that motion. I anticipate what the Court's ruling is
6 going to be, but I plan on pursuing that, which would
7 be newly discovered evidence since the State was not
8 aware of it until Mr. Bennett testified yesterday that
9 there was a phone call that he claims was made during
10 the -- on the trek to where they claim the incident
11 occurred.

12 THE COURT: Ms. Price.

13 You're not alleging they didn't disclose it.

14 MR. BYRHOLDT: No.

15 MS. PRICE: No, sir. I don't believe --

16 MR. BYRHOLDT: It was a surprise to everyone.

17 MS. PRICE: That's correct, your Honor.

18 Mr. Bennett said that he called that individual
19 yesterday on the stand on the way to the crime. Of
20 course, he had no knowledge that a crime was about to
21 occur, if you believe his testimony. But that is newly
22 discovered evidence.

23 However, it's the State's position, and I assume
24 that someone will take that up for us on appeal, that
25 by the greater weight of the evidence there is plenty

1 to sustain a conviction in this case. Obviously, the
2 jury has spoken, and that regardless of whether or not
3 Mr. Bennett made that phone call, that would not affect
4 the verdict in this case.

5 THE COURT: Mr. Byrholdt, I think that is a
6 factual argument that would go to the weight of that
7 witness' testimony. He was subject to
8 cross-examination in the case, so I'm going to deny
9 your motion and deny your renewed directed verdict
10 motions. Those are noted for the record.

11 MR. BYRHOLDT: I understand. Thank you, your
12 Honor.

13 THE COURT: Let's proceed with the prior record of
14 Mr. Patterson.

15 MS. PRICE: 2006, he had a minor in possession;
16 2007, no DL, minor in possession; 2009, public
17 disorderly conduct; and 2010, providing false
18 information to police. He also had an unlawful
19 carrying of a pistol from 2012.

20 THE COURT: Okay.

21 Mr. Byrholdt, do you agree that that is your
22 client's prior record?

23 MR. BYRHOLDT: 2000 when?

24 MS. PRICE: 2012.

25 MR. BYRHOLDT: I don't have that in the

1 information that was provided.

2 MS. PRICE: Yes, sir. It was sent in addition --

3 MR. BYRHOLDT: I'm not disputing you. I just --

4 MS. PRICE: It was provided to Mr. Byrholdt.

5 THE COURT: Take your time and look at the record.

6 MR. BYRHOLDT: Yes, sir.

7 THE COURT: Okay. All right.

8 Ms. Price, do you have any family members of
9 either victim?

10 MS. PRICE: I do, your Honor. The mother of the
11 victim would like to address the Court.

12 THE COURT: Okay.

13 Yes, ma'am. State your name for the record,
14 please, ma'am.

15 MS. WALKER: April Walker.

16 THE COURT: All right. Ms. Walker, I'd be happy
17 to hear from you.

18 MS. WALKER: My son Brandon was only 20 years old.
19 He loved life to the fullest and succeeded in
20 everything he done. He was a brown belt in karate. He
21 loved Clemson.

22 After he was killed, they played his music during
23 the Clemson football games. The coaching staff and the
24 football players had it where they played his music.

25 Behind this, I just started back at work February

1 the 26th. Both of my daughters have dropped out of
2 college. One of them only has a year left in a
3 bachelor's degree. This has totally altered my
4 family's life. I have twins that are four years old
5 now. They was two when he died. They ask me all the
6 time, "Mama, can you call Bran Bran?"

7 I'm not just saying he was the best son ever
8 because just saying he was the best son ever -- he was
9 my first baby. He's the first person I ever loved. He
10 never disrespected me. Was he perfect? Nobody was,
11 but he went for a dream and he made it. I accepted a
12 single of the year award for him last year, a platinum
13 record on his behalf. I had to accept his award for
14 him because somebody played God and got the wrong
15 person. Even though that still wouldn't have made it
16 right if he got the right person. Another mother would
17 be standing up here stating her facts.

18 My life is forever altered. I have been given a
19 life sentence, and I didn't do nothing. I went to work
20 every day. Both my daughters went to college. I had
21 twins that were two. My husband went to work every
22 day. My son, he was living his dream. He had concert
23 after concert. I mean, he was doing everything. He
24 had just signed on Entertainment Group and everything.
25 He was robbed. All he wanted was a video. He texted

1 his manager that address at night. He left home at
2 9:05. At 9:29 he texted his manager Belton
3 Street. My son was killed at 9:30. He was planting
4 tomato plants and everything. When he left home, he
5 told me, he said, "Mama, I made it. I'm going to get
6 you that house on the beach that you always wanted,"
7 and bought the babies some Jordans because he had a
8 concert the night before, made really good money. And
9 he was telling me who all he had to pay. And I said,
10 "Why do you pay all these people to open up for you?"
11 He said, "Mama, because when I make it, I want
12 everybody to make it." He said, "I'm going to get
13 Anderson a Carowinds because we have nothing here." He
14 was a good kid. I mean, perfect? Nobody is, but he
15 loved life and he did not deserve this at all.

16 THE COURT: Thank you, ma'am.

17 Do you have any further family members that wish
18 to speak?

19 MS. PRICE: No further family members.

20 THE COURT: Okay. Ms. Price, be happy to hear
21 anything else you would like to present.

22 MS. PRICE: Your Honor, I think that Ms. Walker
23 said it best. She was given a life sentence. She can
24 never have her son back here again. He had a promising
25 career. He did receive awards. This is an act that,

1 again, the jury decided was committed by this
2 defendant.

3 On behalf of the State, justice in the wrong
4 hands -- Mr. Byrholdt said it in his opening statement.
5 It's happening all too often in this community. And it
6 is distressing to the State to see things like this
7 happen where anyone is killed, particularly the wrong
8 person, but anyone. This kind of violence in the
9 streets, this kind of lack of regard for human life,
10 we'd like to see a sentence that is reflective of his
11 lack of -- disregard for human life. Thank you, your
12 Honor.

13 THE COURT: Mr. Byrholdt.

14 MR. BYRHOLDT: Call Inetha Patterson, which is
15 Royres' mother. Speak up and give them your name.

16 MS. BLASSINGAME: My name is Inetha Blassingame.
17 I'm Royres' mother, and I want to speak on his behalf.

18 I have a good son. My son worked every day. And
19 my son did hang out in the streets. He had a family
20 and he took care of his home. And what they tried to
21 accuse him of, he didn't do it. He did not do it. The
22 real killer is still out there. Trust me.

23 MR. BYRHOLDT: Royres.

24 THE DEFENDANT: Yes, sir, your Honor. I'm Royres
25 Patterson. I'm sorry for the victim's family about the

1 incident, this incident right here, you know, but I'm
2 not the shooter of this crime, your Honor. I work
3 every day and took care of my family. I didn't run the
4 streets. I don't do drugs. I don't do nothing, you
5 know. I work.

6 An incident occurred with my brother, but it
7 didn't have nothing to do with me or anything else
8 about mistaken or shooting the wrong guy or something
9 like that. That had nothing to do with me. And I got
10 a life sentence for something I didn't even do, you
11 know.

12 THE COURT: Thank you, Mr. Patterson.

13 MR. BYRHOLDT: May it please the Court.

14 THE COURT: Yes, sir.

15 MR. BYRHOLDT: Since the day I was retained in
16 this case, Royres has maintained his innocence. It was
17 a strange trial. I know the jury has spoken. They're
18 the fact-finders. I have told Mr. Patterson that. I
19 told him I thought it was an extremely clean trial, no
20 errors of law that I can look at now.

21 He's maintained his innocence all along. The jury
22 chose to believe the State's witnesses despite their
23 testimony. The jury has spoken. I would ask the Court
24 to take all those factors into consideration and
25 fashion a sentence which seeks justice which deters

1 future conduct like this. And, again, we're sorry for
2 the loss this family has suffered. My dad was killed
3 in a robbery. I know what it's like to live with that.
4 But since day one, Royres has maintained the same story
5 he gave Detective Barton. Thank you, your Honor.

6 THE COURT: Thank you, Mr. Byrholdt.

7 Anything further from either party?

8 MS. PRICE: No, sir.

9 MR. BYRHOLDT: No, sir.

10 THE COURT: How many days time served does
11 Mr. Patterson have?

12 MR. BYRHOLDT: He's been in jail since the 13th of
13 June 2014.

14 MS. PRICE: If you will give me a moment, I can
15 get that exact. One moment.

16 THE CLERK: I've got 682.

17 MS. PRICE: I have 779.

18 Oh, wait. Hold on. I'm sorry, your Honor. One
19 moment.

20 I'm sorry. It is Friday, June 13th, 2014, to
21 Wednesday, April 27, 2016. 685 days.

22 THE COURT: 685.

23 You agree with that, Mr. Byrholdt?

24 MR. BYRHOLDT: Yes.

25 THE COURT: All right. If there's nothing

1 further, this will be the sentence of the Court. This
2 is a tragic case. It's a tragic case all the way
3 around. I see young lives that are shattered as a
4 result of this. I see a young man that's deceased. I
5 see another young man -- Mr. Patterson, looks like
6 you're 27?

7 THE DEFENDANT: 28.

8 THE COURT: 28 years old. Just tragedy all the
9 way around. But it's a serious matter.

10 So on 2015-GS-04-00456, defendant will be confined
11 to the Department of Corrections for a term of
12 30 years. That -- he would get credit for 685 days
13 time served.

14 Then on 2015-GS-04-457, the weapon charge, he
15 would receive five years consecutive, credit for
16 685 days time served.

17 Then on the attempted murder under the same
18 indictment, 457, he will receive a 20-year concurrent
19 sentence with 685 days time served.

20 MR. BYRHOLDT: Thank you, your Honor.

21 THE COURT: Good luck to you, Mr. Patterson.

22 THE DEFENDANT: Thank you.

23 (WHEREUPON, proceedings adjourned at 6:28 p.m.)
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11 This transcript may contain quoted material. Such
12 material is reproduced as read by the speaker.
13 I do further certify that I am neither of kin, counsel,
14 nor interest to any party hereto.

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1 State of South Carolina
2 County of Anderson In the Court of General Sessions

3
4 State of South Carolina,)
5)
6 -vs-) 2015-GS-04-00456 & 457
7 Royres Antwon Patterson,) May 11, 2016
8 Defendant.) Volume 4 of 4
9) Pages 587 - 604
) Transcript of Record
)

10
11 B E F O R E:

12 The Honorable R. Scott Sprouse, Judge
13

14 A P P E A R A N C E S:

15 Lauren Davis Price, Esquire
16 Attorney for the State

17 Bruce A. Byrholdt, Esquire
18 Attorney for Defendant
19
20

21 Diane L. Marcengill, RPR, CRR
22 Circuit Court Reportere
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25

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I N D E XWitnessesPage

No witness were called.

E x h i b i t s

For the State:

<u>Marked</u>	<u>Description</u>	<u>I.D.</u>	<u>Admitted</u>
	None offered.		

For the Defendant:

<u>Marked</u>	<u>Description</u>	<u>I.D.</u>	<u>Admitted</u>
1	Affidavit of Sergeant Barton	599	599
2	Search warrant	599	599
3	Phone records	599	599

1 (WHEREUPON, court convened with all parties
2 present and the following proceedings were had
3 commencing at approximately 2:00 p.m.)

4 THE COURT: Let's go on the record.

5 MS. PRICE: May it please the Court. We're here
6 for the defense's motion for new trial based on newly
7 discovered evidence pertaining to Royres Antwon
8 Patterson.

9 I've presented the Court with a State's reply as
10 well as the new information that's been obtained since
11 the cell phone was discovered. You have hard copies
12 for the Court to review, in addition, case law that
13 pertains to the State's reply to the defense's motion.

14 THE COURT: Thank you, Ms. Price.

15 Mr. Byrholdt.

16 MR. BYRHOLDT: May it please the Court. Your
17 Honor tried this case, I think it was the last week of
18 April. I had filed my notice of appeal. I went to
19 serve it on the State. They informed me that they had
20 found a cell phone in the desk of the Chief Case
21 Investigator Danny Barton that had not been placed in
22 evidence, had not been disclosed.

23 I withdrew my notice of appeal and immediately
24 filed my motion for new trial under Rule 29, newly
25 discovered evidence. My position is that the cell

1 phone that was found in Mr. Barton's desk drawer
2 belonged to Terennce West, essentially what I would
3 call the primary witness against Mr. Patterson at
4 trial, his uncle who identified him.

5 But more importantly than that, it's a strange
6 twist because the phone, when we got the records, shows
7 that it was obtained June 8th, the day after the
8 incident. But in Mr. West's statement that Mr. Barton
9 recorded, one of the questions was, "Have you had any
10 contact with the defendant since the day of the alleged
11 incident," and he answered no.

12 There is a phone call on June 13th, which was
13 after the incident, like the day he either turned
14 himself in or the day he turned himself in. So that
15 goes toward the credibility of Mr. West because
16 apparently he lied in that statement. He also lied in
17 trial when he said he tells the truth, but he had been
18 convicted of or pled guilty to providing false
19 information to law enforcement.

20 More importantly than that, if they had this phone
21 and it had been provided to me, I think I could have
22 gone then and tried to find out what happened to the
23 telephone he had the day of the incident and before,
24 which the State didn't ask for, nowhere in the
25 statement or where they found this thing. If they knew

1 it was gone the day of the incident, they may have gone
2 back and checked.

3 I think that's important because one of the
4 factors -- Mr. Bennett, the other codefendant that
5 identified Mr. Royres as the alleged shooter, said he
6 had made a phone call to the drug dealer, Deshawn (sic)
7 Cowan, on the way to the scene of the incident. But
8 yet in all their statements, both Mr. Bennett and
9 Mr. West claim they didn't know this area, they had
10 never been there before, and I think it goes to the
11 heart of the matter.

12 As the Court is aware, this was circumstantial
13 evidence. The jury did return a verdict based on the
14 testimony apparently of two guys that were either
15 drinking or high on drugs or going to get drugs and a
16 dope dealer. That's the testimonial evidence in this
17 case.

18 It is our position, A, that it should have been
19 clocked in to evidence. Why it was put in Mr. Barton's
20 desk, I don't understand. A day or two before trial
21 Ms. Price, Ms. Moore, and myself went to the sheriff's
22 office and reviewed all evidence. We went through what
23 had been collected, what had been listed. That phone
24 was nowhere in there.

25 After the fact, they got a search warrant and they

1 downloaded -- it does show at least a phone call from
2 Mr. -- from Mr. Patterson to Mr. West, duration of in
3 excess of two minutes. But also a number of other
4 calls which had we had handy, we could have checked
5 out. I don't know if they were calls to Mr. Bennett or
6 who they were to, but I think this evidence, I think,
7 is germane.

8 We have filed for discovery. There is extensive
9 discovery that was provided. This is just one booklet
10 of the evidence (indicating) or the materials that were
11 given to me by the State.

12 I think -- my understanding is the evidence has to
13 be material. We believe it was. We believe it goes
14 straight to the heart of the testimony of Mr. West.
15 Since this was a circumstantial evidence, it definitely
16 could result in a different result if the jury found
17 that his testimony was not credible, and we think it
18 was definitely material because it puts him in direct
19 contradiction of what he gave in his statement that he
20 never talked to Mr. Patterson after the incident.

21 And more importantly than that, I mean, if the
22 phone was obtained the day after, why wasn't some check
23 made on the phone he had before. Because without that,
24 they talk about phone conversations back and forth, but
25 no numbers were presented to the defense to allow me to

1 try to get some third-party agency.

2 And we would ask the Court, based on that, to
3 grant us a new trial. I know we spent three days up
4 here, three days of the Court's time, three days of the
5 State's time, three days of our time, and we can retry
6 it in -- I think I can be ready in 30 days, your Honor.

7 THE COURT: Mr. Byrholdt, let me ask you some
8 questions.

9 MR. BYRHOLDT: Sure.

10 THE COURT: First of all, you said Deshawn Cowan.
11 Is that a new individual?

12 MR. BYRHOLDT: No. He was one of the victims in
13 the case.

14 THE COURT: I thought that was Rayshawn.

15 MR. BYRHOLDT: It's Rayshawn. I apologize, your
16 Honor.

17 THE COURT: So we're not dealing with a new
18 individual.

19 MR. BYRHOLDT: No, we are not dealing with a new
20 individual.

21 THE COURT: All right. Now, Ms. Price has handed
22 up a portion of the transcript and looks like a
23 supplemental report with the information regarding this
24 telephone. Are any of the phone calls on this phone
25 dated prior to the incident?

1 MR. BYRHOLDT: No, sir, because the phone call was
2 just obtained -- appears it was obtained June the 8th,
3 the day after the incident.

4 THE COURT: Okay. So what purpose are you seeking
5 to have this evidence admitted? Is it to impeach the
6 eyewitnesses' credibility?

7 MR. BYRHOLDT: It will because he gave a statement
8 to Mr. Barton that there were no conversations between
9 the defendant and Mr. West after the incident.

10 THE COURT: Okay.

11 MR. BYRHOLDT: And this goes straight to -- there
12 is a phone call on the 13th. I think it's like 5:32 in
13 the afternoon.

14 THE COURT: Okay. All right.

15 Ms. Price.

16 MS. PRICE: Thank you, your Honor. May it please
17 the Court. Under South Carolina Rules of Criminal
18 Procedure Rule 29B, the standard is, for a new trial,
19 that the evidence that is newly discovered would
20 probably change the result if a new trial was had. It
21 would have had to have been discovered since trial and
22 could not, by the exercise of due diligence, have been
23 discovered before trial. It has to be material to the
24 issue of guilt or innocence, and is not merely
25 cumulative or impeaching.

1 Well, to start with the last one first,
2 Mr. Byrholdt said his pure purpose is for impeachment
3 of the State's witness in this case. And, your Honor,
4 I believe in his motion Mr. Byrholdt cited *State v.*
5 *Goodson*. And in that case it's distinguishable because
6 the case at issue here, we have three eyewitnesses who
7 all corroborate each other's testimony. In *State v.*
8 *Goodson* there was one witness, and the trial hinged on
9 the credibility of that one witness.

10 This is not the situation that we have. As far as
11 David Bennett and Mr. Cowan go, there are no phone
12 calls to Mr. Bennett, and Mr. Bennett's phone is not at
13 issue, so I'm not really sure what that has to do with
14 the motion today.

15 I am not going to defend the fact that this was
16 not turned over before trial. That is something that I
17 know that Sergeant Barton feels terrible about, that
18 was an oversight on his part but certainly wasn't
19 intentional. Immediately he called me. And we
20 immediately got that information to the Court and to
21 Mr. Byrholdt. But mistakes happen, and that's why we
22 have this standard.

23 So looking at the evidence that we brought before
24 the Court, it is not material. It is merely
25 impeaching. The phone was not obtained until after the

1 incident took place; therefore, there's no locationing,
2 there's no tower records that we could pull that would
3 either add to or take away from Mr. West's story that
4 night. It just absolutely is a nonadder or subtracter.

5 As far as the telephone call between this cell
6 phone and between the number that was assigned to
7 Mr. Patterson, the defense in their case made a point
8 indeed, interrupted me in my closing argument to make
9 that point, that one cell phone doesn't mean an
10 individual, it just means that call.

11 So in terms of a call from Mr. Patterson's phone
12 to Mr. West's purported phone later the day before they
13 got arrested, I don't know who answered the phone, and
14 I don't know who was making that phone call. I can say
15 that on the record, and I flagged it in the transcript
16 that I provided the Court of Mr. West's testimony and I
17 flagged it for Mr. Byrholdt as well.

18 At trial I asked Mr. West specifically, "Have you
19 spoken to your nephew since this incident occurred?"
20 And he said, "No, ma'am." So that question was asked
21 at trial. Mr. Byrholdt had an opportunity to
22 cross-examine him on whether or not he had had any
23 contact with this defendant. I would say because the
24 question was asked and answered, it's a nonissue.

25 Again, Judge, it doesn't add anything to what

1 happened the night of the murder, and we also have two
2 corroborating witnesses who say that Mr. West's
3 testimony is accurate. So his testimony does not stand
4 alone.

5 There was additional evidence that was brought out
6 at trial that supported the verdict that the jury
7 brought forth and, therefore, I would say that
8 Mr. Byrholdt's motion does not meet the standard as set
9 forth by our courts. Thank you.

10 MR. BYRHOLDT: Just briefly.

11 THE COURT: Mr. Byrholdt.

12 MR. BYRHOLDT: I love how the State argues that
13 impeachment is not enough. Under *Kyle vs. Whitley*, 514
14 U.S. 419, 115 S.Ct. 1555, 1995 case, the Supreme Court
15 of the United States said an individual asserting a
16 Brady violation must demonstrate: One, the evidence is
17 favorable to the accused; two, the possession of or
18 known by the prosecution. And that also includes law
19 enforcement under that. They have a corresponding
20 duty. Was it suppressed by the State? No, it was left
21 in a desk drawer by State. And, four, was material to
22 the accused's guilt or innocence or was impeaching.

23 Now they want to read that out. The United States
24 Supreme Court says any of those issues is enough. The
25 fact that the State asked a question, did you talk to

1 him, had I had the phone records, I could have
2 cross-examined him. Without knowing -- without having
3 the phone records, without having the phone itself, it
4 was impossible for me to cross-examine him.

5 The State says, well, they have three witnesses
6 that were all together on this. We have three
7 witnesses that put this location three different
8 places. We had witnesses that were high on drugs or
9 buying drugs or a combination of both and a drug
10 dealer.

11 Granted, in the *Goodson* case we have one witness.
12 What we have here is three unreliable witnesses, and I
13 think we're entitled -- like I say, it's not our fault
14 the State didn't carry through handling the evidence
15 like it should have been, taken into custody and
16 putting it in the BEST evidence kit and going forward.
17 Had that been done, we wouldn't be standing here today,
18 your Honor.

19 But it wasn't done. It's not a mistake that
20 Mr. Royres or I made on behalf of the defense. It was
21 an unfortunate -- and I don't think it was done on
22 purpose. I don't allege that. But it was material to
23 this case, your Honor, and we'd ask the Court to grant
24 us a new trial.

25 THE COURT: Thank you, Mr. Byrholdt.

1 Let me read briefly the material.

2 MR. BYRHOLDT: Your Honor, I have got cases I will
3 hand up, too.

4 THE COURT: If you have a copy of that *Kyle vs.*
5 *Whitley* case.

6 MR. BYRHOLDT: I don't, but I cite another state
7 case. I'll hand the copy to you.

8 Your Honor, may it please the Court. I apologize.
9 For purposes of the record, I would like to admit at
10 this time --

11 MS. PRICE: The Court has copies of all that.

12 MR. BYRHOLDT: I need for the record, though, the
13 affidavit of Mr. Barton, the search warrant, and the
14 phone records.

15 (WHEREUPON, Defendant's Exhibit Numbers 1
16 through 3 were marked for identification.)

17 THE COURT: Okay.

18 MR. BYRHOLDT: Your Honor, we move that goes into
19 evidence. I don't believe there is an objection.

20 MS. PRICE: No objection.

21 THE COURT: Those are in evidence.

22 (WHEREUPON, Defendant's Exhibit Numbers 1 through
23 3 were admitted into evidence.)

24 THE COURT: Ms. Price and Mr. Byrholdt, I'm
25 looking at the extraction report.

1 MR. BYRHOLDT: Yes, sir.

2 THE COURT: You said this phone was confiscated on
3 June 8th; is that correct?

4 MR. BYRHOLDT: No. It was confiscated, I believe,
5 on June 13th or the 14th, the day he was arrested and
6 the day he gave his statement.

7 THE COURT: Okay.

8 MS. PRICE: It was activated on June 8th.

9 THE COURT: Activated on June 8th.

10 MS. PRICE: Yes, sir.

11 MR. BYRHOLDT: That's correct.

12 THE COURT: What is the number on the extraction
13 report that's alleged to be the defendant?

14 MR. BYRHOLDT: Number 17, your Honor, on page -- I
15 believe it's page one of the records incoming from
16 -8316 at 5:33 p.m. on the 12th for two minutes
17 and 11 seconds.

18 THE COURT: Are there any other calls that are
19 alleged --

20 MR. BYRHOLDT: Not that I'm aware of, your Honor.

21 THE COURT: Okay.

22 I have heard arguments of counsel. I have
23 reviewed the materials presented and the applicable
24 law. This would be the findings of the Court.

25 At issue is a cell phone belonging to a

1 prosecution witness that was not disclosed pursuant to
2 Rule 5 and Brady requests during the course of the
3 discovery prior to the trial. I find that this was
4 inadvertent and, indeed, there is no allegation from
5 the defense that it was an intentional withholding of
6 information but this was an oversight. But it was not
7 disclosed, therefore, the defendant meets one tier of
8 his burden on a motion for new trial in that due
9 diligence would not have led to the discovery of this
10 cell phone. Since the defendant did request material
11 and it inadvertently was not provided, defendant had no
12 way of knowing that it had not been provided.

13 Now, that brings us to the other parts of the
14 basis for a new trial motion. Ms. Price correctly
15 stated the law that under a 29B motion, defendant must
16 show that the evidence is such as would probably change
17 the outcome if discovered prior to the trial, it has to
18 be material, and is not merely cumulative or
19 impeaching. The other being the due diligence
20 provision that the defendant had met.

21 This is an issue that goes directly toward
22 impeachment, toward his ware of the nature of the
23 trial. Having presided over it, there are two
24 prosecution witnesses whose statements were directly at
25 issue. The phone in question was not put into use

1 until after the incident. However, there is a
2 statement on page 29 at the top of page 30 of the
3 transcript in which it was asked of Mr. West, "Did you
4 talk to your nephew after this happened?" And he
5 answered, "No, ma'am." The phone call in question took
6 place subsequent to that to a number reported to be
7 that of the defendant. However, there's no way for any
8 person to state with certainty who dialed the number
9 and who answered the number. We can only look at the
10 records from what phone the call came, what phone
11 received the phone call.

12 This goes directly toward impeachment, therefore,
13 I find this evidence is not material for purposes of
14 guilt or innocence. There is other evidence in the
15 record. This is impeachment evidence, and it is
16 cumulative evidence.

17 I would also note in finding that the defense
18 attorney impeached both of the eyewitnesses very
19 heavily during the trial both on inconsistent
20 statements during cross-examination and in pointing out
21 different versions that the eyewitnesses had.

22 The Court would also note that the defense was
23 able to point out in the exhibit the different
24 locations of the incident as marked by these witnesses.
25 So, therefore, I find this evidence is not material and

1 that the Court cannot make any finding that admission
2 of this evidence would change the outcome of the case,
3 so, therefore, Mr. Byrholdt, I'll have to deny your
4 motion.

5 MR. BYRHOLDT: Thank you, your Honor.

6 MS. PRICE: Thank you, your Honor.

7 (WHEREUPON, the hearing ended at 2:32 p.m.)

8 ***END OF REQUESTED TRANSCRIPT OF RECORD***

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1 Certificate of Reporter

2
3 I, Diane L. Marcengill, Official Court Reporter
4 for the Tenth Judicial Circuit of the State of South
5 Carolina, do hereby certify that the foregoing is a
6 true, accurate, and complete transcript of record of a
7 portion of the proceedings had and evidence introduced
8 in the trial of the captioned case, relative to appeal,
9 in the Circuit Court for Anderson County, South
10 Carolina, on the 11th day of May 2016.

11 This transcript may contain quoted material. Such
12 material is reproduced as read by the speaker.

13 I do further certify that I am neither of kin, counsel,
14 nor interest to any party hereto.

15 September 16, 2016

16
17 
18 Diane L. Marcengill, RPR, CRR
19 Circuit Court Reporter
20
21
22
23
24
25

Interview of: ROYRES PATTERSON

Incident date: Friday, June 13, 2014.

Subject: Royres Patterson.

Case number: 2014-27454.

Interviewer: Matt Ritter.

BY OFFICER: Appreciate you coming up.

BY MR. PATTERSON: Yes, sir.

BY OFFICER: Give you my card here. That's me.

BY MR. PATTERSON: Yes, sir.

BY OFFICER: All right. Before we talk or anything, I'm going to read you your rights. Okay?

MR. PATTERSON: Yes, sir.

BY OFFICER: 6/13/14. Your full name is what?

BY MR. PATTERSON: Royres, R-o-y-r-e-s, Antwon, A-n-t-w-o-n, Patterson.

BY OFFICER: Date of birth?

BY MR. PATTERSON: , '88.

BY OFFICER: How far did you go in school?

BY MR. PATTERSON: Tenth grade.

BY OFFICER: Tenth grade?

BY MR. PATTERSON: Yes.

BY OFFICER: Can you read and write?

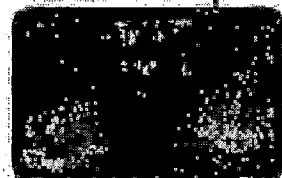
BY MR. PATTERSON: Yes, sir.

BY OFFICER: What do you go by?

COMMON PLEAS AND
GENERAL SESSIONS

2014 MAY -3 AM 9:11

FILED CLERK'S OFFICE
ANDERSON SO



1 BY MR. PATTERSON: Royres.

2 BY OFFICER: Royres.

3 BY MR. PATTERSON: Yeah, Royres is my name.

4 BY OFFICER: All right. Obviously you know what
5 I'm going to talk to you about.

6 BY MR. PATTERSON: Yes, sir.

7 BY OFFICER: Before I ask you any questions, you
8 must understand your rights. Read these first two
9 lines out loud for me, please.

10 BY MR. PATTERSON: "You have the right to remain
11 silent. Anything you say may be used against you in
12 court. You have the right to speak to a lawyer for
13 advice."

14 BY OFFICER: I'll read the rest of them to you.
15 You can just follow along. Okay?

16 "You have the right to speak to a lawyer for
17 advice before you are asked any questions and have him
18 with you during questioning. If you cannot afford a
19 lawyer, one will be appointed for you before any
20 questioning, if you wish. If you decide to answer
21 questions now without a lawyer present, you also have
22 the right to stop answering questions at any time. You
23 also have the right to stop answering at any time to
24 speak with a lawyer."

25 Do you understand everything?

1 BY MR. PATTERSON: Yes, sir.

2 BY OFFICER: You read and I read to you?

3 BY MR. PATTERSON: Yes, sir.

4 BY OFFICER: If you will, please sign right there
5 for me.

6 BY MR. PATTERSON: I need a pen.

7 BY OFFICER: It's one of the weird ones.

8 All right. Also, I need you to initial by those
9 two. That shows me that you can read.

10 BY MR. PATTERSON: Okay.

11 BY OFFICER: I'll sign here.

12 All right. This next part down here, it says, "I
13 have read this statement of my rights and I understand
14 what my rights are. I am willing to make a statement
15 and answer questions. I do not want a lawyer at this
16 time. I understand and know what I am doing. No
17 promises or threats have been made to me or pressure or
18 coercion of any kind has been used against me."

19 Do you understand what "coercion" means?

20 BY MR. PATTERSON: No, sir.

21 BY OFFICER: It's a big fancy word for force. It
22 means I'm not bribing you to talk to me. I'm not
23 threatening you to talk to me.

24 BY MR. PATTERSON: Yeah.

25 BY OFFICER: If you want to talk, we'll talk. If

1 not, no hard feelings. All right?

2 BY MR. PATTERSON: Yes, sir.

3 BY OFFICER: If you would, initial by "coercion,"
4 I explained to you what that meant.

5 BY MR. PATTERSON: Okay.

6 BY OFFICER: If you don't mind talking to me, sign
7 it.

8 All right. Saturday. Before we start talking,
9 obviously, I've already talked to other people.

10 BY MR. PATTERSON: Yes, sir.

11 BY OFFICER: The -- so I know what happened. I've
12 already had several people tell me and witnesses
13 people that were there, people who were in the car with
14 you. Okay? So --

15 BY MR. PATTERSON: All right. But I don't know
16 nothing about nothing, though.

17 BY OFFICER: Lying to me will do you no good.

18 BY MR. PATTERSON: I ain't lying. I don't know
19 nothing. I don't know nothing about nothing.

20 BY OFFICER: Where were you at Saturday?

21 BY MR. PATTERSON: I was at my sister's house at
22 East Market Street.

23 BY OFFICER: Okay. Well, what about when you and
24 David and I went riding that night?

25 BY MR. PATTERSON: I didn't get in the car with T.

1 BY OFFICER: Well, why are both of them saying you
2 did?

3 BY MR. PATTERSON: I didn't get in the car with T.

4 BY OFFICER: Okay. Listen to me -- did you get
5 shot in the leg?

6 BY MR. PATTERSON: No, sir. That's why I said.
7 They say I got shot in the leg.

8 BY OFFICER: Your brother got shot in the leg.

9 BY MR. PATTERSON: I didn't get shot in the leg.

10 BY OFFICER: Your brother went to the hospital and
11 was telling the hospital that he got shot -- or that
12 you -- he was telling the hospital your name, he got
13 shot in the leg. But, you know, I knew that wasn't the
14 case because as soon as I seen the hospital photos, I
15 know that's not you that's limping into the hospital.
16 That's you getting out of the car, out of the passenger
17 side. You're not shot in the leg. This dude is shot
18 in the leg. And that is your brother D, correct?

19 BY MR. PATTERSON: Yes, sir.

20 BY OFFICER: Giving your name to the hospital?

21 BY MR. PATTERSON: That's what I said. Why my
22 name? I ain't in the midst of this.

23 BY OFFICER: But -- but my two witnesses that were
24 in the car with you, they -- they don't have you
25 mistaken. I mean, they know exactly who you are.

1 Okay? The -- Bennet picks you out of a lineup. That's
2 the guy who was in the car with him, not this guy that
3 had gotten shot in the leg.

4 BY MR. PATTERSON: Right.

5 BY OFFICER: So, like I said, you can sit there
6 and say you didn't do it all day long --

7 BY MR. PATTERSON: I didn't.

8 BY OFFICER: -- but --

9 BY MR. PATTERSON: I'm telling you I didn't.

10 BY OFFICER: But you're charged with it, and
11 you're going to go to trial on it, and if you want to
12 say that, "Those guys are lying and I'm telling the
13 truth," then you could take your chances with that.

14 This is what I think happened. I think your
15 brother got shot in the leg by Hitman, and for whatever
16 reason, he told them your name at the hospital. And
17 it's probably because he's got warrants on him and he
18 knew we were coming out, and he didn't want to go to
19 jail.

20 BY MR. PATTERSON: Right.

21 BY OFFICER: So he told them your name. The --
22 that night, I think you think you were shooting to hit
23 Hitman.

24 BY MR. PATTERSON: No. I even -- I don't know a
25 damn one of them. I don't know nobody. I don't know a

1 damn one of them.

2 BY OFFICER: Listen, man, don't play stupid.

3 BY MR. PATTERSON: I ain't playing stupid.

4 I don't know --

5 BY OFFICER: You are playing stupid. You know
6 exactly who damn Hitman is.

7 BY MR. PATTERSON: No, I don't. I don't know a
8 damn one of them. I work for a living. And somebody
9 burnt my car up and threatened my family.

10 BY OFFICER: You --

11 BY MR. PATTERSON: And I got --

12 BY OFFICER: You just shot and killed their dude.

13 BY MR. PATTERSON: I didn't shot and killed
14 nobody.

15 BY OFFICER: Okay.

16 BY MR. PATTERSON: I didn't shot and kill nobody.

17 BY OFFICER: Okay. You can stick with that story
18 if you want to.

19 BY MR. PATTERSON: I mean, I didn't shot and kill
20 nobody. That's what I'm saying. I didn't shot and
21 kill nobody. I work for a living. I got a family.

22 BY OFFICER: Half the damn people who shoot people
23 do.

24 BY MR. PATTERSON: I got a family.

25 BY OFFICER: I understand you got a family. I

1 understand you work.

2 BY MR. PATTERSON: I work and I don't bother
3 nobody.

4 BY OFFICER: But that don't mean you wasn't out
5 Saturday night in that car.

6 BY MR. PATTERSON: No. I ain't got nothing to do
7 with none of that.

8 BY OFFICER: Okay. Well, you can say that.

9 BY MR. PATTERSON: I didn't goddamn do none of
10 that.

11 BY OFFICER: I got two witnesses that were in the
12 car with you that say otherwise.

13 BY MR. PATTERSON: I got my witness.

14 BY OFFICER: Who?

15 BY MR. PATTERSON: My family, where I was at.

16 BY OFFICER: And one of the guys that was saying
17 you is your family.

18 BY MR. PATTERSON: That wasn't me. I didn't do
19 that.

20 BY OFFICER: T, is T not your family?

21 BY MR. PATTERSON: Yeah. He's my uncle.

22 BY OFFICER: That's your uncle.

23 BY MR. PATTERSON: Yeah.

24 BY OFFICER: Your uncle says you did it.

25 BY MR. PATTERSON: I didn't do it.

1 BY OFFICER: Okay. Like I said --

2 BY MR. PATTERSON: That's my word against his
3 word.

4 BY OFFICER: Well --

5 BY MR. PATTERSON: Against anybody else word.

6 BY OFFICER: I got two people's word that were
7 there says you were the one shootin. And you got a
8 motive.

9 BY MR. PATTERSON: I wasn't shootin. I didn't do
10 no shootin.

11 BY OFFICER: Okay. Well, you can stick with that
12 story.

13 BY MR. PATTERSON: I did. I didn't do no shootin.

14 BY OFFICER: You can stick with that story, but
15 every other -- every dude out there knows you did it.

16 BY MR. PATTERSON: And that's -- they're on the
17 streets talking. The streets going to talk like that,
18 but I'm a working man. I don't bother nobody.

19 BY OFFICER: 99 percent of the time the streets
20 are right.

21 BY MR. PATTERSON: No, because the streets, they
22 probably don't like what you're doing or who you're
23 dealing with. Yeah, they'll say anything.

24 BY OFFICER: Yeah.

25 BY MR. PATTERSON: Yeah. That's why I say. It's

1 crazy. Like I didn't -- I ain't touching that. I
2 ain't had nothing to do with that.

3 BY OFFICER: You can take your chances with that
4 if you want to.

5 BY MR. PATTERSON: I'll tell you.

6 BY OFFICER: Yeah. But I know and you know.

7 BY MR. PATTERSON: I don't know, I work for a
8 living, and how can my name just pop up in the paper --

9 BY OFFICER: I don't care if you work for a
10 living, okay. You keep throwing that up like I'm
11 supposed to say, "Oh, shit, man. You work for a
12 living. You didn't do this."

13 BY MR. PATTERSON: I'm talking. You and me we're
14 talking. We're talking. So how can my name come up in
15 this paper saying that I got shot and I wasn't nowhere
16 near around. I was at home in the bed, and here I got
17 a phone call --

18 BY OFFICER: I told you how your name popped up
19 that you got shot. It was your dumb ass brother was
20 the one that told them --

21 BY MR. PATTERSON: But --

22 BY OFFICER: -- his name was Royres.

23 BY MR. PATTERSON: But it ain't got nothing to do
24 with me. That's what they're telling you. I was at
25 home in the bed.

1 BY OFFICER: It didn't have nothing to do with you
2 until that night when you thought you was getting some
3 get-back for your brother.

4 BY MR. PATTERSON: No. I have nothing to do, I
5 ain't trying to get no get-back. I wasn't even near --
6 I don't even mess around over there. They gang banging
7 in the streets. I ain't with that. I work for a
8 living.

9 BY OFFICER: Where was you at Saturday night?

10 BY MR. PATTERSON: I was at my sisters's house at
11 East Market Street.

12 BY OFFICER: Funny note, that's where these dudes
13 say they picked you up at --

14 BY MR. PATTERSON: That's why I say --

15 BY OFFICER: -- that you jumped in the car with
16 them while they was going to get some weed.

17 BY MR. PATTERSON: I don't even smoke weed.

18 BY OFFICER: I didn't say you did. I said they
19 were going to get weed.

20 BY MR. PATTERSON: Yeah. I don't know, but I
21 don't even smoke weed. I know where I was at.

22 BY OFFICER: Okay. Have you ever been in that
23 little silver car?

24 BY MR. PATTERSON: Yeah, months ago. Years ago.
25 Yeah, months ago.

1 BY OFFICER: Months ago. Hell, they ain't had it
2 but about three weeks.

3 BY MR. PATTERSON: Yeah. They had it about two
4 months.

5 BY OFFICER: So months ago or years ago or what?

6 BY MR. PATTERSON: They had it about two months. I
7 guess.

8 BY OFFICER: Yeah?

9 BY MR. PATTERSON: Yeah. But I wasn't in that car
10 that night.

11 BY OFFICER: Okay. Well, we're processing it for
12 your fingerprints.

13 BY MR. PATTERSON: Okay.

14 BY OFFICER: See if your fingerprints are on it.

15 BY MR. PATTERSON: Well, everyone -- but everyone
16 has been in the car, like it's --

17 BY OFFICER: Well, you ain't been in it in a
18 while. You said a couple months ago, right?

19 BY MR. PATTERSON: Yeah. But even my friends with
20 his own car.

21 BY OFFICER: There might be a bunch of people.

22 BY MR. PATTERSON: That's what I'm saying.

23 BY OFFICER: We'll see. Listen dude, you can take
24 your chances. You can sit there smiling all you
25 want --

1 BY MR. PATTERSON: No, because it's crazy.

2 BY OFFICER: -- but we go to court and that judge
3 reads out murder, I want you to smile again. Okay?

4 BY MR. PATTERSON: I ain't smiling --

5 BY OFFICER: (Inaudible) smile.

6 BY MR. PATTERSON: I ain't smiling about no murder
7 because I didn't murder nobody.

8 BY OFFICER: Well, you got a murder charge.

9 BY MR. PATTERSON: I didn't murder nobody.

10 BY OFFICER: So you can get right with it or you
11 can sit there with a smile on your face saying you
12 didn't do it.

13 BY MR. PATTERSON: It's my word against their
14 word. I mean, how can y'all -- how can y'all pinpoint
15 me doing something and y'all ain't got no evidence of
16 me doing nothing?

17 BY OFFICER: We got evidence.

18 BY MR. PATTERSON: Yeah, of nothing.

19 BY OFFICER: We got evidence.

20 BY MR. PATTERSON: Come on, how can y'all pinpoint
21 me doing something? Come on now.

22 BY OFFICER: I've got evidence on you.

23 BY MR. PATTERSON: Come on now.

24 BY OFFICER: I've got evidence on you.

25 BY MR. PATTERSON: Come on.

1 BY OFFICER: I'm coming on.

2 BY MR. PATTERSON: Come on.

3 BY OFFICER: I come at you straight. When I
4 picked you up downstairs --

5 BY MR. PATTERSON: Come on.

6 BY OFFICER: Is that the story you're going to go
7 with?

8 BY MR. PATTERSON: I mean, yeah. That's the story
9 I'm going to go with.

10 BY OFFICER: Well, you explain that to the judge,
11 then. Sit down.

12 BY MR. PATTERSON: Okay.

13 BY OFFICER: When it comes that time, explain that
14 to the big man. All right.

15 BY MR. PATTERSON: Yeah. I'll explain it to him
16 good.

17 BY OFFICER: Stay where you're at, man.

18 BY MR. PATTERSON: Okay.

19 (Officer left the room.)

20 BY MR. PATTERSON: This is crazy.

21 (Officer entered the room.)

22 BY OFFICER: They have got to come pick you up,
23 take you down there.

24 BY MR. PATTERSON: All right.

25 BY OFFICER: The -- he should be here in the next

1 ten, 15 minutes or so.

2 You been having any threats from these people?

3 BY MR. PATTERSON: They have threatened my whole
4 family.

5 BY OFFICER: Yeah. Why they doing that?

6 BY MR. PATTERSON: I don't know. They burnt my
7 car up. They shot on my sister's house. I don't know
8 for what but we was at the house. I don't know for
9 what.

10 BY OFFICER: Yeah.

11 BY MR. PATTERSON: For what.

12 BY OFFICER: What do you think?

13 BY MR. PATTERSON: I don't know because I don't
14 gang bang. I ain't in no gangs or nothing. I work.

15 BY OFFICER: They said you was in a gang.

16 BY MR. PATTERSON: Yeah. I don't do none of that.

17 BY OFFICER: You keep throwing up that work.

18 BY MR. PATTERSON: I do. I am proud of my work.

19 BY OFFICER: The -- listen, man. Here's the
20 skinny of it. You need to think about your old lady
21 and your kids here.

22 BY MR. PATTERSON: Right.

23 BY OFFICER: Okay?

24 BY MR. PATTERSON: Right.

25 BY OFFICER: You're involved in this, whether you

1 want to admit it or not. Okay? You're the one that's
2 got to live with it. I think you shot the wrong guy.
3 I don't think that dude was your intended target and,
4 unfortunately, a man died, you know, but --
5 BY MR. PATTERSON: I didn't -- I didn't do
6 nothing. I had no parts in none of that.
7 BY OFFICER: Okay, okay.
8 BY MR. PATTERSON: Parts of none of that.
9 BY OFFICER: Like I say, I don't think that dude
10 was your intended target, so, you know, you can either
11 tell me what happened or you cannot.
12 BY MR. PATTERSON: I'm telling you what happened.
13 I'm telling you. For real, I'm telling you, whatever.
14 BY OFFICER: Okay, well, when I take you down to
15 the jail, you are going to be charged with murder,
16 attempted murder, and possession of a weapon during
17 commission of a violent crime. Serve those warrants on
18 you. The judge down there won't be able to set your
19 bond on murder so you'll have to sit there.
20 BY MR. PATTERSON: Nothing -- all my name just
21 over nothing.
22 BY OFFICER: Huh?
23 BY MR. PATTERSON: All my name all this over
24 nothing. My name. Over nothing.
25 BY OFFICER: You the know what, I've never had

1 somebody come in here charged with murder, deny it and
2 smile about it.

3 BY MR. PATTERSON: I didn't do nothing. I'm
4 telling you because I already know on the inside. I
5 already know.

6 BY OFFICER: No. You think all I got is their
7 word against yours.

8 BY MR. PATTERSON: No.

9 BY OFFICER: That's exactly what you think.

10 BY MR. PATTERSON: No, it ain't. I ain't thinking
11 that because I know I ain't done it. Of course, yeah,
12 I had a warrant for that. I was saying, (inaudible)
13 was saying of course I got a warrant for that. That's
14 why I came and turned myself in.

15 BY OFFICER: Well, people have been saying your
16 name since your house got shot up a damn hour after it
17 happened. How many times have you called the
18 detective, say, "Hey, people has got my name up in
19 this, but I didn't have shit to do with it"? No. You
20 waited until you knew you had a warrant on you.

21 BY MR. PATTERSON: No. I wait. I just -- I
22 finally found out that my name was all in the midst of
23 this. I see -- no, I see --

24 BY OFFICER: You knew an hour after when your damn
25 house got shot up that your name was in it.

1 BY MR. PATTERSON: No, I didn't.

2 BY OFFICER: And your car got set on fire.

3 BY MR. PATTERSON: No, I didn't. I just -- I
4 just -- I just knew they was trying to retaliate on me.
5 I don't know for what.

6 BY OFFICER: Because you knew Jugg that got shot?

7 BY MR. PATTERSON: No. No, I didn't. I didn't
8 know nothing about nothing.

9 BY OFFICER: Okay. Well, like I say, I got two
10 guys who were in the car with you when it happened, one
11 of them being your family, which is a pretty damn good
12 witness, so.

13 BY MR. PATTERSON: I don't know. I don't know.
14 So you telling me they are going to go to court and
15 testify against me or y'all charge them or something,
16 too. Is that what y'all telling me?

17 BY OFFICER: One of them has been charged, yes. I
18 charged your uncle.

19 BY MR. PATTERSON: I'm going to get my lawyer
20 anyway. I ain't running with that.

21 BY OFFICER: Well, get him. Tell him to call me.
22 Maybe he'll talk sense into you.

23 BY MR. PATTERSON: Yeah, just like you don't know
24 what's going on and I don't know what's going on.

25 BY OFFICER: Oh, I know what's going on. I

1 wouldn't have signed warrants on you if I didn't know
2 what's going on.

3 BY MR. PATTERSON: Yeah. It looks like -- if I
4 get my lawyer, like I know where I was at. I know
5 where I was at.

6 BY OFFICER: Yeah. And who was at your house that
7 night?

8 BY MR. PATTERSON: It was the family.

9 BY OFFICER: Who's the family? Shit, I don't know
10 your damn family.

11 BY MR. PATTERSON: My sister, my brother,

12 BY OFFICER: Who's your sisters?

13 BY MR. PATTERSON: My sister, my cousin.

14 BY OFFICER: What's your sister's name?

15 BY MR. PATTERSON: It was everybody. My sister's
16 name Sheena Patterson.

17 BY OFFICER: Okay. Who else?

18 BY MR. PATTERSON: She was there. My cousin. It
19 was my cousin birthday, Cornelius Blassingame. He was
20 there.

21 BY OFFICER: Cornelius Blassingame?

22 BY MR. PATTERSON: Yes, sir. He was there.

23 And --

24 BY OFFICER: Let me get those names down.

25 BY MR. PATTERSON: Okay.

1 BY OFFICER: Sheena Patterson?

2 BY MR. PATTERSON: Sheena Patterson.

3 BY OFFICER: Does she live there?

4 BY MR. PATTERSON: Yes, sir. That's my sister and
5 my family stay there.

6 BY OFFICER: At

7 BY MR. PATTERSON: Yes, sir.

8 BY OFFICER: And Cornelius Blassingame?

9 BY MR. PATTERSON: Cornelius Blassingame, Yeah,
10 it was his birthday. We was sitting in the yard.

11 BY OFFICER: How old is he?

12 BY MR. PATTERSON: 23.

13 BY OFFICER: He live there, too?

14 BY MR. PATTERSON: No.

15 BY OFFICER: Where does he live at?

16 BY MR. PATTERSON: I don't know where he stay at.

17 BY OFFICER: You got a phone number for him?

18 BY MR. PATTERSON: No. Not right offhand, no.

19 BY OFFICER: Who else was there?

20 BY MR. PATTERSON: And William Strobhart. He was
21 there.

22 BY OFFICER: William who?

23 BY MR. PATTERSON: William Strobhart.

24 BY OFFICER: Stro? Does he live there?

25 BY MR. PATTERSON: No. We was just having a

1 little get-together.

2 BY OFFICER: Where does he live at?

3 BY MR. PATTERSON: I don't know right off hand.

4 BY OFFICER: Do you know what his phone number is?

5 BY MR. PATTERSON: He was just (inaudible).

6 BY OFFICER: What about Anetha?

7 BY MR. PATTERSON: Anetha Blassingame was his
8 mother. Yeah, she was there.

9 BY OFFICER: What about D?

10 BY MR. PATTERSON: Yeah, D. Anthony, yeah, he was
11 there.

12 BY OFFICER: Is his name Anthony or Andrew?

13 BY MR. PATTERSON: D?

14 BY OFFICER: Yeah.

15 BY MR. PATTERSON: Yeah, D Anthony, yeah. And
16 there was some more other people, so.

17 BY OFFICER: Anything else?

18 BY MR. PATTERSON: That's it.

19 BY OFFICER: Let me see where this guy is at, see
20 if I can get in touch with him.

21 That's the story you're sticking with, you don't
22 know what they're talking about. You was at a
23 barbecue.

24 BY MR. PATTERSON: I was. We was just staying at
25 my sister's house chillin' and drinkin' like they all,

1 everybody, they all.
2 BY OFFICER: Did you ever leave Saturday?
3 BY MR. PATTERSON: Saturday? Yeah, I had went
4 home.
5 BY OFFICER: Where is home at?
6 BY MR. PATTERSON: I stay in Fairview Gardens.
7 BY OFFICER: Who do you stay with?
8 BY MR. PATTERSON: I had went to a bar and left.
9 BY OFFICER: Huh?
10 BY MR. PATTERSON: I went to a bar in Belton.
11 BY OFFICER: What bar?
12 BY MR. PATTERSON: The bar (inaudible) in Belton.
13 Spitts bar. I went to the bar.
14 BY OFFICER: Spitts?
15 BY MR. PATTERSON: Yeah.
16 BY OFFICER: What time was that?
17 BY MR. PATTERSON: 11-something maybe.
18 BY OFFICER: 11:00 in the morning?
19 BY MR. PATTERSON: Yeah.
20 BY OFFICER: Saturday night?
21 BY MR. PATTERSON: Yeah.
22 BY OFFICER: Who did you go with?
23 BY MR. PATTERSON: I went by myself.
24 BY OFFICER: At this party, was David Bennett
25 there?

1 BY MR. PATTERSON: David. I don't even know
2 David.

3 BY OFFICER: What about your uncle?

4 BY MR. PATTERSON: Terence, yeah I think he was
5 there. Yeah, he was there.

6 BY OFFICER: Huh?

7 BY MR. PATTERSON: Yeah, he was there. I don't
8 know David.

9 BY OFFICER: David knows you.

10 BY MR. PATTERSON: I don't know David.

11 BY OFFICER: The -- the -- what time did y'all get
12 to this party?

13 BY MR. PATTERSON: It was probably early in the
14 day. Probably about 6:00 or something like that.

15 BY OFFICER: 6:00 in the afternoon?

16 BY MR. PATTERSON: Yeah.

17 BY OFFICER: Before you went to Spirits, did you
18 leave?

19 BY MR. PATTERSON: No. I didn't go nowhere.

20 BY OFFICER: So the first time you left was
21 1:00 a.m. to go to Spirits?

22 BY MR. PATTERSON: Yeah. I probably went to the
23 store or something. That was probably it.

24 BY OFFICER: What store did you go to?

25 BY MR. PATTERSON: Probably Texaco. Yeah, Texaco.

1 BY OFFICER: Which Texaco?

2 BY MR. PATTERSON: It's off Shockley Ferry Road.

3 BY OFFICER: What time did you go there?

4 BY MR. PATTERSON: Maybe 8:00.

5 BY OFFICER: For what?

6 BY MR. PATTERSON: Get some (inaudible).

7 BY OFFICER: Did you go by yourself?

8 BY MR. PATTERSON: Yes, sir.

9 BY OFFICER: Did you drive?

10 BY MR. PATTERSON: Yes, sir.

11 BY OFFICER: What did you drive?

12 BY MR. PATTERSON: I drive my old lady car.

13 BY OFFICER: What car was that?

14 BY MR. PATTERSON: It think it was a Honda.

15 BY OFFICER: Honda?

16 BY MR. PATTERSON: Yeah.

17 BY OFFICER: What color Honda?

18 BY MR. PATTERSON: It was silver.

19 BY OFFICER: Where was your car at?

20 BY MR. PATTERSON: My car was parked at home. She
21 had my car and I had hers.

22 BY OFFICER: You drive that car to Spirits?

23 BY MR. PATTERSON: Yes.

24 BY OFFICER: Anybody else went to Spirits with
25 you?

1 BY MR. PATTERSON: No, I went by myself.

2 BY OFFICER: How long was you there?

3 BY MR. PATTERSON: I was there for -- for a few
4 hours. They close at like 3:00. I was there until
5 about 3:00, 3:30, something like that.

6 Then I got a phone call, they saying that my car
7 had caught on fire.

8 BY OFFICER: Yeah.

9 BY MR. PATTERSON: My car had caught on fire.

10 BY OFFICER: Did you work over the weekend?

11 BY MR. PATTERSON: This week?

12 BY OFFICER: Yeah.

13 BY MR. PATTERSON: No, sir.

14 BY OFFICER: Why not?

15 BY MR. PATTERSON: Because people threatened my
16 life and my family.

17 BY OFFICER: Yeah?

18 BY MR. PATTERSON: Yeah.

19 BY OFFICER: Where did you go after you left
20 Spirits?

21 BY MR. PATTERSON: I went home. I got a phone
22 call, then I got home, then my old lady said that
23 somebody came and burnt your car up. I asked her did
24 she have reports and all that and she said yeah.
25 That's what I'm waiting on now, for the -- I'm waiting

1 on now for the insurance coming down to come look at my
2 car and all that.

3 BY OFFICER: What kind of car was it?

4 BY MR. PATTERSON: It was a Bonneville.

5 BY OFFICER: What year?

6 BY MR. PATTERSON: It's a '99 Bonneville.

7 BY OFFICER: What color?

8 BY MR. PATTERSON: It's champagne.

9 BY OFFICER: And that's what got set on fire?

10 BY MR. PATTERSON: Yes, sir.

11 BY OFFICER: Do you know who did that?

12 BY MR. PATTERSON: No, sir.

13 BY OFFICER: What's your address?

14 BY MR. PATTERSON: My address, East Market
15 Street.

16 BY OFFICER: You said that was your people's
17 address. You said you stayed in Fairview.

18 BY MR. PATTERSON: Yeah. I stay out in Fairview,
19 but that's my address. That's what I -- I stay back
20 and forth.

21 BY OFFICER: Your old lady live in Fairview?

22 BY MR. PATTERSON: Yes.

23 BY OFFICER: What's her address?

24 BY MR. PATTERSON: It is. I think it's

25 BY OFFICER: Fairview Gardens?

1 BY MR. PATTERSON: Yeah.

2 BY OFFICER: What's your old lady's name?

3 BY MR. PATTERSON: Porsche Martin.

4 BY OFFICER: Porsche Martin?

5 BY MR. PATTERSON: Yeah.

6 BY OFFICER: She got a phone number?

7 BY MR. PATTERSON: -1195.

8 BY OFFICER: All right. Do you own any guns?

9 BY MR. PATTERSON: No, sir. No, sir.

10 BY OFFICER: Okay. All right. So that's the
11 story you're sticking with?

12 BY MR. PATTERSON: Yes, sir. That's what I did.

13 BY OFFICER: I'd probably say that, too, to be
14 honest with you, facing murder charges. The -- yep.
15 If you don't want to man up to it, that's your
16 business.

17 BY MR. PATTERSON: I'm manning up. That's my
18 story. I gave you my story.

19 BY OFFICER: You're sticking to that?

20 BY MR. PATTERSON: I do. I gave you my story.
21 That's my story.

22 BY OFFICER: All right. I appreciate it. Let's
23 walk downstairs.

24 (//)

25 (//)

1 BY MR. PATTERSON: Thank you.

2 BY OFFICER: Uh-huh.

3 --oo0oo--

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4/16 15-456
STATE OF SOUTH CAROLINA

COUNTY OF ANDERSON

STATE,

VS.

ROYRES A. PATTERSON,

DEFENDANT.

IN THE COURT OF GENERAL SESSIONS

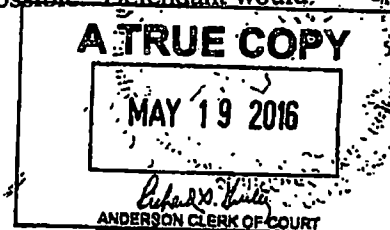
FILED-CLERK'S OFFICE
ANDERSON SC
2016 MAY -5 PM 4:55
COMMON PLEAS AND
GENERAL SESSIONS

NOTICE OF MOTION AND MOTION FOR
NEW TRIAL

Indictment Nos. 2015-GS-04-456 & 457

PLEASE TAKE NOTICE THAT Defendant Royres A. Patterson, by and through his undersigned attorney, will move before the Honorable R. Scott Sprouse, Circuit Judge, for a New Trial pursuant to S.C.R.Cr.P. 29(b) based upon after-discovered evidence that the State did not disclose to the Defendant prior to trial.

Defendant asserts that he is entitled to a new trial on the basis that the State failed to produce evidence pursuant to Defendant's Discovery Request under S.C.R.Cr.P 5 and Brady v. Maryland, 373 U.S. 83 (1963). The newly discovered evidence of co-defendant Terennc West's cellphone was found in the desk of the lead investigator Danny Barton, ACSO. The State notified and produced the evidence to Defendant's counsel on May 4, 2016. Defendant was convicted on April 27, 2016, following trial which began on April 25, 2016 of Murder, Attempted Murder and Possession of a Firearm during the commission of a violent crime. The case was a circumstantial evidence case and the newly discovered evidence goes to the credibility of the Defendant's co-defendant Terennc West (Defendant's uncle) who testified against the Defendant. Mr. West's testimony was critical to the State's prosecution. Defendant would request the Court schedule a hearing on this motion as soon as possible. Defendant would.



further request that the Court order the SC Department of Corrections return him to the Anderson County Detention Center so he may appear at the hearing.

Defendant would rely upon the case of State v. Goodson, 276 S.C. 243, 277 S.E.2d 602 (S.Ct. 1981) and other argument and authority presented at the hearing.

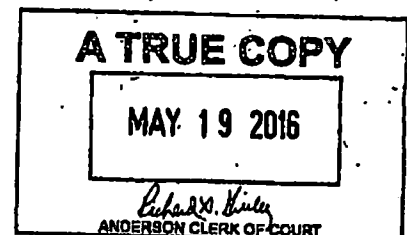
Defendant Royres A. Patterson respectfully requests the Court grant him a new trial based upon the State's failure to disclose and produce the newly discovered evidence that deprived Defendant Patterson of a fair trial. The phone and phone records of Mr. West go the credibility of one of the State's primary witnesses and this evidence could cast doubt upon the credibility of this witness.

Bruce A. Byrholdt

Bruce A. Byrholdt
BYRHOLDT DRAWDY, LLC
2315 N. Main St., Ste. 117
Anderson, SC 29621
(864) 261-3977 (864) 261-3978 (fax)

May 5, 2016

ATTORNEYS FOR ROYRES A.
PATTERSON



4/16
STATE OF SOUTH CAROLINA)
COUNTY OF ANDERSON)

IN THE COURT OF GENERAL SESSIONS

Indictment Numbers 2015-GS-04-00456
2015-GS-04-00457

STATE OF SOUTH CAROLINA)

-VS-

STATE'S REPLY TO DEFENSE MOTION
FOR NEW TRIAL

ROYRES A. PATTERSON,
Defendant.

FILED-CLERK'S OFFICE
ANDERSON SC
2016 MAY 11 PM 1:00
COMMON PLEAS AND
GENERAL SESSIONS

The defendant, Royres A. Patterson, was convicted at trial on the above-referenced indictments with Murder, Attempted Murder, and Possession of a Weapon During the Commission of a Violent Crime. The Defense has made a Motion for New Trial based on newly discovered evidence. The State is asking the Court to deny the Defense Motion.

S.C.R.Cr.P. Rule 29(b) Standard

Rule 29(b) provides for a new trial based on after-discovered evidence. *State v. Hill*, 359 S.C. 301, 597 (Ct. App. 2004). The motion for new trial is addressed to the sound discretion of the trial judge. *State v. Freeman*, 319 S.C. 110 (Ct. App. 1995). However, the moving party must show that the after discovered evidence: 1) is such that it would probably change the result if a new trial was had; 2) has been discovered since the trial; 3) could not by the exercise of due diligence have been discovered before the trial; 4) is material to the issue of guilt or innocence; and 5) is not merely cumulative or impeaching. *State v. Harris*, 391 S.C. 539, 544-45 (Ct. App. 2011); *State v. Freeman, supra*; *State v.*

White, 372 S.C. 364, 387 (Ct. App. 2007); *State v. Spann*, 334 S.C. 618 (1999); *State v. Prince* 316 S.C. 57 (1993).

1. The Evidence is Such that Would Change the Result if New Trial was Had.

The newly discovered evidence in this post-trial motion is a Samsung cell phone which was collected by Sgt. Danny Barton from Terence West on 6/13/14. This cell phone was placed in Sgt. Barton's desk and forgotten about until 5/3/16 when it was discovered again by Sgt. Barton following the trial of this case against Royres Patterson. The phone was subsequently searched pursuant to a search warrant and the contents were pulled. The phone was not used prior to 6/8/14, the day following the murder and attempted murder for which Royres Patterson was tried. The only phone call between the Samsung and any other number relating to the case was made on 6/12/14 at 5:33pm, the day prior to the arrest of Royres Patterson and Terrence West. The call was initiated by the number belonging to Royres Patterson and was answered by the number belonging to Terence West. It is a completed call that lasts approximately 2 minutes.

This evidence would not result in a change of verdict were a new trial to be had in this case. The evidence does not support or undermine any of the evidence presented at trial pertaining to the incident date or events of the incident on the night of the murder in question. The phone was not activated prior to the murder, therefore its records cannot assist the trier of fact in determining Terence West's whereabouts during the crime.

2. The Evidence has been Discovered Since the Trial.

AND

3. Could not by the Exercise of Due Diligence Have Been Discovered Prior to Trial.

The Samsung was discovered in the desk of Sgt. Barton following the trial of this case on 5/3/16. It was, however, first collected on 6/13/14. The State asked Sgt. Barton many times about the existence of any and all cellphones and their associated reports prior to trial during trial preparation. At no point in time did Sgt. Barton indicate to the State there was an additional cellphone belonging to Terennce West. In fact, when specifically asked, Sgt. Barton said that the Blackberry collected from the Mitsubishi was the only phone belonging to Mr. West. Sgt. Barton maintains that he genuinely forgot about the existence of the phone until he found it again following the trial of this case. The State had no reason to doubt Sgt. Barton on this issue, and since Terennce West was released from the jail on bond, it was not outside the scope of possibility that his cellphone which had been collected upon his arrest had since been returned to him. While the phone was not placed in property and evidence due to the mistake of Sgt. Barton, it cannot be said that the defense was not on notice concerning the potential existence of the phone. The collection of the Samsung was audio and video recorded during the interview with Mr. West. Therefore, nothing was withheld regarding the existence of such evidence from the defense, as they were in possession of the audio and video recordings which show the collection of the phone, and could have asked Sgt. Barton or Mr. West about the phone during cross-examination or asked the State about it prior to trial.

4. *The Evidence is Material to the issue of guilt or innocence.*

AND

5. *Is not Merely Cumulative or Impeaching.*

The newly discovered Samsung and its contents are not material to the issue of guilt or innocence of the defendant, Royres Patterson. The defense throughout the trial, even to the extent of objecting during the State's closing argument, made a point of stating that simply because a phone was associated with an individual, didn't mean the individual had the phone in their possession, and that there is no way to tell who answered a call or made a call at any given time from a cellphone, only that the call was made. To that end, there is no way to definitively say who made the call the day prior to the arrest of the defendant to the cellphone at issue, nor is there a way to definitively say who answered that call. During trial, the State asked Mr. West explicitly: "Did you talk to your nephew after this happened?" and Mr. West replied "No ma'am." Therefore the question as to whether or not they had spoken was asked, and the Defense, in his cross-examination, had an opportunity to question the witness regarding communications. There is nothing left to ask the witness then that was not already asked at trial. More importantly, the phone at issue was not activated prior to the murder, and therefore neither adds nor subtracts to the facts that the jury heard concerning the incident itself. The new evidence at best is solely for the purpose of impeaching Terennce West, an eyewitness, and therefore does not meet the standard for a new trial as set by the Court.

The Defense, in their Motion, cites *State v. Goodson*, 275 S.C. 243 (S.Ct. 1981), however, that case is distinguishable from the trial of this case. In *Goodson*, there was only one witness who implicated the defendant, and the newly discovered evidence cast doubt upon that individual's credibility. The Court in *Goodson* held that the omitted evidence would have to create a reasonable doubt that did not otherwise exist for nondisclosure

following a Brady request to constitute a change in verdict. The Court held that “means that the omission must be evaluated in the context of the entire record.” *Goodson*, at 245.

In the trial against Royres Patterson, there were three eyewitnesses who testified as to the events that occurred the night of the murder and the attempted murder. While the credibility of the witnesses was something the jury should, and did, consider, the verdict did not rest solely upon the testimony of one witness, as it did in *Goodson*. In evaluating the newly discovered evidence, which would go solely towards the impeachment of Terence West, who was already impeached by the defense at trial, and whose testimony does not stand alone, but is supported by two additional eyewitnesses, there is not a new reasonable doubt created by the discovery of the evidence post-trial in this matter.

For the foregoing reasons, the State asserts that the Defendant’s Motion should be denied, as no real right of the defendant has been prejudiced, and he has not been deprived of the right to a fair trial.

Respectfully Submitted,



Lauren Davis Price
Assistant Solicitor
Tenth Circuit Solicitor’s Office

Date: 5/11/2016

WITNESSES

Anderson Co. Sheriff's Office
 Danny L. Barton

ARREST WARRANT NUMBER

2014A0410100759

RECEIVED

MAY 23 2016

SC Court of Appeals

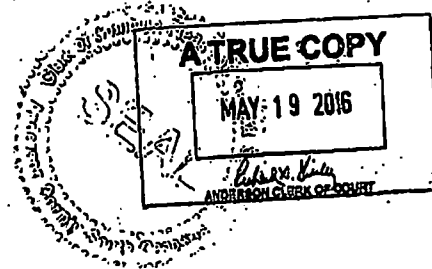
DOCKET NO. 2015-GS-04- 00456

The State of South Carolina
 County of Anderson

COURT OF GENERAL SESSIONS

MAR 17 2015

TERM

TRUE BILL
ACTION OF GRAND JURY

MAR 17 2015

Foreperson of Grand Jury
 Date:

VERDICT

Foreperson of Grand Jury
 Date:

THE STATE

VS.

ROYRES ANTWON PATTERSON

INDICTMENT FOR

MURDER

SC Code: § 16-03-0010, 0020
 CDR Code: 0116

COMMITMENT

4/27/16-RT

STATE OF SOUTH CAROLINA
COUNTY OF ANDERSON

INDICTMENT

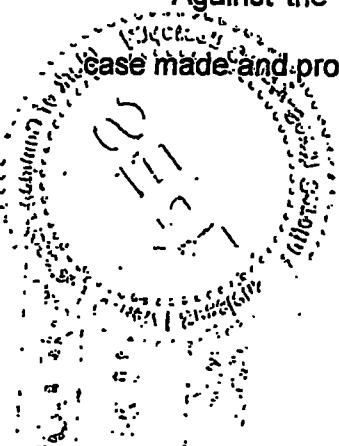
MAR 17 2015

At a Court of General Sessions, convened on _____, the
Grand Jurors of Anderson County present upon their oath:

MURDER

That Royres Antwon Patterson did in Anderson County, on or about June 7, 2014, unlawfully and with malice aforethought, either express or implied, kill Brandon Wayne Willingham by shooting him with a handgun, and that Brandon Wayne Willingham died as a proximate result thereof. All in violation of §16-3-10, *South Carolina Code of Laws* (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such
case made and provided.





LAUREN D. PRICE
ASSISTANT SOLICITOR

WITNESSES

D Barton, Anderson Co. Sheriff's Office

ARREST WARRANT NUMBER

2014A0410100760

2014A0410100761

AGENCY OF GRAND JURY

TRUE BILL

MAR 17 2015

Foreperson of Grand Jury

Date:

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2015GS04 00457

The State of South Carolina
County of Anderson

COURT OF GENERAL SESSIONS

MAR 17 2015

Term

THE STATE

vs.

Royres Antwon Patterson

LDP

Indictment for
Murder/Attempted Murder
SC Code: 16-03-0029
CDR Code: 3410Weapons/Poss. Weapon during violent crime,
If not also sentenced to life without parole or
deathSC Code: 16-23-0490
CDR Code: 0549

A TRUE COPY

MAY 19 2016

ANDERSON CLERK OF COURT

COMMITMENT

4/27/16-RT

STATE OF SOUTH CAROLINA)
COUNTY OF Anderson)

INDICTMENT

MAR 17 2015

At a Court of General Sessions, convened on _____, the Grand Jurors of
Anderson County present upon their oath:

Murder/Attempted Murder

The defendant, Royres Antwon Patterson, on or about June 7, 2014, in Anderson County, did unlawfully, with malice aforethought, either express or implied, and with the intent to kill, attempted to kill Rayshawn Trey Cowan. This is in violation of 16-3-29 of the South Carolina Code of Laws (1976) as amended.

**WEAPONS/POSS. WEAPON DURING VIOLENT CRIME, IF NOT ALSO SENTENCED
TO LIFE WITHOUT PAROLE OR DEATH**

The defendant, Royres Antwon Patterson, did in Anderson County on or about June 7, 2014, while committing the crime of Attempted Murder, a crime of violence, have in his possession a handgun, all in violation of Section 16-23-490, Code of Laws of South Carolina, (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



ASSISTANT SOLICITOR

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



Robert M. Dudek
Chief Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 12th day of May, 2017.

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



Robert M. Dudek
Chief Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 12th day of May, 2017.

RECEIVED
MAY 12 2017
SC Court of Appeals